

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. 24-044**

APPLICATION: Application of the Welter Family Farm LLC for a property line adjustment to adjust the property lines on a 109.0-acre parcel and a 106.0-acre parcel to create a 80.0-acre parcel and a 135.0-acre parcel in an EFU (Exclusive Farm Use) zone located 19000 Block of Fern Ridge Rd SE, Stayton (T9S; R1E; Section 2, Tax lots 500 & 600).

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 **December 18th, 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. Per the Marion County Surveyor's Office, no surveys are required for properties greater than ten acres, however, property line adjustment deeds shall be recorded with the county clerk meeting requirements identified in ORS 92.190(4).
2. All resultant parcels shall be a minimum of 80 acres in size.
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 #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 Stayton 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 **December 18th, 2024**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **December 19th, 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 along the north side of Fern Ridge Rd SE, at its intersection with Siegmund Rd SE. Both parcels are undeveloped and contain a combination of farmland and forestland on fairly sloped land (there is a 600-foot elevation change between the lowest and highest points on the two parcels). Tax lot 500 contains most of the open farmland while tax lot 600 is predominantly forested. Both parcels were involved in property line adjustment case PLA15-031, along with the 5.0-acre parcel addressed 19651 Fern Ridge Rd SE (tax lot 800). The case created the parcels in their current configuration, and they are, therefore, legal for land use purposes.
3. Adjacent properties are comprised of EFU zoned parcels to the south and west and TC (Timber Conservation) parcels to the north and east. Surrounding uses consist mostly of large commercial farm and timber operations.
4. Soil Survey for Marion County, Oregon, indicates approximately 99.7% of the soils on the subject tax lots are classified as non-high value for farming.
5. The applicants are proposing to adjust the property lines on a 106.0-acre parcel and a 109.0-acre parcel to create an 80-acre parcel and a 135.0-acre parcel. The purpose of this proposal is to consolidate as much of the farmable land on one parcel and the forested land on the other.
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 Assessor's Office provided information regarding taxes on the subject properties.

All the 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.*

As referred to above, MCC 17.136.090(A)(1) outlines the criteria for calculating the minimum parcel size for new parcels. In this instance, the average calculated parcel size is 140 acres (840 acres/6 parcels) therefore, the minimum parcel size is 140 acres, however the state minimum parcel size is 80 acres. It should be addressed that in PLA15-031, the minimum parcel size was calculated to be 120 acres for the two subject parcels. Changes in the configuration of surrounding parcels led to the change in the average local parcel size.

With the calculated 140 acre minimum parcel size applied, none of the existing parcels are larger than the minimum parcel size. Therefore, this section does not apply.

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.*

Both subject lots or parcels are currently larger than 80 acres but smaller than the minimum parcel size of 140 acres. The applicant proposes to reduce the size of one parcel to exactly 80 acres and transfer the remainder to the other parcel, complying with the requirements of this section. 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 new configuration would consolidate all the land currently in farm use on one parcel and transfer most of the land used for timber operations to the other parcel. This configuration would better reflect the current land use patterns within the subject area and encourage the continuation of these same land use patterns, which inherently means the new configuration is at least as suitable for commercial agriculture as the current configuration. Therefore, 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;*
- 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.*

There are no dwellings or approvals for dwellings on either lot involved in the proposal and no lot or parcel would be made large enough to qualify for a dwelling based on an acreage standard as a result of the proposal. Finally, none of the subject lots or parcels were created 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.*

No dwellings will be located on a different lot or parcel as a result of the proposal. The criterion does not apply.

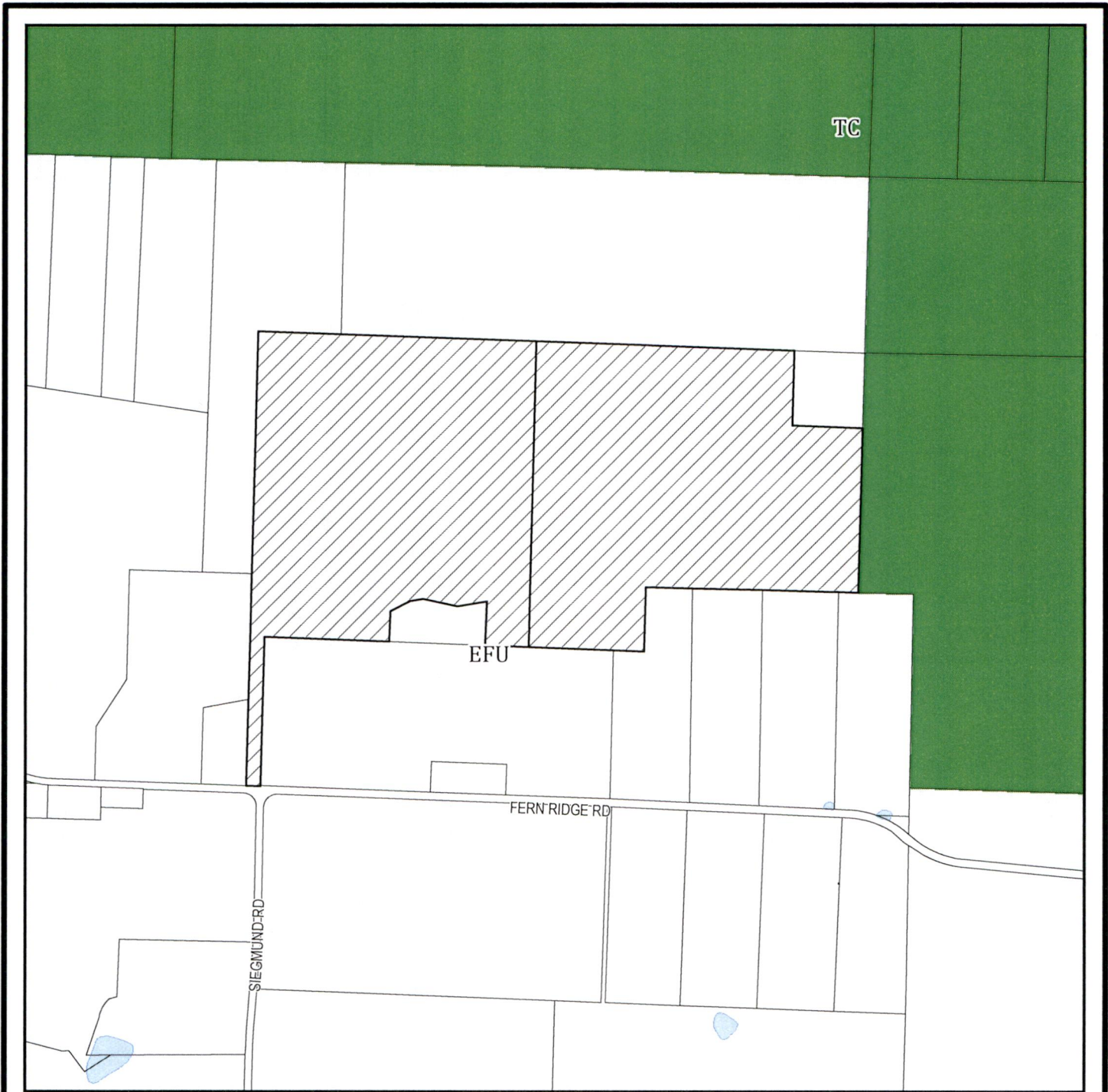
8. The resulting lots shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval of the Planning Director.
9. Based on the above findings, the applicants' proposal meets the criteria for a property line adjustment in an EFU zone. The property line adjustment request is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: December 3rd, 2024

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): 091E020000500, 091E020000600

Owner Name: WELTER FAMILY FARM LLC

Situs Address: (No Situs Address)

City/State/Zip:


Land Use Zone: EFU

School District: NORTH SANTIAM

Fire District: STAYTON

Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



scale: 1 in = 1,065 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.