

Attention Property Owner: A land use proposal has been submitted for property near where you live or 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. 18-001**

APPLICATION: Application of the Gary and Carol Anderson Living Trust and Valley Fresh Foods, Inc. to adjust the property lines on a 9.08 acre parcel and a 4.10 acre parcel to create an 8.72 acre parcel and a 4.46 acre parcel in a UT-5 (Urban Transition-5 Acre Density) zone located at 8095 Railroad Ave and 16455 Butteville Rd NE, Woodburn. (T5S; R2W; Section 11AB; tax lots 200 and 400).

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 **February 7, 2020**. The effective period of an approved application may be extended for an additional year subject to approval of an extension (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 proposed uses is for land use purposes only. Due to septic, well and drainfield replacement areas, this parcel may not be able to support the proposed activities. To be sure the subject property can accommodate the proposed use the applicant needs to check with 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 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. **A replat shall be recorded with the Marion County Clerk meeting requirements identified in ORS 92.185(6) and ORS 92.050.** The replat shall be filed with the County Surveyor and shall contain the notation that the survey is the result of Property Line Adjustment Case 18-001. (Final Plat Instructions enclosed).
3. Property line adjustment deeds shall be recorded with the Marion County Clerk's Office following the recording of the replat.
4. Deed recording reference numbers shall be noted on the required survey.
5. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use until the following conditions have been satisfied:

***Condition A** – Prior to PLA survey approval, obtain a Work in Right-of-Way Permit, and under the Permit, remove a drainage culvert from within the Butteville Road roadside ditch in front of the 8095 Railroad Avenue property, and re-establish the ditch cross-section.*

***Condition B** – Prior to PLA survey approval, either remove chain link fencing located in the Butteville Road Special Setback fronting #8095 Railroad Avenue or record a Removal Agreement with Marion County.*

6. **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.
7. 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:

8. 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 any 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 any restrictions or conditions thereon. It is recommended that the agencies mentioned in Finding #5 be contacted to identify restrictions or necessary permits.

9. Prior to recording the deed all taxes due must be paid to the Marion County Assessor 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 **February 7, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **February 8, 2018** unless further consideration is requested.

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

1. The subject properties are designated Single Family in the City of Woodburn Comprehensive Plan and correspondingly zoned UT-5 (Urban Transition – 5 Acre Density) under the jurisdiction of Marion County.
2. The properties are located on the west side of Butteville Rd NE approximately 90 feet south of the intersection with Carson Ct NE. The 4.10 acre parcel identified as tax lot 200 contains a dwelling, accessory structure, well, septic system. The parcel was created in its current configuration by Property Line Adjustment #17-010 (PLA17-010) and is considered legally created for land use purposes. The 9.08 acre parcel identified as tax lot 400 is developed with a poultry laying operation consisting of office buildings, layer buildings, feed silos, shop and storage buildings, well and septic system.
3. Adjacent properties to the north, east and south are zoned UT-5 and consist of single family dwellings. Property to the west is zoned EFU (Exclusive Farm Use) and in farm use.
4. The applicants are proposing to adjust the property lines on a 4.10 acre parcel and a 9.08 acre parcel to create a 4.46 acre parcel and an 8.72 acre parcel. The purpose of the property line adjustment is due to the location of an existing shop on tax lot 200 that is located on the property line. The applicants are proposing to move the property line approximately 25 feet south of the existing shop.
5. **Public Works Land Development and Engineering Permits** requested that Conditions A and B be included in the land use decision. LDEP also commented on requirements that are not part of the land use decision and available for review in the planning file. LDEP will not approve the final use until the following condition has been met:

“Condition A – Prior to PLA survey approval, obtain a Work in Right-of-Way Permit, and under the Permit, remove a drainage culvert from within the Butteville Road roadside ditch in front of the 8095 Railroad Avenue property, and re-establish the ditch cross-section.

Property frontage must meet PW Engineering standards by authority under Marion County Driveway Ordinance #651. There was evidently a direct access to the property from Butteville Road at some time in the past

Condition B – Prior to PLA survey approval, either remove chain link fencing located in the Butteville Road Special Setback fronting #8095 Railroad Avenue or record a Removal Agreement with Marion County.

Fencing within the roadway Special Setback is a non-standard feature. The Special Setback for Butteville Road, a Major Collector, is 40 feet measured from centerline. A Removal Agreement stipulates property owner removal of the object within 45 calendar days should the County determine the need to do so. An Application is enclosed should this option be elected by the Applicant.”

Marion County Surveyors Office commented: “A re-plat, in the form of a partition plat, is required. A property line adjustment deed shall be recorded with the Marion County Clerk’s Office, following recording of the re-plat. As 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 acknowledgement. Must comply with all provisions per ORS 92.185 (6). Must be surveyed and platted per ORS 92.050, and the plat submitted for review. Checking fee and recording fees required. A current or updated title report must be submitted at the time of review.”

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

Marion County Building Inspection Onsite Wastewater Specialist commented that septic permits are required.

All other contacted agencies either failed to comment or 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.*

7. At this time, no additional right-of-way dedication was requested by Public Works. One of the resulting parcels will remain less than five acres in size and the other will remain larger than 5 acres in size. The applicants are proposing to move the property line approximately 25 feet to the south due to the fact that an existing shop located on the Anderson property is located on the property line. This will allow better access to and around the shop. The reconfiguration would not affect future development potential. The standards in #6(a) and (b) are met. The smaller parcel contains a dwelling and the larger does not. The properties are located in a residential plan designation in the Woodburn Comprehensive Plan. No new parcels are being created. The applicant's proposal will comply with the criteria listed in #6 (c), (d), (e), (f), and (g).
8. Under MCC 17.172.120(E) property line adjustment deeds shall be recorded with the Marion County Clerk's Office prior to submitting the property line adjustment survey, if a survey is required. Deed recording reference numbers shall be noted on the required survey.
9. The resulting lots shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval of the Planning Director.
10. Based on the above findings, the applicant's proposal meets the criteria for a property line adjustment in a UT-5 zone and is, therefore, **APPROVED** subject to conditions.

Joe Fennimore
Director-Planning Division

Date: January 23, 2018

If you have any questions please contact Patty Dorr 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.