

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. 24-037**

**APPLICATION:** Application of the Ruby Maulding Trust to adjust the property lines on a 79.68-acre parcel, a 10.77-acre and a 38.90-acre parcel to create a 65-acre parcel an 18-acre parcel and a 47-acre parcel in a TC (Timber Conservation) and FT (Farm Timber) zone located at 18663 Powers Creek Loop. NE, Silverton (T7S; R1E; Section 23, Tax Lots 1000 & 1300; Section 26; Tax Lot 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 **October 24<sup>th</sup>, 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 drainfield 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 county clerk meeting requirements identified in ORS 92.190(4).** The deeds shall contain the names of the parties, the description of the adjusted lines, references to original recorded documents and signatures of all parties with proper acknowledgment. The deeds shall include a perimeter description of each resulting parcel. **This property line adjustment is not complete until the title transfer instruments accomplishing the property adjustments is recorded by the applicants with the Marion County Clerk.**
2. 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:

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.

**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 regula-

tions 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 24th, 2024**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 25<sup>th</sup>, 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 Forest and Farm/Timber in the Marion County Comprehensive Plan and correspondingly zoned Timber Conservation (TC) and FT (Farm/Timber). The primary intent of both this designation and zone is to promote and protect commercial agricultural operations and conserve forest lands by maintaining the forest land base and to protect the forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use of forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.
2. The properties are located on the eastern side of Powers Creek Loop NE, in the 18600 block. Tax lot 1000 contains a dwelling built in 1901 and various accessory structures for farm use and residential use. Tax lot 1000 was the subject of multiple land use cases (P91-040, CU90-034, P/CU96-068) as well as a Measure 37/49 claim and is therefore legal for land use purposes.

Tax lot 1300 is vacant and was also the subject of the same Measure 37/49 claim (M06-107) and is therefore considered legal for land use purposes.

Tax lot 300 contains a farm structure built in 2004 and is otherwise vacant. It was subject to the same land use cases as tax lot 1300 and is therefore considered legal for land use purposes.

3. Adjacent properties are all zoned either TC or FT and are in various stages of farm and forest use.
4. Soil Survey for Marion County, Oregon, indicates approximately 19.2% 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 79.68-acre parcel, a 10.77-acre and a 38.90-acre parcel to create a 65-acre parcel an 18-acre parcel and a 47-acre parcel.
6. Marion County Surveyor's Office commented:
  1. No survey required on the resultant property that is greater than ten acres.
  2. Property line adjustment deeds shall be recorded with the Marion County Clerk's Office per ORS92.190(4).

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

Marion County Building Department commented:

"No Building Inspection concerns. It is recommended the proposed property lines be established at least 3 feet from existing residential structures and at least 10 feet from existing commercial structures, if applicable. Permit(s) are required to be obtained prior to any development and/or utilities installation on private property."

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

7. The criteria for reviewing lot line adjustments within a TC zone are listed in chapter 17.138.080(B) of the MCC. These criteria are as follows:

1. *Parcels larger than 80 acres may not be reduced to below 80 acres.*

No parcels are over 80 acres. This criterion does not apply.

2. *Parcels smaller than 80 acres may be reduced or enlarged provided:*

- a. If the tract does not include a dwelling and does not qualify for a dwelling under MCC 17.138.030(A) or (B), any reconfiguration after November 4, 1993, cannot in any way enable the lot or parcel to meet the criteria for a new dwelling under MCC 17.138.030(A) or (B).*
- b. Except as provided in subsection (B)(2)(c) of this section, a lot or parcel that is reduced will be better suited for management as part of a commercial forest; and if capable of producing 5,000 cubic feet per year of commercial tree species will not be reconfigured so that the cubic feet per year capability of the lot or parcel is reduced.*
- c. A lot or parcel may be reduced to the minimum size necessary for the use if the lot or parcel:*
  - i. Was approved as a non-farm or non-forest parcel; or*
  - ii. Is occupied by an approved non-farm or non-forest dwelling; or*
  - iii. More than half of the parcel is occupied by a use in MCC 17.138.020 or 17.138.040 other than a dwelling or farm or forest use; or*
  - iv. The lot or parcel is occupied by a dwelling established before January 1, 1994, and is not capable of producing 5,000 cubic feet per year of commercial tree species (see MCC 17.138.120(B) for definition).*

Tax lot 1000 is the only parcel that contains a dwelling and is being reduced to a smaller size to accommodate the dwelling and allow the forest lands to be consolidated into more manageable parcels. This will not allow the remainder parcels to qualify for dwellings where previously they could not. The proposal meets 2(a) and (b) above. The lot being reduced, tax lot 1000, contains a non-forest dwelling and is being reduced to a size large enough to accommodate its use. The proposal meets 2(c) above.

*d. A property line adjustment may not be used to:*

- i. 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;*
- ii. 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;*
- iii. 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*
- iv. 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. [Ord. 1369 § 4 (Exh. B), 2016; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1168 § 5, 2002; Ord. 1125 § 10, 2000. RZ Ord. § 138.080.]*

All parcels are below the minimum parcel size and will remain so after adjustment. No change to the use of the parcel will happen due to the adjustment. This criterion is met.

8. The criteria for reviewing lot line adjustments within a FT zone are listed in chapter 17.139.090(D) of the MCC. These criteria are as follows:

This parcel has been determined to have been primarily devoted to forest use on January 1, 1993.

*E. Property line adjustments if the land was predominantly devoted to forest use on January 1, 1993:*

*1. Parcels larger than 80 acres may not be reduced to below 80 acres.*

No parcels are over 80 acres. This criterion does not apply.

*2. Parcels smaller than 80 acres may be reduced or enlarged, provided:*

*a. If the tract does not include a dwelling and does not qualify for a dwelling under MCC 17.139.030(A) or (B), any reconfiguration after November 4, 1993, cannot in any way enable the lot or parcel to meet the criteria for a new dwelling under MCC 17.139.030(A) or (B).*

*b. Except as provided in subsection (E)(2)(c) of this section, a lot or parcel that is reduced will be better suited for management as part of a commercial forest.*

*c. A lot or parcel may be reduced to the minimum size necessary for the use if the lot or parcel:*

*i. Was approved as a non-farm or non-forest parcel; or*

*ii. Is occupied by an approved non-farm or non-forest dwelling; or*

*iii. More than half of the parcel is occupied by a use in MCC 17.139.020 or 17.139.050 other than a dwelling or farm or forest use; or*

*iv. The lot or parcel is occupied by a dwelling established before January 1, 1994.*

Tax lot 1000 is the only parcel that contains a dwelling and is being reduced to a smaller size to accommodate the dwelling and allow the forest lands to be consolidated into more manageable parcels.

This will not allow the remainder parcels to qualify for dwellings where previously they could not. The proposal meets 2(a) and (b) above. The lot being reduced, tax lot 1000, contains a non-forest dwelling and is being reduced to a size large enough to accommodate its use. The proposal meets 2(c) above.

*d. A property line adjustment may not be used to:*

*i. 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;*

*ii. 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;*

*iii. 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*

*iv. 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.*

All parcels are below the minimum parcel size and will remain so after adjustment. No change to the use of the parcel will happen due to the adjustment. This criterion is met.

9. 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.

10. 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.
11. 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**, subject to conditions.

Brandon Reich  
Planning Director/Zoning Administrator

Date: October 9, 2024

If you have any questions regarding this decision contact Austin Barnes 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.