

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. 24-008**

**APPLICATION:** Application of Jory Creek Acres, LLC and Joyce Stringer for a property line adjustment to adjust the property lines on a 51.78-acre parcel, a 70.31-acre parcel, and a 3.42-acre parcel to create a 88.01-acre parcel, a 31.88-acre parcel, and an 5.91-acre parcel in a SA (Special Agriculture) zone located at and 1421 & 1691 Jory Hill Rd S & 6331 Liberty Rd S, Salem (T8S; R3W; Section 21B; Tax lots 100, 400 & 500).

**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 **June 12, 2026**. 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:
  - a. No survey required for abutting properties greater than ten acres per ORS 92.060(8).
  - b. Properties 10 acres or less must be surveyed per ORS 92.060(7) and the survey submitted for review.
  - 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): 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.
3. The approved dwellings from Land Use Cases Administrative Review 22-027 and 23-021 shall be built on the resultant parcel which will lie south of Jory Creek and is anticipated to be approximately 31.88 acres as per the prior cases and Finding 8, criteria 5(b).

**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.** The applicant is advised of the following:

5. Prior to recording the deeds all taxes due must be paid to the Marion County Tax Department. Applicants 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 **June 12, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective, **June 13, 2024**, 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 subject properties are located directly northwest of the intersection of Jory Hill Rd S and Liberty Rd S. There is an intermittent stream, Jory Creek, running across the property with an identified wetland roughly matching the length of the creek. The subject parcels are within the Sensitive Groundwater Overlay zone (5 acre threshold) and there are two small areas of identified 3-point value GeoHazard. The north boundary line is contiguous with the Salem Urban Growth Boundary as is the norther half of the eastern boundary.
3. Tax lots 100 and 500 are legal for land use purposes as determined in Administrative Reviews AR22-027 and AR23-021. However, these cases did note that the existing tax lot lines do not match the legal lots. Both tax lots are currently bare, but the eastern legal lot is approved for two replacement dwellings as per Land Use Cases AR22-027 and AR23-021. Tax lot 400 is developed with one legal dwelling, a 1901 stick built, and several accessory/farm structures. It is also legal for land use purposes as the parcel has existed in its current configuration since at least May 3<sup>rd</sup>, 1962 as recorded in Vol. 558 Page 44.
4. Surrounding properties are a mix of various zones. Parcels zoned SA lay to the south, across Jory Hill Rd S, and are mostly small acreage homesites with one large parcel in active farm use. Other SA zoned properties are to the east across Liberty Rd S. These are mostly small acreage parcels with homesites but there is also a large tract of active farm use. Parcels to the southeast of the subject properties (across the intersection of Jory Hill Rd S and Liberty Rd S) are zoned AR (Acreage Residential). These are mostly developed with homesites. The majority of properties to the northeast and north are inside the city limits with a small swath of UT-10 (Urban Transition – 10 acre minimum). West of the subject parcels are two medium sized properties, one of which is also SA, while the other is zoned FT (Farm/Timber).
5. Soil Survey for Marion County, Oregon indicates approximately 100.0% of the soils on tax lot 100, 99.4% of the soils on tax lot 400 and 99.0% of the soils on tax lot 500 are classified as high value.
6. Applicants are proposing to 1) change the configuration of the two legal lots which are encompassed by tax lots 100 and 500 so that the boundary between them follows Jory Creek, and 2) to adjust approximately 2.19 acres

from the newly configured parcel which lies south of Jory Creek to tax lot 400, enlarging it to approximately 5.91 acres.

7. 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 10 acres or less must be surveyed per ORS 92.060(7) and the survey submitted for review.
- 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): 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 Division commented: "No Building Inspection concerns with proposed property line adjustments. Permits would be required to be obtained prior to development of structures and/or utilities installation on private property."

Salem Suburban Fire District commented: "FIRE has no concerns with the property line adjustment. Items including fire department access will be required per the Oregon Fire Code at the time of development."

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.

8. 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. As noted in Finding 3 above and determined in Land Use Cases AR22-027 and AR23-021 the tax lots 100 and 500 do not accurately reflect the legal lots. The legal lots are estimated at roughly 51-52 acres and 63-64 acres in size. Tax lot 400 is approximately 3.42 acres. Therefore, all legal lots involved in the proposed property line adjustment are under the 80 acre threshold and this criterion 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; all 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.*

The proposed configuration for the legal lots which are encompassed by tax lots 100 and 500 would have the dividing line between them follow the course of Jory Creek. This natural boundary would improve the farmability of the land as it is already a physically dividing feature, whereas the existing man-made north-

south boundary line is not.

The proposed adjustment from the resulting southern parcel, as described above and depicted in the applicant's site plan, to tax lot 400 would have a negligible impact, if any, on its viability for commercial agricultural use, while it will greatly increase the area of farmable land available to tax lot 400 (which is noted as being Specially Assessed for farm practices by the Marion County Assessor's Office). Therefore, 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.*

None of the proposed properties will qualify for a dwelling based on tract acreage as a result of these property line adjustments. Neither will any proposed parcel qualify for a dwelling based on an acreage standard due to the proposed adjustments. None of the subject parcels have a Measure 37 or Measure 49 claim. Therefore, the criteria of Subsection (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;*

No adverse impacts will occur on the resultant parcels agricultural practice as two of the three are not currently farmed, and the property line adjustment itself will not alter their ability to be farmed in the future. The third parcel, tax lot 400, will benefit from the property line adjustment as it will be greatly increasing its farmable area. The criterion is met.

- b. *Does not increase the potential number of dwellings on the resulting parcels; and*

Tax lot 400, with an existing 1901 dwelling, will not be granted, nor would it qualify for, any additional dwellings as a result of the proposed boundary changes. Neither the eastern nor western legal lot, as encompassed by tax lots 100 and 500, would be granted, nor qualify for, an additional dwelling based on the proposed property line adjustments.

However, Finding 7 of AR23-021, and the resulting Condition of Approval 3, does restrict the location of that replacement dwelling. As both replacement dwellings must be on the same legal lot, both will need to be built on the resultant parcel which will lay south of Jory Creek. This shall be made a condition of approval.

The applicant's site plan, as a result of said prior cases and discussions, acknowledges and reflects the specific buildable area of the AR23-021 replacement dwelling.

The western legal lot, as encompassed by tax lot 100, has no existing or approved dwellings and will not be granted nor qualify for one based on the proposed property line adjustments. Therefore, the criterion is met.

*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.*

All existing and approved dwellings predate planning and zoning law. Therefore, none of the approved or existing dwellings were the result of an acreage standard. And as no land being transferred would qualify a resultant parcel for a dwelling based on an acreage standard this criterion does not apply.

9. 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: May 28, 2024

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.