

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  
MODIFIED CONDITIONAL USE/PARTITION CASE NO. 24-049**

**APPLICATION:** Application of Thomas and Rita Schumacher Trust and Brian and Stephanie Schumacher for a conditional use permit to operate a seed cleaning facility as a commercial activity in conjunction with farm use on a 2-acre portion of a 97.92-acre parcel and a subsequent partition of said 97.92-acre parcel into two parcels consisting of the 2-acres and 95.92-acres in an EFU zone located in the 13500 Block of Triumph Road SE, Sublimity (T8S; R1W; Section 26; Tax lot 400).

**DECISION:** The Planning Director for Marion County has **APPROVED** a **MODIFIED** application for a conditional use to operate a seed cleaning facility as a commercial activity in conjunction with farm use on a 2-acre portion of a 55.82-acre parcel and a subsequent partition of said 55.82-acre parcel into two parcels consisting of the 2-acres and 53.82-acres, subject to certain conditions.

**EXPIRATION DATE:** This conditional use permit is valid only when exercised by **February 25<sup>th</sup>, 2027**. The effective period may be extended for an additional year subject to approval of an 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 proposal is for land use purposes only. Due to septic, well, and drain field replacement areas, these parcels may not be able to support the proposal. To be sure the subject property can accommodate the proposed use the applicant should contact 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 the Marion County Surveyor's Office; Per ORS 92.055 – Parcels outside an urban growth boundary and greater than 10 acres can be un-surveyed, however, parcels ten acres and less must be surveyed and monumented. Per ORS 92.050, the plat must be submitted for review. A checking fee and recording fees required and a title report must be submitted at the time of review. Title reports shall be no more than 15 days old at the time of approval of the plat by the Surveyor's Office, which may require additional updated reports.
2. Prior to plat approval, applicants shall obtain all required permits from the Marion County Building Inspection Division, including any septic permits (see Finding #6 for comments).
3. The applicants shall sign and submit a Farm/Forest Declaratory Statement (form enclosed) to the Planning Division. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
4. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the final plat for recordation until the following conditions have been satisfied:

*Condition A – On the partition plat dedicate sufficient public R/W to achieve a 30-foot half-width along the Triumph Road frontage to meet the county Local road standard.*

*Condition B - Reference the reported existing access easement on the partition plat.*

*Condition C - Dedicate sufficient utility easement(s) on the partition plat to serve the developable 2-acre parcel.*

**ADDITIONAL CONDITIONS:** Once the approved use is established the following conditions must be continually satisfied:

5. The development shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval of the Planning Director.
6. The grass seed cleaning operation shall continuously operate in a manner that meets the criteria in MCC17.136.060(A), addressed in Finding #8.
7. Failure to continuously comply with the conditions of approval may result in this approval being revoked. Any revocation could be appealed to the county hearings officer for a public hearing.

**OTHER PERMITS, FEES, AND RESTRICTIONS:** This approval does not remove or affect 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 restrictions or conditions thereon. It is recommended that agencies mentioned in Finding #6 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

8. The applicants should contact the Sublimity 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.
9. Prior to recording the plat all taxes due must be paid to the Marion County Tax Department (contact the Marion County Tax Department at 503-588-5215 for verification of payments).
10. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #6 below, that may be required.

**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 Rd. NE, Salem, by 5:00 p.m. on **February 25<sup>th</sup>, 2025**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **February 26<sup>th</sup>, 2025**, unless further consideration is requested.

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

1. The subject property is designated Primary Agriculture in the Marion County Comprehensive Plan. The major purpose of this designation and the corresponding EFU zone is to promote the continuation of commercial agricultural and forestry operations.
2. The property is located 2,800 feet east of the intersection of Triumph Rd SE and Cascade Hwy. The subject parcel contains several structures used as part of a grass seed cleaning business operated by the property owners. The parcel was the subject of a previous property line adjustment case (PLA16-013), which has yet to be executed but has an expiration date of April 6, 2025. In that case's findings, the parcel was described in deeds as being a singular parcel, however it was brought to staff's attention that the subject Tax Lot 400 is comprised of two legal parcels. In the current deed description (Reel 3604 Page 74), the two parcels that comprise Tax Lot 400 are identified and described as "Parcel 5" and "Parcel 6". These descriptions are match those found in a deed from March 3, 1998 (Reel 1467 Page 303), with "Parcel 5" corresponding to "Parcel 2" of the older deed and "Parcel

6” corresponding to “Parcel 3” in the older deed. Finally, the description from the March 3, 1998 deed matches the description in a deed dated June 28<sup>th</sup>, 1973 (Volume 755 Page 280 & 281). Therefore Tax Lot 400 is 2 distinct legal parcels which are legal for land use purposes, the configuration of which is visually shown in a survey MCSR 38407. Using the deed description of “Parcel 6”, staff calculated the area to be 42.1-acres, meaning “Parcel 5” is the remainder 55.82-acres of Tax Lot 400. The entirety of the site for the seed cleaning plant and the newly partitioned lot are located within the area of “Parcel 5”.

The applicants have indicated that they do not intend to execute the approval of PLA16-013 and instead wish to go forward with this new proposal.

3. Surrounding uses are predominantly commercial agricultural fields planted in either grass or grains, with other types of agricultural practices mixed in. The city of Sublimity’s urban growth boundary (UGB) is located 800 feet southwest of where the subject parcel abuts Triumph Rd, however it is 2,100 feet from the existing seed cleaning operation.
4. Soil Survey of Marion County Oregon indicates 75.8% of the subject property is composed of high-value farm soils.
5. The applicants are proposing to establish a grass seed cleaning operation as a commercial business in conjunction with agriculture and to then partition off a 2-acre parcel from the parent 55.82-acre parcel, which will contain the facility to separate it from the remaining farmland, to create a 53.82-acre parcel and a 2.00-acre parcel.
6. Various Agencies were contacted about the proposal and given an opportunity to comment:

Marion County Surveyor’s Office commented:

1. Per ORS 92.055 – Parcels outside an urban growth boundary and greater than 10 acres can be un-surveyed.
2. Parcels ten acres and less must be surveyed and monumented.
3. Per ORS 92.050, plat must be submitted for review.
4. Checking fee and recording fees required.
5. A title report must be submitted at the time of review. Title reports shall be no more than 15 days old at the time of approval of the plat by the Surveyor’s Office, which may require additional updated reports.

Sublimity Fire District commented: “The previously approved existing access to the property shall continue to be maintained for overhead and width clearance requirements. Additionally, access to the existing pond shall continue to be maintained for firefighting operations.”

Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

**Condition A** – On the partition plat dedicate sufficient public R/W to achieve a 30-foot half-width along the Triumph Road frontage to meet the county Local road standard.

**Condition B** – Reference the reported existing access easement on the partition plat.

**Condition C** - Dedicate sufficient utility easement(s) on the partition plat to serve the developable 2-acre parcel.

Marion County Building commented: “Marion County Building Inspection recommends new property lines be established at least 10 feet from existing structures, on either lot, for fire separation purposes according to the 2022 Oregon Structural Specialty Code. If any development and/or alterations are proposed for new or existing structures, or any proposed utilities installation, permit(s) would be required to be obtained prior to starting work.”

Marion County Septic commented: “Authorization with full existing system evaluation report and a site evaluation to establish a repair area for (the) 2 acre parcel. Nothing is needed for the larger parcel.”

All other commenting agencies stated no objection to the proposal.

7. In order to approve a commercial activity in conjunction with farm use the applicant must demonstrate compliance with the specific criteria listed in Chapter 17.136.060(D) of the Marion County Code (MCC). These include:

(a) *The commercial activity must be primarily a customer or supplier of farm uses.*

A commercial grass seed cleaning facility is a supplier of product preparation services for grass seed farming operations. It almost exclusively serves agricultural uses. The criterion is met.

(b) *The commercial activity must enhance the farming enterprises of the local agricultural community to which the land hosting that commercial activity relates.*

Grass seed production is the predominant agricultural activity in the local area. The proposed facility will provide a local seed cleaning service, reducing the distance farm trucks must haul the raw product, saving farmers both time and money during harvest. The criterion is met.

(c) *The agricultural and commercial activities must occur together in the local community to satisfy the statute.*

As stated previously, grass seed production is the predominant agricultural practice in the local area, which is the primary target clientele of the proposed commercial operation. The criterion is met.

(d) *The products and services provided must be essential to the practice of agriculture.*

When grass seed is harvested, dirt and chaff are collected with the desired seed and the seed must be cleaned before it is commercially viable for sale. The proposed grass seed cleaning operation will provide this essential preparation service. The criterion is met.

8. In addition to the specific criteria above, the proposal must also satisfy the conditional use criteria in MCC 17.136.060(A). Those requirements are:

(a) *The use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use. Land devoted to farm or forest use does not include farm or forest use on lots or parcels upon which a non-farm or non-forest dwelling has been approved and established, in exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.*

The site of the seed cleaning operation is already developed with the structures for the seed cleaner, storage, and parking/driving area and the applicants indicate the cleaner has been on the property for the past 25 years. There is an established buffer area between neighboring fields and the facility, including trees, a stream, and the open driving areas. Using the available July 2023 imagery, staff determined that most of the farm fields in the immediate area had at least a 200-foot buffer to the structures involved in the operation, which is the standard buffer for non-farm uses. Finally, most of the pollution generated by the seed cleaning facility will be in the form of dust and loud noise, which is unlikely to disrupt the existing pattern of local farming practices. It is reasonable to assume that the accepted farm or forest practices in the area will not incur increases in cost based on the proposal and location. The criterion is met.

(b) *Adequate fire protection and other rural services are, or will be, available when the use is established.*

The subject parcel is located within the Sublimity Fire District and the applicant states that the access roadway serving the proposed use was reviewed and approved by the fire district prior to the original construction of the use. In addition, the Sublimity Fire District provided comments with their requirements for continued operation, such as maintaining overhead and width clearances for the access road to the site and to the existing pond (for firefighting purposes). Marion County Sheriff provides law enforcement services and other rural services (such as septic) can be acquired through permitting processes. The criterion is met.

(c) *The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.*

The facility is located adjacent to a perennial stream on the property, which increases the potential for a commercial use to have an adverse impact on watersheds, fish habitat, and water quality. However, the facility has been in operation at this site for 25 years based on the applicants' statement and Marion County Planning is no complaints about contamination or other adverse impacts have been lodged because of this facility. Additionally, commercial operations must abide by the regulations of other agencies, such as DEQ, that have standards for pollution mitigation. Lastly, grass seed cleaning operations use physical methods of sorting seeds and do not use harsh chemicals. Considering this collection of factors, staff finds that the proposal satisfies the above criterion. The criterion is met, however it shall be made a condition of approval that the seed cleaning plant continue to remain compliant with this criterion going forward.

(d) *Any noise associated with the use will not have a significant adverse impact on nearby land uses.*

The nearest farm dwelling to the established site is roughly 900 feet away to the south and surrounding agricultural uses are primarily grass seed and other row crops planted in rotation, which are not negatively impacted by noise. Therefore, it is unlikely that the noise generated by the commercial activity will have a significant adverse impact on nearby land uses. The criterion is met.

(e) *The use will not have a significant adverse impact on potential water impoundments identified in the Comprehensive Plan, and not create significant conflicts with operations included in the Comprehensive Plan inventory of significant mineral and aggregate sites.*

There are no water impoundments identified in the Comprehensive Plan nor any mineral or aggregate sites near the subject property for the proposed use to have any adverse impacts on. Therefore, the criterion is met.

9. In order to approve a partition for a commercial use in conjunction with farm use, the applicant must demonstrate compliance with the partition requirements for the EFU zone listed in MCC 17.136.090 (B). These include:

*B. Requirements for Creation of New Non-Farm Parcels.*

1. *A new non-farm parcel may be created for uses listed in MCC 17.136.040(C) and (K) and MCC 17.136.050, except the residential uses in MCC 17.136.050(A) and (B).*

The new non-farm parcel proposed by the applicants is to allow a commercial activity in conjunction with farm use to be established on its own parcel. Commercial uses in conjunction with farm use are a conditional use listed under MCC 17.136.050 (D). The criterion is met.

2. *The criteria in MCC 17.136.060 applicable to the use shall apply to the parcel.*

The proposed use was reviewed with the applicable criteria under MCC 17.136.060 in Findings 7 & 8 in this case. All criteria of the conditional use were met. Therefore, the criterion is met.

3. *A non-farm parcel shall not be approved before the non-farm use is approved.*

The seed cleaning operation is already on site and has been in operation for several years while operated by the property owners. The current owners intend to sell the operation off to an outside party and the purpose of this

case is to establish the use as commercial in conjunction with farm use to make a partition possible. As such, staff considers the use established. The criterion is met.

4. *A division of land for non-farm use shall not be approved unless any additional tax imposed for the change has been paid, or payment of any tax imposed is made a condition of approval.*

The Marion County Tax Assessor has commented that all taxes are paid. It shall be made a condition of approval that any additional tax imposed be paid to satisfy this criterion.

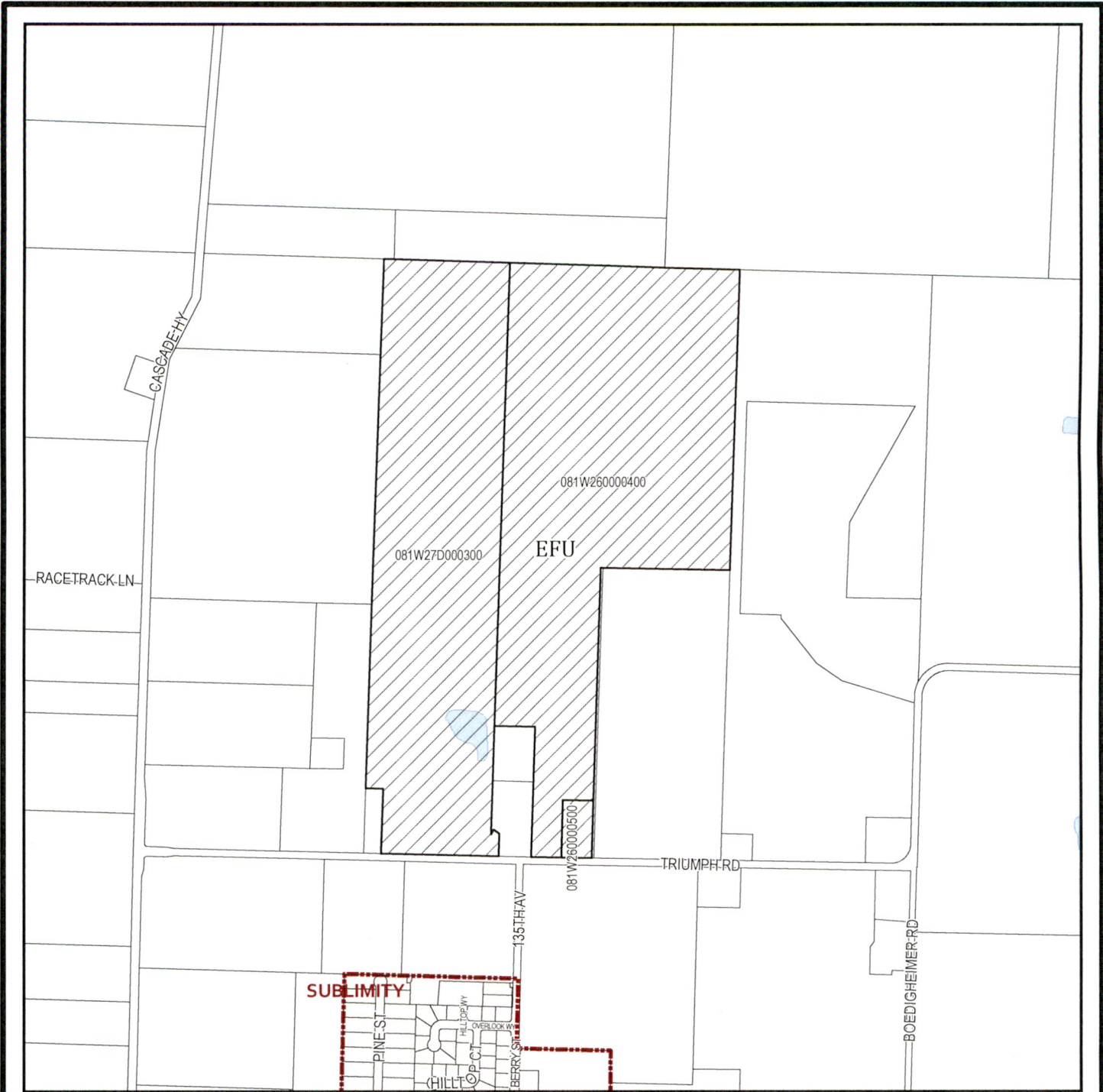
10. Based on the above findings it has been determined that the applicant's request meets all applicable criteria for a and is, therefore, **APPROVED**, subject to conditions.

Brandon Reich  
Planning Director/Zoning Administrator

Date: February 10<sup>th</sup>, 2025

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):** 081W26000400, 081W26000500, 081W27D000300

**Owner Name:** THOMAS & RITA SCHUMACHER TR & SCHUMACHER, THOMAS J TRE & SCHUMACHER, RITA M TRE

**Situs Address:** 13567 TRIUMPH RD SE



**City/State/Zip:** SUBLIMITY, OR, 97385

**Land Use Zone:** EFU

**School District:** NORTH SANTIAM

**Fire District:** SUBLIMITY

## Legend

-  Input Taxlots
-  Lakes & Rivers
-  Highways
-  Cities



scale: 1 in = 965 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.