

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. 23-010**

APPLICATION: Application of Blue Line Farms Inc. for a property line adjustment to adjust the property lines on a 48.29-acre parcel and a 38.79-acre parcel to create an 82.04-acre parcel and a 5.0-acre parcel in an EFU (Exclusive Farm Use) zone located at 11513 Selah Springs Road NE (T7S; R1W; Section 5; Tax Lots 1100 & 2200).

DECISION: The Planning Director for Marion County has **DENIED** the above-listed Property Line Adjustment application.

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 are located on the north side of Selah Springs Rd and the west side of Brush Creek Dr. Directly northwest of their intersection. Tax lot 2200 contains a dwelling built in 2015 that is a replacement of the original 1984 dwelling. The property also contains multiple farm buildings and row crops. The parcel is described as one 110 acre parcel based on FDA83-020 and other building permit history. The parcel is legal for land use purposes.
3. Adjacent properties are zoned EFU and are all in commercial farm use.
4. Soil Survey for Marion County, Oregon, indicates approximately 100% 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 48.29-acre parcel and a 38.79-acre parcel to create an 82.04-acre parcel and a 5.0-acre parcel.
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 acknowledgment.

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 EFU zone are listed in Chapter 17.136.090(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 17.136.090(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.*

FDA 83-020 approved a farm dwelling on the subject property under the condition that it be the only dwelling on the property and occupied by a farm operator. The decision also lists the parcel as one 110 acre parcel. Deed research shows the two parcels used in this application were first described in Reel 191, Page 1172 on October 31st, 1979. Marion County has regulated land divisions of this type since September 1st, 1977. As such, there is only one parcel involved in the application and no adjustment of property lines can take place.

Additionally, as mentioned above, the dwelling was approved as a farm dwelling through FDA83-020. The applicant narrative states that both dwellings are occupied by residents who do not work on the farm. This is a violation of the original farm dwelling permit as the residents of the dwelling must play a predominate role in the farm. There may also only be one occupied dwelling on this property, as the new dwelling was built as a replacement of the farm dwelling through building permit 555-15-004299. This was done in 2015 and this new dwelling is located east of the original 1983 farm dwelling. A replacement residence declaratory statement was recorded (Reel 3725, Page 422) on the subject property indicating the home was a replacement and the original home would not be lived in and converted to storage.

Because of the open code violation and the inability to adjust lot lines on one parcel, the property line adjustment does not meet the applicable criteria.

8. Based on the above findings, the applicants' proposal does not meet the criteria for a property line adjustment in an EFU zone. The property line adjustment request is, therefore, **DENIED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: March 13, 2023

If you have any questions regarding this decision contact Austin Barnes 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.