

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. 22-035**

APPLICATION: Application of Gerald & Rose McBride and Stephen Keaton for a property line adjustment to adjust the property lines on a 1.73-acre parcel and a 9.72-acre parcel to create a 1.73-acre parcel and a 9.72-acre parcel in an SA (Special Agriculture) zone located at 2385 Cloverdale Drive SE, Turner (T9S; R3W; Section 2A; Tax Lot 900, 1000, and 1400).

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 **October 5, 2024**. 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 drain field 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. 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.
2. Per Marion County Surveyor's Office, the properties 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)].

3. Per Marion LDEP, a new access permit may be required because not all requirements were met for a previous access permit. Please discuss access requirements with LDEP.

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

4. 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 the Findings and Conclusions section below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

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 **October 5, 2022**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 6, 2022**, 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 Special Agriculture in the Marion County Comprehensive Plan and correspondingly zoned SA (Special Agriculture). The primary intent of both this designation and zone is to promote and protect small farm operations or areas with a mixture of good and poor farm soils.
2. The properties are located 0.10 miles west of the intersection of Cloverdale Drive SE and Ridgeway Drive SE. Tax Lot 1400 is currently developed with a single-family dwelling and multiple accessory structures. Tax Lot 900 & 1000 are developed with a single-family dwelling and multiple accessory structures.
3. Tax Lot 900 and 1000 have existed as a **single legal parcel** in its current configuration since before September 1, 1977, per a warranty deed recorded in Volume 90, Page 769 of the Deed Records of Marion County. The parcel was also later subject to an approved lot line adjustment case (LLA86-030). It appears that the adjustment was completed by deed, but the legal description of the underlying parcel for tax lot 900 and 1000 has not been updated to reflect these changes. This parcel is considered legal for the purposes of land use per Marion County Code 17.110.427.
4. Tax Lot 1400 has existed as a single legal parcel in its current configuration since before September 1, 1977, per a warranty deed recorded in Volume 575, Page 495 of the Deed Records of Marion County. The legal description of the property did change further after that deed, but prior to September 1, 1977. At some point prior to September 1, 1977, further portions of the property were deed away, resulting in the configuration which still exists today. This parcel is considered legal for the purposes of land use per Marion County Code 17.110.427.
5. Adjacent properties in all directions are zoned SA (Special Agriculture) and appear to consist of a mixture of small and medium scale farming operations. Some land is forested. Willamette Valley Vineyards and some Christmas tree farms are nearby.
6. Soil Survey for Marion County, Oregon, indicates approximately 100.0% of the soils on the subject tax lots are classified as high value.
7. Marion County Surveyor's Office commented: Per Marion County Surveyor's Office, the properties 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)].

8. Marion County Land Development Engineering commented:

Engineering Advisory

A. Conditions for Access Permit #55-19-000838-PW issued for the subject property were not met, and the permit has since expired. In particular, it was specified to remove an existing green plastic pipe at the subject proposed field access and replace it with an approved pipe material and diameter. The property owner is advised to follow up with obtaining another permit to conduct corrective work.

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

10. Various agencies were contacted about the proposal and given an opportunity to comment. All other contacted agencies either failed to comment or stated no objection to the proposal.

11. The criteria for reviewing lot line adjustments within an SA zone are listed in Chapter 17.137.090(C) MCC. These criteria are as follows:

1. *When one or more lots or parcels subject to a proposed property line adjustment are larger than the minimum parcel size pursuant to subsection (A)(1) of this section, 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.*

Both parcels are less than 80 acres in size. The minimum property size listed in MCC 17.137.090(A)(1) for SA parcels is 80 acres. Based on these facts, both parcels are smaller than the minimum size and therefore this section does not apply.

2. *If the minimum parcel size in MCC 17.137.090(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.*

Both parcels are less than 80 acres in size to begin with. No parcel larger than 80 acres will be reduced to less than 80 acres. Based on these facts, this criterion is met.

3. *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.*

This property line adjustment will configure the properties in such a way that the setbacks for the dwelling and structures on Tax Lot 1400 are increased, giving a greater buffer between any potential farm uses. Meanwhile, Tax Lots 900 & 1000 will gain additional frontage on Cloverdale. This adjustment is just as suitable for commercial agriculture as the previous configuration, as no significant barriers to farming will be created by the new property lines. Based on these facts, this criterion is met.

4. *A property line adjustment may not be used to:*

a. *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;*
- b. 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*
 - c. 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.*
 - d. 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.*

No parcel will be increased to larger than the minimum parcel size. No parcel was created via subdivision or partition authorized by a Measure 49 waiver. Tax Lot 1400 is developed with a dwelling built in 1948 according to the tax records, and therefore predates zoning law. Tax Lots 900 and 1000 are developed with a dwelling built in 1968 according to the tax records, and therefore predates zoning law. Neither dwelling was qualified based on an acreage standard. The criterion is met.

- 5. *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 17.137.030(A) so long as the adjustment:*
 - a. Does not increase the any adverse impacts on the continued practice of commercial agriculture on the resulting parcels; and*
 - b. Does not increase the potential number of dwellings on the resulting parcels.*

No dwellings will be located on different parcels, nor will the adjustment allow for additional dwellings or adversely impact the practice of commercial agriculture. The criterion is met.

- 12. 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.
- 13. 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.
- 14. Based on the above findings, the applicants' proposal meets the criteria for a property line adjustment in a SA zone. The property line adjustment request is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: September 20, 2022

If you have any questions regarding this decision contact Daniel Jansen 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.