

Attention Property Owner: A land use proposal has been submitted for property near where you live or near property you own elsewhere. State law requires that the county notify property owners within a certain distance from this property. The proposal and address of the property is described in the "Application" section below. The decision in this case does not directly affect the zoning or use of your property. If you object to the decision, refer to the "Appeal" section. If you have questions, contact the staff person listed at the end of this report.

**NOTICE OF DECISION
PROPERTY LINE ADJUSTMENT CASE NO.20-020**

APPLICATION: Application of Oscar Perez Jr., Tonya Rue, James and Susanna Berukoff, to adjust the property lines on a 1.00 acre parcel and a .40 acre parcel to create a .77 acre parcel and a .63 acre parcel in an UT-5 (Urban Transition – Five Acre Density) zone located 1513 and 1515 Pine Street NE, Silverton. (T6S; R1W; Section 34BB; tax lots 2600 and 2700).

DECISION: The Planning Director for Marion County has **APPROVED** the above-listed Property Line Adjustment application subject to certain conditions.

EXPIRATION DATE: Title transfer instruments accomplishing the property adjustments shall be recorded by the applicants with the Marion County Clerk by **July 1, 2022** (two years). The effective period may be extended for an additional year subject to approval of an extension (form available from the Planning Division). **Additional extensions may not be granted if the regulations under which this decision was granted have changed since the original approval.**

WARNING: A decision approving the proposal is for land use purposes only. Due to septic, well and drain field replacement areas, this parcel may not be able to support the proposal. To be sure the subject property can accommodate the proposed use the applicant should contact the Building Inspection Division, (503) 588-5147.

This decision does not include approval of a building permit.

CONDITIONS: The following conditions must be met before a building permit can be obtained or the approved use established:

1. **Property line adjustment deeds shall be recorded with the Marion County Clerk's Office meeting requirements identified in ORS 92.190(4).** The deeds shall contain the names of the parties, the description of the adjusted lines, references to original recorded documents and signatures of all parties with proper acknowledgment. The deeds shall include a perimeter description of each resulting parcel. **This property line adjustment is not complete until the title transfer instruments accomplishing the property adjustments are recorded by the applicants with the Marion County Clerk.**
2. The applicants shall have both parcels surveyed per ORS 92.060 (7). The survey shall be filed with the Marion County Surveyor and shall contain the notation that the survey is the result of Property Line Adjustment Case 20-020. (Final Plat Instructions enclosed).
3. Deed recording reference numbers shall be noted on the required survey.
4. **Prior to recording the deeds,** the applicants shall obtain any septic review and/or evaluations that may be required from the Marion County Building Inspection Division.
5. The resulting parcels shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director.

ADDITIONAL CONDITIONS: Once the approved use is established the following conditions must be continually satisfied:

6. After the property line adjustment has been completed, no alteration of property lines shall be permitted without first obtaining approval from the Planning Director.

OTHER PERMITS, FEES, AND RESTRICTIONS: This approval does not remove or affect covenants or restrictions imposed on the subject property by deed or other instrument. The proposed use may require permits and/or fees from other local, State or Federal agencies. This decision does not take the place of, or relieve the responsibility for, obtaining other permits or satisfying restrictions or conditions. It is recommended that agencies mentioned in Finding #5 below be contacted to identify restrictions or necessary permits.

7. Prior to recording the deeds all taxes due must be paid to the Marion County Assessor's Office Tax Section (contact them at (503) 588-5215 for verification of payments).

APPEAL PROCEDURE: The Marion County Zone Code provides that certain applications be considered first by the County Planning Director. If there is any doubt that the application conforms with adopted land use policies and regulations the Director must condition or deny the application. Anyone who disagrees with the Director's decision may request that the application be considered by a Marion County hearings officer after a public hearing. The applicant may also request reconsideration (one time only and a fee of \$200) on the basis of new information subject to signing an extension of the 150 day time limit for review of zoning applications.

A public hearing is held on appeals subject to the appellant paying a \$250.00 fee. Requests for reconsideration, or consideration by a hearings officer, must be in writing (form available from the Planning Division) and received in the Marion County Planning Division, 5155 Silverton Road NE, Salem, by 5:00 p.m. on **July 1, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **July 2, 2020** unless further consideration is requested.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which the decision was based are noted below.

1. The subject properties are designated Residential in the City of Silverton Comprehensive Plan and correspondingly zoned UT-5 (Urban Transition – 5 Acre Density) under the jurisdiction of Marion County.
2. The properties are located approximately 500 feet west of the intersection of Pine St NE and Kromminga Dr. A review of records for the properties indicate that 1513 Pine St was created by the City of Silverton and then sold, therefore making it a legal parcel for land use purposes. The property at 1513 Pine St is shown on City of Silverton Historical Zoning Maps and shown in LLA97-36, and is therefore considered a legal parcel for land use purposes.
3. All adjacent properties are zoned UT-5 and consist of parcels with small acreage home sites. There is one parcel, not zoned UT-5, directly to the south of the subject properties that is zoned EFU (Exclusive Farm Use), it has no structures and is owned by James and Sasanna Berukoff.
4. The applicants are proposing to adjust the property lines on a 1.00 acre parcel and a .40 acre parcel to create a .77 acre parcel and a .63 acre parcel.
5. **Marion County Surveyor's Office** commented:
 1. Must be surveyed per ORS 92.060 (7) and the survey submitted for review.
 2. Survey checking fee required at the time of review.
 3. Property line adjustment deeds shall be recorded with the Marion County Clerk's Office prior to submitting the property line adjustment survey. Deed recording reference numbers shall be noted on the survey map. Per ORS 92.190 (4): The deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents and signatures of all parties with proper acknowledgment. [See Marion County Zoning Code MCC 16.33.140(E) and MCC 17.172.120(E)]
Marion County Planning requires perimeter descriptions of the resultant properties.

Marion County Assessor's Office provided information regarding taxes on the subject properties.

All commenting agencies stated no objection to the proposal.

6. The criteria for reviewing property line adjustments within a UT-5 zone are listed in Chapter 16.13.310 of the Marion County Code. These criteria are as follows:
- (a) *Additional street right-of-way required by adopted county standards shall be dedicated along the street frontage of any lot 10 acres or less in area that is part of a partition or lot line adjustment. Street and drainage improvements within the dedicated right-of-way shall be deferred until otherwise required by the county, or by the city following annexation. A non-remonstrance agreement for future road or drainage improvements within the right-of-way abutting the lot may be required.*
 - (b) *The location of lot lines shall not significantly reduce feasible options for the future location of urban streets or utility services, or preclude development options on the property or adjacent properties.*
 - (c) *When a lot occupied by a residence is reduced, or a lot is created to accommodate a new residence allowed in MCC 16.13.320, the lot should be as small as possible and should not be larger than one acre. If a lot of one acre or less is not feasible the lot should either contain all of the undeveloped land or be large enough that the urban development potential will be a significant incentive for the owner to develop to planned urban uses when the lot is annexed.*
 - (d) *When a new or adjusted lot located in a residential plan designation is smaller than five acres and larger than one acre a redevelopment plan shall be required demonstrating that the lot can accommodate future subdivision development at the median density proposed in the Comprehensive Plan. The zoning administrator shall review and approve the redevelopment plan. The redevelopment plan is only for the purposes of identifying a feasible means to subdivide the property and to identify an appropriate location for residences, and does not limit consideration of other development options when urban services are available.*
 - (e) *New lots shall have no dimension less than 80 feet.*
 - (f) *When a lot located in a residential plan designation and occupied by a non-residential use is created or altered, the lot should include as little undeveloped land suitable for residential uses as possible, unless evidence is presented that undeveloped land needs to be included in the lot to accommodate allowable expansion of the subject use.*
 - (g) *The minimum lot size, in acres, for lots in non-residential plan designations is the numerical suffix added to the UT zone (i.e. one acre, three acres, five acres, 10 acres or 20 acres), or if no suffix is added - five acres.*
9. At this time, no additional right-of-way dedication was requested by Public Works. The reconfiguration will not affect future development nor will it reduce options for future utilities and will improve the development potential of tax lot 2600. The standards in #6 (a) and (b) are met.

Both parcels contain dwellings and both lots are one acre or under. After reconfiguration both parcels will both be less than one acre. No new lots are being proposed. Both lots are already developed for residential use and this adjustment will create better development opportunities for tax lot 2600. Both lots were already under the minimum lot size before adjustment and will remain so afterwards. The applicant's proposal will comply with the criteria listed in #6 (c), (d), (e), (f), and (g).

10. Based on the above findings, the proposal meets the applicable criteria and is, therefore, **APPROVED**.

Joe Fennimore
Planning Director

Date: June 16, 2020

If you have any questions regarding this decision contact Austin Barnes at (503) 588-5038

Notice to Mortgagee, Lienholder, Vendor or Seller: ORS Chapter 215 requires that if you receive this Notice, it must promptly be forwarded to the purchaser.