

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. 23-036**

APPLICATION: Application of Joseph and Cynthia Meduri for a property line adjustment to adjust the property lines on a 54.11-acre parcel and a 1.33-acre parcel to create a 47.19-acre parcel and a 8.25-acre parcel in a SA (Special Agriculture) zone located at 2685 Hanneman Lane SE, Turner (T8S; R3W; Section 36; Tax lots 600 and 700; Section 36C; tax lot 1800).

DECISION: The Planning Director for Marion County has **APPROVED** the above-listed Property Line Adjustment application subject to certain conditions. **PLEASE READ ALL CONDITIONS BELOW.**

EXPIRATION DATE: Title transfer instruments accomplishing the property adjustments shall be recorded, and all conditions of approval shall be met by the applicants with the Marion County Clerk by **October 9, 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: any properties less than 10 acres must be surveyed/monumented per ORS 92.060 (7) and the survey submitted for review/filing; no survey is required for abutting properties greater than ten acres per ORS 92.060 (8); a survey checking fee is required at the time of review; and property line adjustment deeds which fulfill the requirements of ORS 92.190 (4) shall be recorded with the Marion County Clerk's Office.

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 deeds all taxes due must be paid to the Marion County Tax Department. Applicant should contact the Marion County Tax Office 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 **October 6, 2023**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 7, 2023**, unless further consideration is requested.

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

1. The subject properties are designated Special Agriculture in the Marion County Comprehensive Plan and are correspondingly zoned SA (Special Agriculture). The primary intent of both this designation and zone is to promote and protect small farm operations or areas with a mixture of good and poor farm soils.
2. The properties are located at the end of a private road, Hanneman Ln SE, which comes off of Enchanted Way SE. Tax lot 1800 is a narrow strip of bare land with a small amount of area at the north end identified as a 3-point value in the Geologically Hazardous Areas Overlay. Tax lot 600 has one legal dwelling built in 1959 and a farm/accessory structure. Sections of the tax lot in the north and southeast/east are identified as a 3-point value in the Geologically Hazardous Areas Overlay. Tax Lot 700 is bare land and is mostly covered in trees and brush. The western half, approximately, of the tax lot falls within an identified 3-point value in the Geologically Hazardous Areas Overlay.
3. Tax Lot 1800 has existed in its current configuration since at least July 3, 1969 (Vol. 667 Page 567), while tax lots 600 and 700 have been described as one parcel of land since at least March 6, 1952 (Vol. 437 Page 414). Therefore, per the definitions used in Marion County Code 17.110.427 and 17.110.680, tax lot 1800 is considered one legal parcel, and tax lots 600 and 700 together are considered one legal parcel for land use purposes.
4. Adjacent properties to the east and west are zoned SA (Special Agriculture), while to the south of the subject properties are zoned SA with one FT (Farm Timber) parcel. Along the north of the subject parcels is a large split zone property, the tiny home community known as Hope Valley Resort, located off of Enchanted Way SE. This property is zoned SA and C (Commercial).
5. Soil Survey for Marion County, Oregon indicates approximately 75.4% of the soils on tax lot 1800 are classified as high value, while approximately 59.3% of soils on tax lots 600 and 700 are classified as high value.
6. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Surveyor's Office commented:

- a. No survey required for abutting properties greater than ten acres per ORS 92.060 (8).
- b. Properties less than 10 acres must be surveyed/monumented per ORS 92.060 (7) and the survey submitted for review/filing.
- c. Survey checking fee required at the time of review.
- d. Property line adjustment deeds shall be recorded with the Marion County Clerk's Office. Per ORS 92.190 (4).

Marion County Building Division commented: "No Building Inspection concerns. Permits are required to be obtained prior to development and/or utilities installation on private property."

Turner Fire District commented:

Fire Apparatus Access and Fire Protection Water Supply Standards.

Fire apparatus access and fire protection water supply must comply with the Oregon Fire Code (OFC) and the Marion County Fire Code Applications Guide (MCFCAG). The applicant is encouraged to contact Turner Fire District for assistance with determining how to address fire service features including fire apparatus access and fire protection water supplies for this location and/or project.

NOTE: Robert of Barker Surveying, Applicant Representative, is encouraged to contact Turner Fire District for assistance with determining how to address fire service features including fire apparatus access and fire protection water supplies for this location and/or project.

Marion County Tax Office provided information regarding taxes on the subject properties.

All other contacted agencies either failed to comment or stated no objection to/comment on 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:

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.*

The minimum parcel size listed in MCC 17.137.090(A)(1) for SA parcels is 80 acres. Both parcels are under this threshold, therefore, this section does not apply.

2. *If the minimum parcel size in subsection (A)(1) of this section 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 minimum parcel size is not larger than 80 acres; both parcels are under the minimum parcel size. Therefore, 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.*

Per the proposed configuration shown on the applicants' site plan, the homesite and yard area of tax lot 600 is to be conveyed to tax lot 1800 (Proposed Property B). The remainder of tax lot 600 will be combined with tax lot 700 (Proposed Property A). This new configuration will not impact any potential to farm as it is only adjusting the homesite and yard area. 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;*

- 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; or*
- 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.*

The 1959 dwelling on tax lot 600 was placed prior to planning and zoning law and therefore is not constrained by location limitations due to acreage standards or income. The Proposed Property A cannot qualify for a dwelling based on tract acreage, and neither of the subject parcels have a Measure 37 or Measure 49 claim. Therefore, the criteria in Section (4) do not apply.

- 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 17.137.030(A) so long as the adjustment:*
 - a. *Does not increase any adverse impacts on the continued practice of commercial agriculture on the resulting parcels;*
 - b. *Does not increase the potential number of dwellings on the resulting parcels; and*
 - c. *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.*

The dwelling located on tax lot 600 will be moved from one legal lot (tax lots 600 and 700) another legal lot (tax lot 1800). However, the dwelling predates planning and zoning law and therefore was not established based on an acreage standard. Also, this will not increase the number of potential dwellings, as no new dwelling will be granted via this property line adjustment and the resultant properties will be the same as the current subject properties (in that one is bare land and one is developed). Finally, there will be no increase to adverse impacts on the parcels' continued commercial agricultural practice since they are not currently farmed, and property line adjustment itself will not alter their ability to be farmed in the future as addressed in Section (3). Therefore, the criteria is met.

- 8. 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: September 21, 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.