

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. 19-010**

**APPLICATION:** Application of GRC Land Holdings LLC to adjust the property lines on a 91.72 acre parcel, a 28.13 acre parcel and a 33.90 acre parcel to create a 52.30 acre parcel, a 9.32 acre parcel and a 92.13 acre parcel in an EFU (Exclusive Farm Use) zone and an UT-20 (Urban Transition – 20) zone located at 10773 Feller Rd NE, Hubbard (T4S; R1W; (Section 17; tax lot 2600) and )Section 20; tax lots 300 and 1100)).

**DECISION:** Notice is hereby given that the Planning Director for Marion County has APPROVED the above described request 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 **April 10, 2021**. 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 request is for land use purposes only. Due to septic, well and drainfield replacement areas, this parcel may not be able to support the proposal. To be sure the subject property can accommodate the proposal 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. Property line adjustment deeds shall be recorded with the Marion County Clerk's Office prior to submitting the property line adjustment survey.
3. Deed recording reference numbers shall be noted on the required survey.
4. The applicants shall have the resulting 9.32 acre parcel 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 19-010. (Final Plat Instructions enclosed).
5. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use until the following condition has been satisfied:  
  
**Condition A – Prior to PLA survey approval, obtain an Access Permit and Work in the Right-of-Way Permit and complete improvements and repairs to the eastern driveway access approach to tax lot 1100 and Feller Road and as noted in Engineering Requirements B and C.**
6. Prior to recording the deeds or filing the survey, the applicants shall obtain any septic review and/or evaluations that may be required from the Marion County Building Inspection Division.
7. 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.

8. The adjusted property lines shall maintain a minimum 20 foot setback from all existing structures.

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

9. 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 #6 be contacted to identify restrictions or necessary permits.

10. Prior to recording the deeds all taxes due must be paid to the Marion County Tax Office (at 503-588-5215 for verification of payments).
11. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #6 below, that may be required.

**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 (Appeal 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 **April 12, 2019**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 13, 2019** unless further consideration is requested.

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

1. The subject properties are designated in part Primary Agriculture in the Marion County Comprehensive Plan and correspondingly zoned EFU (Exclusive Farm Use). The intent of both this designation and zone is to promote and protect commercial agricultural operations. Portions of the parcels are within the City of Donald Urban Growth Boundary, designated for residential land use and zoned UT-20 (Urban Transition - 20 Acre).
2. The parcels are located between Donald Road and Feller Road in the 10700 block. Tax lots 300 and 2600 were previously determined to be legal parcels by Partition Case #16-008. Tax lot 1100 was legally reconfigured as a result of Property Line Adjustment Case #16-026. Tax lot 1100 contains a dwelling.
3. Surrounding properties in all directions are in farm use in an EFU zone. Land to the north is within the City of Donald.
4. Soil Survey of Marion County, Oregon indicates the properties are 100% high-value farmland soils.
5. The applicants propose to adjust the property lines on a 91.72 acre parcel, a 28.13 acre parcel and a 33.90 acre parcel to create a 52.30 acre parcel, a 9.32 acre parcel and a 92.13 acre parcel. The portions of each parcel in the UT zone will be unaffected. The portions of each parcel in an EFU zone will be consolidated into one 92.13 acre parcel entirely zoned EFU.
6. Public Works Land Development and Engineering Permits requested that the following Condition, Requirements and Advisories be included in the land use case:

**“Condition A – Prior to PLA survey approval, obtain an Access Permit and Work in the Right-of-Way Permit and complete improvements and repairs to the eastern driveway access approach to tax lot 1100 and Feller Road and as noted in Engineering Requirements B and C.**

*Rationale or nexus for this Condition is one of timing, such that the described work authorized under MCPW Engineering Access Ordinance #651 as codified in Marion County Code 11.10 is completed in conjunction with this proposal.”*

Requirements:

- “B. Driveways must meet sight distance, design, spacing, and safety standards. The result of a preliminary site visit indicated that the asphalt in the roadway is cracking at the eastern access to tax lot 1100. In accordance with Marion County Code (MCC) 11.10, if this land use action is approved, the Applicant will need to obtain a driveway “Access Permit” to remedy the issue by paving the driveway a minimum of 50-feet back from the edge of pavement as well as other possible ancillary items that may be required by the Permit. This work is to be done in concurrence with that identified in Engineering Requirement C.
- C. In accordance with MCC 11.15, obtain a Work in the Right-of-Way Permit to repair the asphalt cracking within the Feller Road public right-of-way adjacent to the western access to tax lot 1100.”

Advisories:

- “D. Construction of improvements on the property should not block historical or naturally occurring runoff from adjacent properties. Furthermore, site grading should not impact surrounding properties, roads, or drainage ways in a negative manner.
- E. Access to Matthieu Street from a future development will require improvements to meet Marion County Standards.
- F. The conceptual subdivision site plan dated January 2, 2019 shows potential for a connection to Butteville Road from the southwest portion of the development. If this connection is to be made the road needs to meet Marion County Standards. Furthermore, the existing rail crossing at that location is classified and signed accordingly as “Private”; therefore, a Rail Crossing Order would need to be obtained from ODOT Rail Division in collaboration with BNSF Railway to upgrade it to a “Public” crossing.”

Marion County Surveyors Office commented: “No survey required on the 52.3 acre and 92.13 acre parcels. The resultant properties are greater than ten acres. The 9.32 acre parcel must be surveyed per ORS 92.060 (7) and the survey submitted for review. Survey checking fee required at the time of review. 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 Tax Office provided information regarding taxes on the subject properties.

City of Donald Planner commented that the proposal is consistent with the city’s future planned use of the land.

- 7. The criteria for reviewing property line adjustments within an EFU zone are listed in Section 17.136.090(C) of the Marion County Code (MCC). These criteria are as follows:
  - (a) *When one or more lots or parcels subject to a proposed property line adjustment are larger than the minimum parcel size pursuant to MCC 17.136.090(A)(1), the same number of lots or parcels shall be as large or larger than the minimum parcel size after the adjustment. When all lots or parcels subject to the proposed adjustment are as large or larger than the minimum parcel size, no lot or parcel shall be reduced below the applicable minimum parcel size. If all lots or parcels are smaller than the minimum parcel size before the property line adjustment, the minimum parcel size pursuant to this section does not apply to those lots or parcels.*
  - (b) *If the minimum parcel size in MCC 17.136.090(A)(1) is larger than 80 acres, and a lot or parcel subject to property line adjustment is smaller than the minimum parcel size but larger than 80 acres, the lot or parcel shall not be reduced in size through property line adjustment to less than 80 acres.*
  - (c) *Any property line adjustment shall result in a configuration of lots or parcels that are at least as suitable for commercial agriculture as were the parcels prior to the adjustment.*

- (d) *A property line adjustment may not be used to:*
1. *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;*
  2. *Decrease 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; or*
  3. *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.*
- (e) *Any property line adjustment that results in an existing dwelling being located on a different parcel shall not be subject to the standards in MCC 17.136.030(A) so long as the adjustment:*
1. *Does not increase the any adverse impacts on the continued practice of commercial agriculture on the resulting parcels; and*
  2. *Does not increase the potential number of dwellings on the resulting parcels.*

8. One existing parcel is entirely zoned EFU: tax lot 1100, 33.90 acres zoned EFU. Two parcels are zoned both EFU and UT-20: tax lot 2500, 39.42 acres zoned EFU and 52.30 acres zoned UT and tax lot 300, 18.18 acres zoned EFU and 9.32 acres zoned UT. None of the EFU zone portions of the properties exceed 80 acres; therefore, the 80 acre minimum standards above do not apply. The EFU portions of the properties will be consolidated into one 92.13 acre lot, which would make them better able to be farmed as a unit. The resulting EFU parcel would contain an existing dwelling; no property lines are being adjusted such that a parcel would newly qualify for a dwelling. The proposal meets the criteria for a property line adjustment in the EFU zone.
9. Section 16.13.310 of the Marion County Code contains standards for property line adjustments with the UT zone. However, no land within the UT zone is being adjusted. The existing UT zoned portions of each parcel will not change after the EFU portions of the properties are consolidated. Therefore, the standards for a property line adjustment in an UT zone do not apply.
10. 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.
11. 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.
12. Based on the above findings and conclusions, the proposal meets the criteria for a property line adjustment in an EFU zone and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore  
Director-Planning Division

Date: March 28, 2019

If you have any questions please contact Brandon Reich 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.