

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.20-013**

APPLICATION: Application of James and Marrienne McKay and the Annotti Joint Revocable Trust to adjust the property lines on a 19.5 acre parcel, a 34.3 acre parcel and a 49.1 parcel to create a 20 acre parcel, 52.3 acre parcel and a 30.8 acre in a SA (Special Agriculture) zone located in the 6,200 block of Coates Drive SE, Salem. (T8S; 2W; (Section 19; tax lots 400 and 500) and (Section 19A; tax lot 1900).

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 **May 6, 2022** (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. **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. A re-plat (in the form of a partition plat) is required, due to the adjustment of a partition plat parcel line or subdivision lot line. A property line adjustment deed for the area being transferred shall be recorded with the Marion County Clerk's Office, prior to the recording of the re-plat. Deed recording reference numbers shall be noted on the plat. As 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.
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. 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 - Prior to PLA survey approval, Co-Applicant shall obtain a PW Engineering Permit, and under the Permit, complete access-related work that was previously required under Access Permit #17-009243 and Work in Right-of-Way Permit #UR18-078, but never completed. More specifically, the access work pertains to establishing an approvable intersection of Coates Crest Way easement intersection with Coates Drive by

consolidating the two parallel drives within the first 100 feet of the public road and removal of a gravel turnout in the Right-of-Way.

5. 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:

6. 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 in Finding #5 below be contacted to identify restrictions or necessary permits.

7. 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 **May 6, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **May 7, 2020** 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 both this designation and zone is to promote and protect commercial agricultural operations.
2. The properties are located directly southeast of the intersection of Coates Dr SE and Wiltsey Lp SE. Review of land use cases for both properties indicates they were both created in their present configuration through PLA 17-032 and LLA (Lot Line Adjustment) 96-40 and therefore, both are recognized as legal separate parcels for land use purposes.
3. All adjacent properties to the east, south and west are zoned SA (Special Agriculture) and consist of parcels in various types of farm use with some small acreage home sites mixed in. Properties to the north are zoned AR (Acreage Residential) and consist entirely of small acreage home sites.
4. The applicants are proposing to adjust the property lines on a 19.5 acre parcel, a 34.3 acre parcel and a 49.1 parcel to create a 20 acre parcel, 52.3 acre parcel and a 30.8 acre.
5. **Public Works Land Development and Engineering Permits (LDEP)** requested that the following be included in the land use decision.

Condition A - Prior to PLA survey approval, Co-Applicant shall obtain a PW Engineering Permit, and under the Permit, complete access-related work that was previously required under Access Permit #17-009243 and Work in Right-of-Way Permit #UR18-078, but never completed. More specifically, the access work pertains to establishing an approvable intersection of Coates Crest Way easement intersection with Coates Drive by consolidating the two parallel drives within the first 100 feet of the public road and removal of a gravel turnout in the Right-of-Way.

Access work is typically an engineering requirement; however, it is being elevated to Condition status based on the required timing for completion

Marion County Surveyors Office commented:

1. A re-plat (in the form of a partition plat) is required, due to the adjustment of a partition plat parcel line or subdivision lot line. A property line adjustment deed for the area being transferred shall be recorded with the Marion County Clerk's Office, prior to the recording of the re-plat. Deed recording reference numbers shall be noted on the plat. As 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. The deeds conveying the re-platted parcels shall be recorded after the recording of the re-plat.

2. Must comply with all provisions per ORS 92.185 (6).

3. Must be surveyed and platted per ORS 92.050, and the plat submitted for review.

4. Checking fee and recording fees required.

5. A current or updated title report must be submitted at the time of review.

Marion County Tax Assessor provided information regarding the taxes on the subject property.

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

6. The criteria for reviewing lot line adjustments within an SA zone are listed in Chapter 17.137.090(C) of the Marion County Code (MCC). These criteria are as follows:
- A. *When one or more lots or parcels subject to a proposed property line adjustment are larger than the minimum parcel size pursuant to MCC17.137.090(A)(1), 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.*
 - B. *If the minimum parcel size in MCC17.137.090(A)(1) 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.*
 - C. *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.*
 - D. *A property line adjustment may not be used to:*
 - 1. *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;*

2. *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; or*
3. *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.*

E. *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:*

1. *Does not increase the any adverse impacts on the continued practice of commercial agriculture on the resulting parcels; and*
2. *Does not increase the potential number of dwellings on the resulting parcels.*

7. All three properties are less than 80 acres in size; the minimum parcel standards in #7 (A) and (B) do not apply. The proposed property line adjustment is not expected to make the parcels less suitable for commercial agriculture use; the use of the land will remain the same, therefore the criteria in #7 (C) are met. All parcels were under the minimum lot size of 80 acres before adjustment and will remain under after, this will not qualify another tract for a dwelling, the criteria in #7 (D, 1, 2 & 3) are met. None of the subject parcels have dwellings on them, therefore the criterion in #7E does not apply.
8. 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.

The Marion County Surveyor commented that a survey (replat) is required; therefore, this will be made a condition of approval.

9. Based on the above findings, the request meets the applicable criteria and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Planning Director

Date: April 21, 2020

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.