

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**  
**ADMINISTRATIVE REVIEW CASE NO. 22-036**

**APPLICATION:** Application of Lynne Properties LLC for an administrative review to determine the number of parcels on 23-acres of land in an EFU (Exclusive Farm Use) zone located at 10375 Champoeg Rd NE, Aurora (T4S; R1W; Section 6D; Tax lots 200, 300, & 400).

**DECISION:** The Planning Director for Marion County has **determined that Tax Lots 200, 300, and 400 consist of three (3) separate parcels, Tax Lot 200 can be developed with a dwelling, but is subject to criteria found in Marion County Code (MCC) 17.136.030(A), and that the current winery may operate under the new winery criteria subject to approval of an Administrative Review application by the Marion County Planning Division.**

**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 **January 27, 2023**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **January 28, 2023**, unless further consideration is requested.

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

1. The subject property is designated Primary Agriculture in the Marion County Comprehensive Plan and correspondingly zoned EFU (Exclusive Farm Use). The primary intent of both this designation and zone is to provide areas for continued practice of commercial agriculture.
2. The subject properties are located on Champoeg Road NE and are approximately 0.51 miles west of the intersection of Champoeg Road NE and Butteville Road NE. Tax Lot 200 is approximately 13.43 acres in size, while Tax Lots 300 and 400 are approximately 8.47 acres and 1.51 acres in size, respectfully. Currently, Tax Lot 200 is developed with a building being used as a wine tasting room and two farm buildings, while Tax Lot 300 is contains one farm building and Tax Lot 400 has one dwelling (the primary residence). Adjacent properties to the north, west, and east are zoned EFU, while properties to the south are zone AR (Acreage Residential). The subject Tax Lots were the subject of Administrative Review 92-009, which was approved. Additionally, the deeds from Administrative Review 92-009, match the deeds submitted by the applicant's representative. All three subject tax lots are legal for land use purposes.

3. The applicant is requesting a review to determine how many legal parcels exist within the property, whether Tax Lot 200 can be developed with a dwelling, and if the applicants can operate a winery under the current land use criteria. Per Marion County Code 17.115, a proposed use, structure, or the legality of a lot or parcel may be reviewed as an administrative review when it requires an interpretation or the exercise of factual, policy, or legal judgement. Section 17.115.110 states:

*The administrative review procedures, as provided below, shall be followed in making these decisions.*

*A. The decision shall be made on the basis of the comprehensive plan and applicable standards and criteria in this title. The director or designee may attach any conditions of approval deemed necessary to ensure conformance of the use, structure, lot or parcel or to the standards or criteria. Administrative review applications may be filed and shall be signed as required in MCC [17.119.020](#) and [17.119.025](#). Notwithstanding any other provisions of this title, the director or designee may forward any land use permit or application to the planning commission or hearings officer for a public hearing and initial decision.*

4. Marion County Code 17.110.427 defines a legal parcel as:

*“Parcel” means a unit of land created by a partitioning as defined in ORS 92.010 in compliance with all applicable zoning and partitioning code provisions contained in Chapter 17.172 MCC, or created by deed or land sales contract prior to September 1, 1977, excluding units of land created solely to establish a separate tax account. [Ord. 1369 § 4 (Exh. B), 2016; Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008. RZ Ord. § 110.427.]*

5. The applicant submitted an application with and applicant statement that outlines the history of the three subject tax lots. This review will examine the history of the underlying legal parcels within Tax Lots 200, 300, and 400 (the subject properties).
6. The properties in question are Tax Lots 200, 300, and 400. After reviewing two deeds that were recorded prior to September 1, 1977, staff has determined that all three tax lots are separate, legal parcels. The most current deed (Reel: 4610, Page: 259), describes all three parcels and labels them as Parcel I, Parcel II, and Parcel III. In a deed recorded on April 8, 1977, Parcel II is described, making it a separate parcel from the other two parcels. Additionally, in a deed recorded on February 9, 1976, Parcels I and III are described as two separate parcels and separate from Parcel II. In summation, this makes all three parcels separate from each other.
7. Regarding Tax Lot 200 being allowed to build a dwelling on it, staff has determined that this is possible because it is a separate, legal parcel, but is subject to criteria found in Marion County Code (MCC) 17.136.030(A).
8. Finally, the applicant has requested that staff determine if the current winery could operate under the new winery criteria. To establish a new winery under the current criteria, the applicant would need to apply for an Administrative Review and is subject to the criteria found in MCC 17.125.030.
9. One agency made the following comment:  
  
Marion County Building Division commented:  
No Building Inspection concerns. Permits would be required for future development and/or utilities on private property.
10. Various agencies were contacted about the proposal and given an opportunity to comment. All other contacted agencies failed to comment.

11. Based on the above findings, the Planning Director for Marion County has **determined that Tax Lots 200, 300, and 400 consist of three (3) separate parcels, Tax Lot 200 can be developed with a dwelling, but is subject to criteria found in Marion County Code (MCC) 17.136.030(A), and that the current winery may operate under the new winery criteria subject to approval of an Administrative Review application by the Marion County Planning Division.**

Brandon Reich  
Planning Director/Zoning Administrator

Date: January 12, 2023

If you have any questions regarding this decision contact Jared Bradford at (503) 566-4173

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.