



Planning Director Notice of Decision

APPLICATION(S):	23-007PLA & 23-008V – Property Line Adjustment & Variance
MAILED DATE:	February 27, 2023
LAST DAY TO APPEAL:	March 14, 2023
Applicant:	CKI Surveying
Owner:	Marvin McCoy & Angela Van Agtmael
Location:	889 N Lincoln St., Seaside, OR 97138 (T6-R10-S15CC-TL10900)
Zone:	Medium Density Residential (R-2)
Staff Contact:	Jeff Flory, Community Development Director

Request Summary:

The applicant is requesting a property line adjustment in conjunction with a variance to the minimum lot size requirement (5,000 sq. ft.) in the R-2 zone. Reconfiguring the common property line will adjust the sizes of lot 2 and lot 3 to “as adjusted” tract 1 (approx. 3,935 sq. ft.) and tract 2 (approx. 5,000 sq. ft.).

FINAL DECISION:

Conditionally approve application 23-007PLA and 23-008V a property line adjustment and a variance to the 5,000 sq. ft. minimum lot size in the R-2 zone. This decision is subject to the conditions listed below.

APPEAL PROVISIONS:

This decision may be appealed to the Planning Commission within fifteen (15) days from the date of this notice. The appeal must be filed on forms prescribed by the City, pursuant to Section 10.037 and 10.040 of the Ordinance, and submitted to the Planning Department (located at 1387 Ave. U) or mailed with valid postmark to 989 Broadway, Seaside, OR 97138 by March 14, 2023. The appeal must be filed along with the applicable fee of \$580.00. This fee will be refunded if the Director’s decision is overturned on appeal.

If you have any questions regarding this decision or the appeal process, please contact the Community Development Department at (503) 738-7100. The Notice of Decision date and last day to appeal are listed below.

Date of Decision: **February 27, 2023**

Last Day to Appeal: **March 14, 2023**

Planning Director Decision:

The City of Seaside Planning Department has conditionally approved the above referenced variance request in accordance with the applicable provisions in the City of Seaside Zoning Ordinance and approved the proposed property line adjustment based on the modified development standards. These decisions were based on consideration of the information submitted by the applicant, any written information submitted during the comment period, and other information readily available in the Department.

The approval will allow the applicant to adjust the existing lot lines to create two parcels approximately 3,935 sq. ft. (tract 1) and 5,000 sq. ft. (tract 2) so the existing dwelling (located on tract 1) at 889 N Lincoln St., Seaside, OR 97138 (T6-R10-S15CC-TL10900) can be separated from tract 1. This will allow the subsequent development of tract 2 with the existing structure on tract 1 meeting current setback and lot coverage requirements. The approval is subject to the following condition(s):

Condition 1:

The variance will become void one (1) year from the date of the decision unless the applicant completes the property line adjustment that will install the property boundary separating the as adjusted tract 2 from tract 1 unless an extension of time is approved by the Planning Director for extenuating circumstances.

Condition 2:

The applicant is required to install a second parking space for the existing dwelling on tract 1. The parking space must meet the size (9ft x 18ft) and surfacing requirements (asphalt, concrete, or other surface approved by the Planning Director) as required by the Zoning Ordinance. Development of the vacant lot will require all off-street parking requirements to be met.

Condition 3:

The existing garage for the existing dwelling shall remain a garage and not turned into an ADU or habitable space in order to preserve the one (1) existing off-street parking space.

Although it is not a condition of approval, the following is a reminder to the applicant.

- As with any permit, the applicant must meet all other applicable development standards in the Seaside Zoning Ordinance and any other applicable City of Seaside Ordinances.
- The owners are responsible for completing the property line adjustments by completing the survey work necessary to adjust the lines in compliance with any requirements of the Clatsop County Surveyor or applicable State Statutes.

Ordinarily, each property owner would sign off on an appropriate property line adjustment deed. However, there may be other alternatives to properly show adjustment in the deed records. Please be advised, the City of Seaside cannot provide legal advice concerning these issues so you should consult with legal counsel to prepare the appropriate documents prior to recording them with the Clatsop County Clerk. Regardless of the method, the City of Seaside will recognize it as a property line adjustment and not a land division given the original configuration of the property.

PLANNING DIRECTOR DECISION SUMMARY:

Review Criteria:

1. **The manner in which exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of this Ordinance, topography, or other circumstances over which the applicant has no control.** *Finding: The applicant's property contains two legal lots of record. The existing house sits across the established lot line. Re-orienting the property line to run east/west instead of north/south will allow for the development of the additional lot. The owner's purchased this property as is and did not construct the residence across the existing lot line. The proposed lot line adjustment will not significantly change the lot sizes for the two lots that are already existing.*
2. **How literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.** *Finding: The current lot line configuration provides for two platted, buildable, lots. The applicant could demolish the existing structure and build two single family dwellings or a zero-lot line development. The applicant is not creating a new unit of land but merely adjusting the property line to run east/west instead of north/south so that the existing second unit of land can be utilized to it's fullest development potential.*
3. **That the special conditions and circumstances do not result from the actions of the applicant, and**
4. **Evidence that granting the variance will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted use of land, structures or buildings in other districts shall be considered grounds for issuance of a variance.** *Finding: The applicant purchased the property in 2022 in its current existing condition. The neighboring land uses are primarily single-family dwellings. The applicant intends to preserve the existing single-family dwelling on tract 1 and make available tract 2 for sale or development. The adjustment will allow for tract 2 to be developed as an existing legal and conforming lot.*

Section 7.032 The Planning Director shall make all the following findings:

1. **That the requirements of Section 7.031 have been met by the applicant for a variance.** *Finding: The applicant has sufficiently demonstrated that they meet these criteria.*
2. **That the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance which will make possible the reasonable use of the land, building or structure, and**
3. **That the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and of the Comprehensive Plan and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.** *Finding: The applicant is not significantly changing the lot sizes of the two existing lots. By not significantly changing the lot sizes this is the minimum variance that will make possible the reasonable use of the land.*

The applicant is adjusting the property line to run east/west instead of north/south. The existing dwelling will be on the smaller non-conforming lot while the vacant lot will be the conforming 5,000 sq. ft. lot. The Comprehensive Plan identifies a need for housing. Seaside is severely restricted by a lack of available vacant land. This variance will allow a legal lot of vacant land to be developed into much needed additional housing.

Additional Findings, Justifications, and Conclusions

1. Mailed notice was sent to all neighboring property owners within 100ft. of the applicant's property. Staff received two letters in opposition to the request:

The property owners of 701 North Lincoln have the following concerns:

- **North Lincoln is an overused throughfare linking 12th and 5th Ave and the high volume of traffic is already a safety hazard. Added traffic during the summer months due to the back on Hwy 101 creates additional hazards. Allowing two dwellings on a lot previously designated for one creates additional congestion.** *Finding: It is true that constructing an additional dwelling on a street may create additional congestion however; there is already two platted lots in existence. The applicant's request to adjust the property line to run east/west instead of north/south will create access to the existing dwelling from 9th Ave and access to the vacant off of N. Lincoln.*
- **Parking on the street is the only option when the owner has multiple vehicles or even for short term visitors. On-street parking creates obstacles for traffic to navigate through.** *Finding: The existing dwelling only has one off-street parking space within the newly converted garage (previously a carport). Condition 2 requires the applicant/owner to install a second off-street parking space for the existing dwelling. This condition will add additional off-street parking for the property than was previously available.*

The property owners at 930 7th Ave have the following concerns:

- **The property should remain as-is because we don't want a house right outside our window.** *Finding: The property is already two platted lots. The applicant could demolish the existing house and build two new houses maximizing their lot coverage.*
 - **It is unacceptable to divide the original lot into two inadequate lots.** *Finding: The property is already divided into two platted lots. The applicant is not creating a new unit of land through a partition process. It is true the current lot configuration does not meet the lot size requirement for both lots. The adjusted lot configuration does not substantially change the lot sizes. The as adjusted lot closest to 930 7th Ave is the conforming 5,000 sq. ft. lot.*
2. The current lot configuration and lot size allows for a zero-lot line development. A zero-lot line development is not consistent with the surrounding properties as this neighborhood is predominately detached single family dwellings. The applicant's proposed adjustment will allow for one additional single-family dwelling to be constructed on a conforming 5,000 sq. ft. lot which is consistent with neighboring properties.
 3. The applicant's total square footage for both lots is 8,935sq ft. The dwelling unit density in the R-2 Zone is 10 dwelling units per net acre or 4,356 sq ft. per dwelling unit. The applicant has

sufficient lot size to meet the dwelling unit density for the existing dwelling unit and the construction of a single family dwelling on the as adjusted 5,000 sq. ft. lot.

4. The surrounding neighborhood is almost entirely made up of detached single family dwellings. Detached dwellings that do not share a common wall will more closely match the development within the surrounding area (e.g. height, roof pitch, exterior architecture features etc.).

CONCLUSION & FINAL DECISION:

The variance conforms to the variance criteria and the Planning Director has made the appropriate findings to support the applicant's request to **allow the applicant to adjust the existing lot lines to create two parcels approximately 3,935 sq. ft. (tract 1) and 5,000 sq. ft. (tract 2) so the existing dwelling (located on tract 1) at 889 N Lincoln St., Seaside, OR 97138 (T6-R10-S15CC-TL10900) can be separated from tract 1.** This will allow the subsequent development of tract 2 with the existing structure on tract 1 meeting current setback and lot coverage requirements. The approval is subject to the following condition(s):

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