

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. 23-007**

APPLICATION: Application of WCS Properties LLC to adjust the property lines on a 53.00-acre parcel and a 218.00 acre parcel to create a 2.62 acre parcel and a 268.38 acre parcel in an EFU (Exclusive Farm Use) zone located at 6869 Champoeg Rd NE, St. Paul (T4S; R2W; Section 3; Tax Lots 300 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 **March 28, 2025**. 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: Resultant properties 10 acres or less 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. 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.

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

3. 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:

4. 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 **March 28, 2023**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **March 29, 2023**, 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 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 promote and protect commercial agricultural operations.
2. The properties lie between Champoeg Rd NE to the south and the Willamette River to the north. They are approximately 0.95 and 1.11 miles east of the intersection of River Rd NE (SR 219) and Champoeg Rd NE.

Tax lot 300 borders the Willamette River on the north side and contains a canal/ditch running east-west roughly half way up the parcel which then flows into the Willamette. The northern 300 to 375 or so feet of the parcel is in the Greenway. The northern half of the property as divided by the canal/ditch is Floodway. There is one small area in the north that seems to not be in the floodway, but a portion of this is depicted as wetland according to our data. The portion of the parcel south of the canal/ditch is roughly 80% floodplain, both 100 and 500 year, with only the most southern portion of land outside the floodplain.

Tax lot 400 is roughly two thirds floodplain, both 100 and 500 year. The floodplain is over the northern portion of the parcel. The parcel is directly off of Champoeg Rd NE and contains two intermittent streams that run northeasterly and north and feed into the same canal/ditch that divides tax lot 300. The canal/ditch appears to match the northern border of the property.

Both properties are farmed. Adjacent properties in all directions are zoned EFU (Exclusive Farm Use). The area is distinguished predominately by large farm operations.

3. Tax lot 400 contains one dwelling built in 1951 per Tax Assessor records. It also has multiple farm/out buildings and a silo. The existing dwelling pre-dates modern zoning regulations and is therefore considered legally established for planning purposes. Tax lot 300 is bare land.
4. Each parcel is legal for land use purposes. Taxlot 400's legal description has been in use since at least Vol. 374 Page 498 recorded on Aug. 18, 1947. Taxlot 300 was described as part of a larger parcel of land in Vol. 328 Page 565 recorded on Sept. 20, 1945. This larger parcel of land included taxlot 600 to the south which was conveyed out of the larger parcel in Vol. 400 Page 188 recorded on Jan. 28, 1949. Because taxlot 600 was described separately prior to Sept. 1, 1977, Marion County Planning finds that taxlot 300 is legal for the purposes of land use per 17.110.427.
5. Soil Survey for Marion County, Oregon, indicates the soils on the subject properties are classified as approximately 95.9% (tax lot 300) and 100% (tax lot 400) high value.
6. Marion County Surveyor's Office commented:
 1. No survey required for properties greater than ten acres per ORS 92.060 (8).
 2. Properties 10 acres or less must be surveyed per ORS 92.060 (7) and the survey submitted for review.

3. Survey checking fee required at the time of review.
4. Property line adjustment deeds shall be recorded with the Marion County Clerk's Office. 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.

Marion County Building commented: "Based on the application and site plan submitted, the proposed property lines are recommended to be 3 feet or more away from any existing structures or additional fire resistive construction may be required on the existing structures according to the 2021 Oregon Residential Specialty Code, Section R302. Permits may be required for any future development and/or utilities on private property."

Marion County Septic commented: "An Existing system evaluation and associated application is required for the 2.62 acre parcel. The applicant must submit a site plan of the proposed property showing an area suitable for a future repair system."

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

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 EFU zone are listed in Chapter 17.136.090(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.*

One parcel is larger than the 80 acre minimum size, and one parcel is smaller than 80 acres in size prior to adjustment. There will remain one parcel larger, and one parcel smaller than the 80 acre minimum size post adjustment. The criterion is met.

2. *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.*

The parcels are 53.00 acres and 218.00 acres currently and will end up 2.62 acres and 268.38 acres. This section does not apply.

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 proposes to reconfigure the parcels in such a way as the farmland would become one parcel, while the existing dwelling and outbuildings are on another. The 2.62 acres that would become the smaller parcel and contain the homesite and outbuildings is already precluded from farming. The land currently being farmed will be consolidated into the larger parcel. In this manner the new configuration of the parcels will be at least as suitable for commercial agriculture as the prior configuration was. The 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.*

Neither parcel was subject to a Measure 37 or Measure 49 claim/order, and thus (4)(d) does not apply. Subsection (4)(a), (4)(b), and (4)(c) are all met, as neither property can qualify for a dwelling based on tract acreage. Neither parcel involved have dwellings that were qualified through farm income or acreage. These criteria have all been 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 17.136.030(A) so long as the adjustment:*
 - a. Does not increase 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.*
 - c. Does not 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.*

No dwellings will be located on different parcels, nor will the adjustment allow for additional dwellings. This section does not apply.

8. 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.
9. Based on the above findings, the applicants' proposal meets the criteria for a property line adjustment. The property line adjustment request is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: March 13, 2023

If you have any questions regarding this decision contact Nicole Inman 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.