

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. 22-005**

APPLICATION: Application of Jeremy and Heather Alderman & James and Marrienne Mckay for a property line adjustment to adjust the property lines on a 52.29-acre parcel and a 30.83-acre parcel to create a 35.30-acre parcel and a 47.82-acre parcel in a Special Agriculture (SA) zone located at 6222 Coates Dr. SE, Salem. (T8S; R2W; S19; Tax lots 400 & 500).

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 **March 26, 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. The deeds conveying the re-platted parcels shall be recorded after the recording of the re-plat.
3. A re-plat (in the form of a partition plat) is required, due to the adjustment of a partition plat parcel line or subdivision lot line. A property line adjustment deed for the area being transferred shall be recorded with the Marion County Clerk's Office, prior to the recording of the re-plat. Deed recording reference numbers shall be noted on the 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 acknowledgment.
4. All conditions listed in Finding #6 shall be met.

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 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 below be contacted to identify restrictions or necessary permits.

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) based on 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 **March 26, 2022**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **March 28, 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 commercial agricultural operations.
2. The properties are located off Coates Drive SE, with Tax Lot 500 located within 100 feet of the intersection of Coates Drive SE & Wiltsey Loop SE. Tax Lot 400 is accessed by Coates Crest Wy SE, a private drive. Tax Lot 400 is developed with a dwelling that was approved pursuant to M05-96. Tax Lot 500 is developed with one farm building but has also been approved for a primary farm dwelling pursuant to AR21-023. Tax Lot 400 was created in its current configuration by PLA 20-013. Tax Lot 500 was created in its current configuration by PLA 20-013. Both properties are considered legal for the purposes of land use.
3. Adjacent properties to the west, south, and east are zoned SA (Special Agriculture) and in a mix of medium to large scale commercial farm use. Properties to the north are zoned AR (Acreage Residential) and are small sized parcels used for residential use.
4. Soil Survey for Marion County, Oregon, indicates approximately 91.0% of the soils on the subject tax lots are classified as high value.
5. The applicants are proposing to adjust the property lines on a 52.29-acre parcel and a 30.83-acre parcel to create a 35.30 acre parcel and a 47.82 acre parcel.
6. Marion County Surveyor's Office commented:
 1. A re-plat (in the form of a partition plat) is required, due to the adjustment of a partition plat parcel line or subdivision lot line. A property line adjustment deed for the area being transferred shall be recorded with the Marion County Clerk's Office, prior to the recording of the re-plat. Deed recording reference numbers shall be noted on the 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 acknowledgment.
 2. The deeds conveying the re-platted parcels shall be recorded after the recording of the re-plat.
 3. Must comply with all provisions per ORS 92.185 (6)
 4. Must be surveyed and platted per ORS 92.050, and the plat submitted for review.
 5. Checking fee and recording fees required.
 6. A current or updated title report must be submitted at the time of review.
 7. The portion of the subdivision or partition plat proposed for replatting contains utility easement(s) that will need to be addressed. Per ORS 92.185 (4), when a utility easement is proposed to be realigned, reduced in width, or omitted by a replat, all affected utility companies or public agencies shall be notified,

consistent with a governing body's notice to owners of property contiguous to the proposed plat. Any utility company that desires to maintain an easement subject to vacation must notify the governing body in writing within 14 days of the mailing or other service of the notice.

8. If it is necessary to re-configure the utility easement created by this partition plat (see map), then it will be the responsibility of the applicant to determine the names of all of the utility companies affected by the proposed re-configuration and give this list of names to the Marion County Surveyor's Office. Letters of notice will be sent by this office to the affected utility companies, who will determine whether or not the easement is to be maintained.

Marion County Building Inspection commented that permits will be required for future development and/or utilities.

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

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.

7. 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:

- (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 17.137.090(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.*

Tax Lot 400 is 30.83 acres in size and is proposed to increase in size to 47.82 acres. Tax Lot 500 is 52.29 acres in size and is proposed to decrease in size to 35.30 acres. 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.

- (b) *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.*

Tax Lot 400 is 30.83 acres in size and is proposed to increase in size to 47.82 acres. Tax Lot 500 is 52.29 acres in size and is proposed to decrease in size to 35.30 acres. No parcel larger than 80 acres will be reduced to less than 80 acres. Based on these facts, this criterion is met.

- (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.*

This property line adjustment will configure the properties so that tax lot 500 will be more contiguous, removing portions that were previously only accessible via a small bottleneck between neighboring parcels. This adjustment is just as suitable for commercial agriculture as the previous configuration as helps consolidate farmland into an easier to manage configuration. Based on these facts, this criterion is met.

- (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.*
4. *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 400 is developed with a dwelling that was approved pursuant to M05-96. Tax Lot 500 is developed with agricultural structures, but also received approval for a primary farm dwelling pursuant to AR21-023. Neither dwelling was qualified based on an acreage standard. The criterion is met.

(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 17.137.030(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.*

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.

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 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: March 11, 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.