

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. 24-015**

APPLICATION: Application of Dama L. Curtright and Donna Hinze for a property line adjustment to adjust the property lines on a 213.70-acre parcel and a 5-acre parcel to create a 213.70-acre parcel and 5-acre parcel in an EFU (Exclusive Farm Use) zone located at 4107 and 4497 Wintercreek Rd SE, Jefferson OR 97352 (T9S; R2W; Section 19, 29B; Tax lot 1402 and 300).

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 **August 27, 2026** (two years). 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 drainfield replacement areas, this parcel may not be able to support the proposal. To be sure the subject property can accommodate the proposal 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 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. As per 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. Deed recording reference numbers shall be noted on the required survey.
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 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. It is recommended that the agencies mentioned below be contacted to identify restrictions or necessary permits.

6. Prior to recording the deeds 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).

APPEAL PROCEDURE: The Marion County Zone Code provide 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 **August 27, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **August 28, 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 correspondingly zoned SA (Special Agriculture). The primary intent of the designation is to provide land for small farm operations or areas with a mixture of good and poor farm soils where the existing land use pattern is a mixture of large and small farm units and some acreage homesites.
2. The parcels are located seven miles northeast of Jefferson, immediately west of the intersection of Parish Gap Rd SE and Wintercreek Road SE. Tax lot 1402 has at least one dwelling and several accessory structures on the property. Tax 300 has one dwelling and at least one other structure. Current aerial imagery shows these structures on the property as recently as 2024.

Tax lot 1402 was established in its current configuration through LLA00-040 and therefore is considered legal for land use purposes. Tax lot 300 has a dwelling that was built in 1968 and therefore is considered a legally established lot for land use purposes.

3. Adjacent properties to the south are zoned EFU (Exclusive Farm Use) and consist of farming related parcels. Adjacent properties to the north, west, and east are SA and consist of a mix of large and small farms and evidence of some acreage residential homesites.
4. The applicants are proposing to adjust the property lines on a 213.70-acre parcel and a 5-acre parcel to create a 213.70-acre parcel and 5-acre parcel to properly place the accessory building on tax lot 300 fully inside the boundaries of tax lot 300. This proposed adjustment will not adjust the overall size of either tax lot.
5. Several agencies were contacted for comments on the proposal:

Marion County Surveyors Office commented:

- a. No survey required for 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 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 Building Inspection commented:

Marion County Building Inspection suggests the proposed property line(s) be established at least 3 feet from any existing residential structures exterior walls and overhangs, and at least 10 feet from any existing commercial-use wood framed structures exterior walls and overhangs. Any less than these measurements and additional fire resistive materials may be required to be installed on the exterior walls and/or overhangs of structures referenced in this comment.

All other contacted agencies either failed to comment or stated no objection to the proposal.

6. Property line adjustments in the Special Agricultural (SA) zone are subject to MCC 17.137.090(C):

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.

Both lots involved will remain the same size. The conditions are met.

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.

No parcel is being reduced below 80 acres. Both lots involved will remain the same size. The criterion is met.

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.

Tax lot 1402 will not be significantly altered to impact potential commercial agricultural use. Tax lot 300 is also remaining the same size and will not be significantly altered to impact potential commercial agricultural use. This condition is not applicable to these parcels.

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.

This application does not propose to eliminate any property lines nor decrease the size of either parcel. Each parcel has existing dwellings, and no new parcels will be created. No Measure 49 subdivision or partitions are being requested. The criterion are met.

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. Does 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.

This application does not result in any existing dwellings being located on different parcels. The criterion is met.

6. 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.
7. As previously noted, the subject parcels are located in a sensitive groundwater area. There are, however, residences on both parcels. The proposed property line adjustment will not result in any additional dwellings. In addition, the applicants are not proposing any additional development which may increase any potential slope instability in the geo-hazard zone.
8. Based on the above findings, the request meets the applicable criteria and is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: August 12, 2024

If you have any questions regarding this decision contact George Brandt at (503) 566-3981.

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.