

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. 23-011**

**APPLICATION:** Application of Ronald and Rozann Postma JRLT and Ryan Eder Leasing, LLC for a property line adjustment to adjust the property lines on a 15.25-acre parcel and a 66-acre parcel to create a 76.25-acre parcel and a 5-acre parcel in an EFU (Exclusive Farm Use) zone located at 13999 McKee School Road NE and 14271 Wilco Highway NE (T5S; R1W; Section 21; Tax Lots 2700 & 2800).

**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: No survey required for properties greater than ten acres per ORS 92.060 (8). 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.
3. Per the Marion County Septic team, an existing system evaluation is required for the septic system on the proposed 5-acre parcel. The applicant shall provide evidence of this being completed prior to the property line adjustment deeds being recorded.

**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.

**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 approximately 1,500 feet south of the intersection of McKee School Road NE and State Highway 214 (Wilco Highway NE). The properties are accessed by an unnamed County Road 544B, across on the west side of the Union Pacific railroad right-of-way. The properties border the Pudding River to the west. As a result, much of western portion of the parcels falls within a 100-year floodplain and some potential wetlands. Adjacent properties in all directions are zoned EFU (Exclusive Farm Use). The area is distinguished predominately by large farm operations alongside a couple smaller farms.
3. Per Tax Assessor records and the applicant site plan, Tax Lot 2700 contains a single-family dwelling and multiple farm/accessory structures. The dwelling on this parcel was built approximately around 1930 and would therefore pre-date current zoning regulations; this dwelling is also mentioned in previous land use cases, such as Conditional Use/Partition 91-100. It therefore appears to be a legal dwelling. Tax Lot 2800 is undeveloped farmland.
4. Tax lot 2800 has existed in its current configuration since prior to September 1, 1977, per a warranty deed recorded in Reel 251, Page 1689 of the Deed Records of Marion County, Oregon (identified as Parcel III on the deed). No further changes to tax lot 2800 were recorded by deed (or otherwise) since, and so the parcel has remained legal. Tax lot 2700 was approved subject to Partition application 92-058 and was platted as Parcel 1 of Partition Plat 1993-36. No further changes to tax lot 2800 were recorded by deed (or otherwise) since, and so the parcel has remained legal. **These two parcels** are legal for the purposes of land use per Marion County Code 17.110.427.
5. Soil Survey for Marion County, Oregon, indicates approximately 92.8% of the soils on the subject tax lots are classified as high value.
6. Marion County Surveyor's Office commented:  
  
No survey required. The resultant properties are greater than ten acres. 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.
7. Marion County Assessor's Office provided information regarding taxes on the subject properties.
8. Marion County Septic Division commented:  
  
An existing septic system evaluation is required for the 5-acre parcel.

9. 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.
10. 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.*

All parcels involved are smaller than 80 acres in size prior to adjustment. Therefore, this section does not apply.

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.*

All parcels involved are smaller than 80 acres in size prior to adjustment. 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 will transfer the majority of the farmland from tax lot 2700's parcel to tax lot 2800's parcel. Tax lot 2700 will be reduced in size to consist mostly of a homesite. The proposed new lot lines do not appear to create any new issues that would affect farming, as the resulting 76.25-acre parcel will still be accessible for farm equipment and personnel. All parcels will be at least as suitable for commercial agriculture as they were prior to the adjustment. 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.*

None of the parcels were 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 none of the parcels can currently qualify for a dwelling based on tract acreage. The parcel associated with tax lot 2700 contains a home that pre-

dates zoning regulations, but the parcel is not being adjusted in a way that would allow the adjacent parcel to qualify for a dwelling based on size/tract 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 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 existing dwellings will be located on different parcels. This section does not apply.

11. 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.
12. 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 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.