

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. 24-031**

APPLICATION: Application of Stephen L. Tabor, Trustee of the Jerald and Joyce Basl Trusts for a property line adjustment to adjust the property lines on a 79.24-acre parcel and a 155.27-acre parcel to create a 117.05-acre parcel and a 117.46-acre parcel in the EFU (Exclusive Farm Use) zone located at the 17,000 block of Coon Hollow RD SE, Sublimity (T8S; R1E; Section 29, 32; Tax lots 800, 100, 200).

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 **October 9th, 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 the Marion County Surveyor's Office; no survey is 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.
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.
4. All resultant lots or parcels shall be at least 110.00-acres in size.

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 #6 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 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.

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 **October 9th, 2024**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective on **October 10th, 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 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 17146 and 17525 Coon Hollow Rd SE. They are roughly three and a half miles east of Sublimity and two and half miles west of Silver Falls State Park. The properties are divided by Coon Hollow Rd SE which divides tax lots 100 and 800 to the north and tax lot 200 to the south. The western boundary is 170th Ave SE which comprise the entire western boarder of tax lots 100 and 800 and about half the western boarder of tax lot 200. Currently all of the lots are in farm operation, described as primarily engaged in Christmas tree production.

Tax lots 100 and 200 each have a single dwelling that were established in 1900. Tax lot 800 has no listed dwellings. These three parcels were described in their current configuration in a deed dated January 5, 1953, Volume 446, Page 626; therefor the subject parcels are considered legal for land use purposes.
3. Adjacent properties are in farm use. A few smaller rural residential properties also exist in this area, but the overwhelming majority of surrounding land use is in agricultural operations.
4. Soil Survey for Marion County, Oregon, indicates approximately 100% 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 79.24-acre parcel and a 155.27-acre parcel to create a 117.05-acre parcel and a 117.46-acre parcel. Based on the submitted site plan for the proposal, the applicants intend to separate the legal parcel the consists of tax lot 100 and 200 that is divided by Coon Hollow Rd SE and add the northern portion (tax lot 100) to tax lot 800, which is a separate legal lot. The result will be tax lot 800 and tax lot 100 as one legal parcel located north of Coon Hollow Rd SE and comprise of 117.05-acres. This will then result in one legal parcel of 117.46-acres south of Coon Hollow Rd SE.
6. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Surveyor's Office commented:

- 1) No survey required for properties greater than ten acres per ORS 92.060 (8).
- 2) Property line adjustment deeds shall be recorded with the Marion County Clerk's Office. Per ORS 92.190 (4).

Marion County Tax Assessor's Office provided information regarding taxes on the subject properties.

Marion County Building commented:

No Building Inspection concerns. Proposed property line(s) are recommended to be at least 3 feet from existing residential structures and at least 10 feet from existing commercial structures, if applicable. If any less, additional fire resistive materials may be required to be installed on existing exterior walls, which would require building permits to accomplish.

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:

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 applicant applied the calculations in MCC 17.136.090 (A)(1) and stated that the minimum lot size was 110-acres. Staff verified these calculations. Based on the proposed configuration, none of the resultant lots or parcels will be made smaller than the 80-acre minimum parcel size for EFU parcels. The criterion is 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.*

A review of the surrounding parcels within 500-feet of the parcels subject to this proposal found that 7 were over 40-acres in size. These were the basis for the minimum lot size calculation for the area. The minimum lot size for the area was calculated to be 110-acres. Two of the involved lots or parcels in the proposed property line adjustment are below 80-acres and all resultant lots or parcels will be larger than 110-acres based on the submitted proposal. 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.*

The proposed property line adjustment will adjust the common boundary line of the two involved parcels to establish Coon Hollow Rd SE as the new boundary. This is a more natural border between the two properties and there are no proposed changes in use for either of the parcels involved. This will result in two legal parcels over the minimum size with the same use. 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;*

The parcel that is decreasing in size contains two dwelling, the resulting adjustment will place one dwelling on each resulting parcel. Neither parcel will qualify for additional dwellings based off of an acreage standard. The third tax lot with no dwelling will be absorbed into the northern parcel and no new dwelling are being proposed. The criterion is met.

- 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;*

Both resulting parcels will contain a single dwelling and cannot qualify for additional dwellings based off of an acreage standard. The criterion is met.

- 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*

None of the property being transferred has been used to qualify a tract for a dwelling based on an acreage standard, nor could it be used to qualify the tract for a dwelling based on an acreage standard since the parcel gaining land already contains a dwelling. The criterion is met.

- 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.*

Neither of the properties involved in the proposed adjustment were created by a partition or subdivision authorized by a Measure 49 waiver. The criterion is 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 17.136.030(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.*

The proposed adjustment will not impose any adverse impacts on the continued practice of commercial agriculture (a), nor increase the number of potential dwellings (b). The proposal does not allow an acreage standard to be used to qualify for another dwelling (c). The criterion is met.

- 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**.

Brandon Reich
Planning Director/Zoning Administrator

Date: September 24, 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.