

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. 24-007**

**APPLICATION:** Application of Thomas & Amy Lear and the Donna C. Coleman Family Trust for a property line adjustment to adjust the property lines on a 1.50-acre parcel and an 8.15-acre parcel to create an 8.15-acre parcel and a 1.50-acre parcel in an EFU (Exclusive Farm Use) zone located at 7957 Stoney Ln NE and 15895 Old Butteville Rd NE, Woodburn (T5S; R2W; Sections 11C; Tax Lots 300 & 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 **May 23, 2026** (two years). 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. Per Marion County Surveyor's Office properties 10 acres or less must be surveyed per ORS 92.060 (7) and the survey must be submitted for review. A survey checking fee will be required at the time of review and 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.
2. **Prior to recording the deeds**, the applicants shall obtain any septic review and/or evaluations that may be required from the Marion County Building Inspection Division.
3. 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.

**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 Finding #6 below be contacted to identify restrictions or necessary permits.

5. 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).
6. The applicants should contact the Woodburn Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.

**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 **May 23, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **May 24, 2024**, 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 northwest side of the intersection of Old Butteville Rd NE and Stafney Ln NE. Tax lot 300 surrounds tax lot 400 on three sides, and the south boundary line of tax lot 400 is created by Stafney Ln NE. There are two dwellings physically located on tax lot 300, however one dwelling is assessed to tax lot 400. The applicants explained that back in 1974, the house intended to be located on tax lot 400 was mistakenly placed on tax lot 300.

In their application, the applicants provided an official letter from the Marion County Assessor's Office which verifies the narrative that the house intended to be built on tax lot 400 was sited incorrectly on tax lot 300, but that the assessor had been assessing the house to tax lot 400 as it was intended. Tax lot 300 and 400 were created prior to Marion County subdivision and planning ordinances were in place, and the houses were established prior to the adoption of planning ordinances. The parcels are considered legal for land use purposes.

3. Adjacent properties to the north, west, and south are zoned EFU and are either engaged in commercial agriculture or are pre-existing small parcels that have large acreage residences which are not primarily engaged in commercial agriculture but could be used in such a manner in conjunction with the surrounding properties. The properties to the east are annexed into the city of Woodburn and have undergone significant industrial development since 2021.
4. Soil Survey for Marion County, Oregon, indicates approximately 98.7% 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 1.5-acre parcel and an 8.15-acre by shifting the existing layout of the 1.5-acre parcel within the 8.15-acre parcel so that it aligns with what the property owners believed to be the property boundaries.
6. Various Agencies were contacted about the proposal and given an opportunity to comment.

Marion County Surveyor's Office commented:

- 1) Properties 10 acres or less must be surveyed per ORS 92.060 (7) and the survey submitted for review.
- 2) Survey checking fee required at the time of review.
- 3) 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.

Marion County Septic commented: "An existing system evaluation and a site evaluation to establish a repair area are required for the proposed 1.5-acre parcel with the dwelling. The proposed 8.15-acre property is ok."

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.*

All the lots involved in the proposed property line adjustment are below the minimum parcel size in their current configuration, therefore the criterion does not apply.

(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.*

Neither of the two lots involved in the property line adjustment are above 80-acres in size, therefore the criterion does not apply.

(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.*

The property line adjustment proposed is intended to rectify an issue with the siting of a dwelling on the incorrect lot. There will be no resultant change in how the land is used because of the proposed property line adjustment since the intention behind the adjustment is to bring the legal configuration of the lots into alignment with how the land has been used for the past 50 years (when the dwelling was established in 1974). As such, the parcels will remain as suitable for commercial agriculture as they were prior to the adjustment. The criterion is met.

- (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.*

The proposed configuration would not result in any lots being increased in size to qualify a lot for a dwelling based off of an acreage standard. Therefore, the criterion is met.

- (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 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.*

While the proposed property line adjustment will result in the smaller of the two parcels having a dwelling that was previously not physically located on the property, the dwelling in question was already assessed to the 1.50-acre lot. There would not be any increase in the potential number of dwellings on the resulting parcels since the dwelling that is moving physical property has already been assessed as part of tax lot 400 and both lots already contain and are assessed a dwelling. Additionally, the relocation of the property lines will not result in any adverse impacts on commercial farming on the property as the proposal would adjust the property lines to match the existing use. The criterion is met.

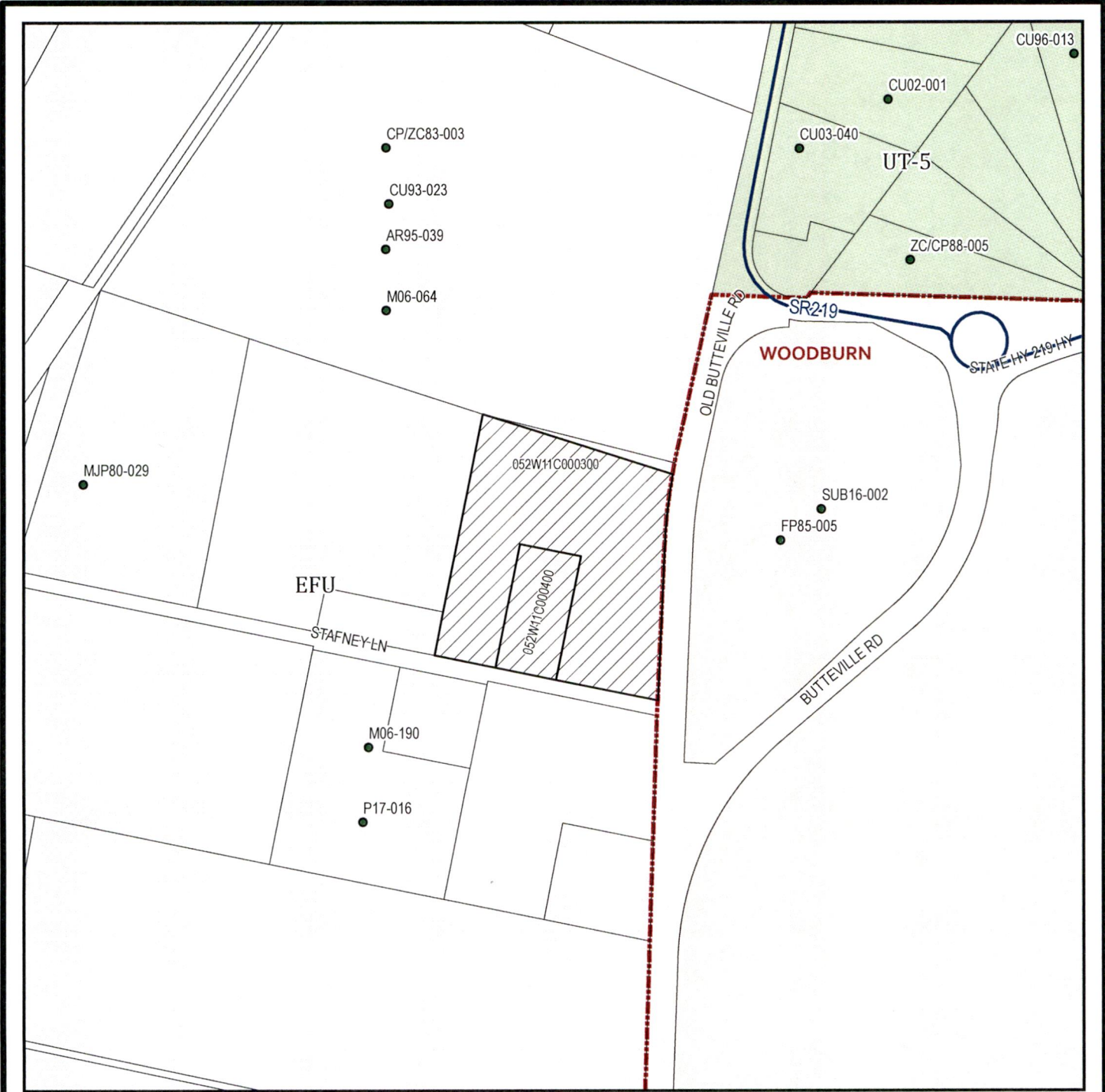
8. Under MCC 17.172.120(E) Property line adjustment deeds shall be recorded with the Marion County clerk's office prior to submitting the property line adjustment survey if a survey is required. Deed recording reference numbers shall be noted on the required survey.
9. The resulting lots shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval of the Planning Director.
10. Based on the above findings, the applicants' proposal meets the criteria for a property line adjustment in an EFU zone. The property line adjustment request is, therefore, **APPROVED**.

Brandon Reich  
Planning Director/Zoning Administrator

Date: May 8, 2024

If you have any questions regarding this decision contact Alexander Seifer 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.



## ZONING MAP

**Input Taxlot(s):** 052W11C000300, 052W11C000400

**Owner Name:** DONNA C COLEMAN FAM TR & COLEMAN, DONNA C TRE

**Situs Address:** 15895 OLD BUTTEVILLE RD NE


**City/State/Zip:** WOODBURN, OR, 97071


**Land Use Zone:** EFU


**School District:** WOODBURN

**Fire District:** WOODBURN

### Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



scale: 1 in = 399 ft

**DISCLAIMER:** This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.