

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. 24-011**

APPLICATION: Application of Kutsev Farms and Donald & Linda Sinn for a property line adjustment to adjust the property lines on a 70.23-acre parcel and 40.24-acre parcel to create a 55-acre parcel and a 55-acre parcel in the EFU (Exclusive Farm Use) zone located at 10553 Saratoga Dr NE, Silverton (T6S, R1W, Section 7, Tax lot 500 & Section 18, Tax lot 2500).

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 **June 4, 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. 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. No survey required for properties greater than ten acres per ORS 92.060 (8).
3. **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.
4. 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:

5. 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 #___ below be contacted to identify restrictions or necessary permits.

6. 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).
7. The applicants should contact the Mt. Angel 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 **June 4, 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 5, 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 at 10553 Saratoga Dr NE and east-adjacent of 9821 Saratoga Dr NE. Howell Prairie Creek crosses subject tax lot 2500 and borders the south eastern edge of subject tax lot 500. 10553 Saratoga Dr NE contains a dwelling built in 1937, a machine shed, a general purpose building, and a multipurpose shed. It formerly contained a secondary farm dwelling approved by (CU82-028 & SFH95-004).

Subject tax lot 500 is adjacent to and under the same ownership as the dwelling and farm structures on 9821 Saratoga Dr NE. Both of these parcels are used in a combined farm operation. Both parcels are adjacent to the eastern 15-acres of tax lot 2500 which is separated from the rest of tax lot 2500 by Howell Prairie Creek.

Tax lot 500 was the subject of a property line adjustment in 2006 (PLA06-002) and a special exception in 1971 (SE71-006). Tax lot 2500 was the subject of a conditional use permit in 1982 (CU82-028) and a seasonal farm housing permit in 1995 (SFH95-004). Having both been subject to prior land use decisions, these parcels are considered legal for land use purposes.

3. Adjacent properties are in farm use. A few small rural residential properties exist in this area, but the overwhelming majority of surrounding land use is for commercial agricultural operations.
4. Soil Survey for Marion County, Oregon, indicates approximately 94.3% of the soils on the subject tax lot 2500 and 96.5% of the soils on subject tax lot 500 are classified as high value.
5. The applicants are proposing to adjust the property lines on a 70.23-acre parcel and 40.24-acre parcel to create a 55-acre parcel and a 55-acre parcel. The proposed dividing line is the center of Howell Prairie Creek.
6. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Building Inspection commented: "No Building Inspection concerns based on information contained within the submitted application and site plan(s)."

Marion County Surveyor's Office commented:

-No survey required for properties greater than ten acres per ORS 92.060 (8).

-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.

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.*

Both parcels are below the minimum parcel size. 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.*

Both parcels are below the minimum parcel size. 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 proposed property line adjustment will shift 15-acres of agricultural land that is not easily accessible under current ownership, due to the location of Howell Prairie Creek, into ownership of an agricultural operation that can directly access the land. The resulting configuration will increase the suitability of the exchanged property for agricultural uses, therefore resulting in an overall configuration that is more suitable for commercial agriculture. 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 subject tax lot 500 will not qualify for a dwelling based on an acreage standard as a result of the

proposed property line adjustment. 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.*

No dwellings will be located on different parcels as a result of the proposed property line adjustment. The criterion does not apply.

8. 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.
9. 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**.

Bradon Reich
Planning Director/Zoning Administrator

Date: May 20, 2024

If you have any questions regarding this decision contact John Speckman 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.