

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.20-027**

APPLICATION: Application of LHL Properties, LLC, and Prohar and Evdokia Bodunov to adjust the property lines on a 94.89 acre property and a 0.70 acre property to create a 93.89 acre property and a 1.7 acre property in a TC (Timber Conservation) zone located at 20746 Abiqua Road NE, Scotts Mills. (T7S, R01E, Section 13B, Tax lots 802, 804, and 1000, as well as T7S, R01E, Section 14, tax lots 200 and 1000).

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 **August 19, 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 county clerk 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. **Prior to recording the property line adjustment deeds,** the applicants shall have the resulting 1.7 acre parcel must surveyed per ORS 92.060 (7). The survey shall be filed with the County Surveyor and shall contain the notation, that the survey is the result of Property Line Adjustment Case 20-027. (Final Plat Instructions enclosed).
3. 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.
4. 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:

5. 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.

6. 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 **August 19, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **August 20, 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 as Forest Lands in the Marion County Comprehensive Plan, and correspondingly zoned Timber Conservation (TC). The primary intent of this designation and zone is to protect for timber production, farming, watershed, wildlife habitat, recreation, and other compatible uses.
2. The properties are located on the south side of Abiqua Road, approximately 250 feet south of the intersection of Abiqua Road and Richardson Road. Tax lot 1000 is developed with a single family dwelling that was approved pursuant to Administrative Review 96-99 (AR96-99). Tax lot 802 is considered a legal parcel together with tax lot 804 on tax assessor map T7S, R01E, Section 13B as well as tax lots 200 and 1000 on tax assessor map T7S, R1E, Section 14. These properties were the subject of combined applications for Lot Line Adjustment and Administrative Review 01-31 (LLA/AR01-031) and Administrative Review 99-79 (ADM 99-79) and are considered together to be a legal property for land use purposes. The authorized unit of land comprising of tax lots 802 and 804 on tax assessor map T7S, R01E, Section 13B as well as tax lots 200 and 1000 on tax assessor map T7S, R1E, Section 14 will be referred to herein as tax lot 802 for convenience only.
3. Adjacent properties in all directions are zoned TC and are a mix of small properties for residential use as well as larger properties for timber production.
4. The applicants are proposing to adjust the property lines on a 94.89 acre parcel and a 0.70 acre parcel to create a 93.89 acre parcel and a 1.70 acre parcel.
5. Marion County Surveyor's Office commented:
 1. No survey required for the resulting 93.89 acre because it is larger than ten acres.
 2. The resulting 1.7 acre parcel must be surveyed per ORS 92.060 (7) and the survey submitted for review.
 3. Survey checking fee required at the time of review.
 4. 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.

Silverton Fire District commented that if either parcel is developed with new structures in the future they will need to comply with Oregon Fire Code regarding access and water supply.

All other commenting agencies stated no objection to the proposal.

6. The following regulations shall apply when property line adjustments and partitioning of land regulated by Chapter 17.138 MCC, Minimum parcel size, divisions of land, and property line adjustments, are proposed:

1. *Parcels larger than 80 acres may not be reduced to below 80 acres*

2. *Parcels smaller than 80 acres may be reduced or enlarged provided:*

- a. *If the tract does not include a dwelling and does not qualify for a dwelling under MCC 17.138.030 (A) or (B), any reconfiguration after November 4, 1993 cannot in any way enable the lot or parcel to meet the criteria for a new dwelling under MCC 17.138.030(A) or (B).*
- b. *Except as provided in subsection (B)(2)(c) of this section, a lot or parcel that is reduced will be better suited for management as part of a commercial forest; and if capable of producing 5,000 cubic feet per year of commercial tree species will not be reconfigured so that the cubic feet per year capability of the lot or parcel is reduced.*
- c. *A lot or parcel may be reduced to the minimum size necessary for the use if the lot or parcel:*
 - i. *Was approved as a non-farm or non-forest parcel; or*
 - ii. *Is occupied by an approved non-farm or non-forest dwelling; or*
 - iii. *More than half of the parcel is occupied by a use in MCC 17.138.020 or 17.138.040 other than a dwelling or farm or forest use; or*
 - iv. *The lot or parcel is occupied by a dwelling established before January 1, 1994, and is not capable of producing 5,000 cubic feet per year of commercial tree species (see MCC 17.138.120(B) for definition).*
- d. *A property line adjustment may not be used to :*
 - i. *Decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling.*
 - ii. *Decreased the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;*
 - iii. *Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard; or*
 - iv. *Adjust a property line that resulted from a subdivision or partition authorized by a Measure 49 waiver so that any lawfully established unit of land affected by the property line adjustment is larger than the size granted by the waiver.*

7. Tax lot 1000 is smaller than 80 acres and is proposed to increase in size to 1.7 acres after the proposed adjustment. Tax lot 802 is larger than 80 acres and is proposed to decrease in size to 93.89 acres after the proposed adjustment. Based on these facts, criterion #6(1) is met. Tax lot 1000 is proposed to increase in size to 1.7 acres after the proposed adjustment. Tax lot 1000 is developed with a dwelling that was approved pursuant to AR96-99. Based on this fact, criterion #6(2)(a) is met. Tax lot 802 is larger than 80 acres and is proposed to be reduced in size to 93.89 acres. Based on this fact, criteria #6(2)(b) and (c) are not applicable. Tax lot 802 is larger than 80 acres and is proposed to be reduced in size to 93.89 acres. Tax lot 802 is currently undeveloped with no approval to build a dwelling. No review for a dwelling approval has been completed as part of this application. Tax lot 1000 qualified for a dwelling pursuant to AR96-099, which approved the replacement of a previously destroyed dwelling. Replacement of a previously destroyed dwelling is not based on an acreage standard to qualify for a dwelling. Neither tax lot 802 nor tax lot 1000 were created as a result of a Measure 49 waiver. Based on these facts, the criteria in #6(2) (d)(i-iv) are met.

8. Based on the above findings, the proposal meets the applicable criteria and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Planning Director

Date: August 4, 2020

If you have any questions regarding this decision contact Alyssa Schrems 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.