

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.20-028**

APPLICATION: Application of Application of Sidney and Angela Wurdinger to adjust the property lines on a 77.16 acre property and a 0.59 acre property to create a 79.16 acre property and a 1.59 acre property in a FT (Farm Timber) zone located at 19946 Abiqua Road NE, Scotts Mills. (T7S, R1E, Section 02, Tax lots 1600 and 2000)

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 **September 15, 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 proposed use 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 are recorded by the applicants with the Marion County Clerk.**
2. The applicants shall have the resulting 1.59 acre parcel surveyed per ORS 92.060(7). The survey shall be filed with the County Surveyor and shall contain the notation that the survey is the result of Property Line Adjustment Case 20-028. (Final Plat Instruction enclosed).
3. 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.
4. 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.
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 agencies mentioned in Finding #6 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).
8. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements, listed in Finding #6 below, that may be required.

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 together with the appeal fee in the Marion County Planning Division, 5155 Silverton Road NE, Salem, by 5:00 p.m. on

September 15, 2020. If you have questions about this decision contact the Planning Division at (503) 588-5038 or the office. This decision is effective **September 16, 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 Farm/Timber in the Marion County Comprehensive Plan and correspondingly zoned FT (Farm/Timber). The primary intent of this designation and zone is to promote and protect commercial agricultural and timber operations.
2. The properties are located at the intersection of Abiqua Rd NE and Briar Knob LP Tax lot 2000 contains a dwelling, two manufactured homes, and multiple accessory structures and buildings for farm use. Tax lot 1600 has no improvements. A review of land use cases for the subject properties finds that both have been subject to an administrative review, and are therefore, both considered legal parcels for land use purposes.
3. Adjacent properties to the north, east and south are all zoned FT and in various stages of forest use, some contain dwellings. The parcel to the west is zoned TC (Timber Conservation) and is in forest use.
4. Soil Survey for Marion County, Oregon, indicates 40% of soils on the properties are high value.
5. The applicants are proposing to adjust the property lines on a 77.16 acre property and a 0.59 acre property to create a 76.16 acre property and a 1.59 acre property.
6. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

Requirements: It was noticed during review of remote imagery that access is being taken on the east side of Abiqua Road at the gate, just south of the drainage crossing where there is no gravel approach. It is requested that if this access is used more than only very occasionally, that an Access Permit be applied for to add a crushed rock approach in order to keep mud off the road and to document the access itself. The main access on the north side

of the drainage crossing may be in need of a refreshment of crushed rock another 5 to 10 feet beyond the road shoulder rock, which is simply a maintenance level activity not requiring a permit.

Marion County Surveyor's Office commented:

1. No survey required on resultant property over 10 acres. Resultant property less than ten acres must be surveyed.
2. Must be surveyed per ORS 92.060 (7) and the survey submitted for review.
3. Survey checking fee required at the time of review.
4. 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 survey map. 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. [See Marion County Zoning Code MCC 16.33.140(E) and MCC 17.172.120(E)] Marion County Planning requires perimeter descriptions of the resultant properties.

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

Marion County Septic Inspection commented: "Site evaluation required."

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

7. In order to determine the criteria that apply, first a determination must be made as to whether the properties were predominately in farm or forest use on January 1, 1993. A recent aerial photograph indicates that the properties were not predominantly in farm or forest use on January 1, 1993.
 1. *When one or more lots or parcels subject to a proposed property line adjustment are larger than the minimum parcel size pursuant to MCC [17.136.090\(A\)\(1\)](#), 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.*
 2. *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; or*
 - 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.*
 - 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.*
 3. *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 [17.139.030\(E\)](#) 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.*

8. Both properties are under the minimum lot size and will remain so after adjustment. This adjustment will not qualify a piece of land for a house. This property line adjustment will not result in a parcel being moved to another piece of land. This proposal meets the criteria listed in #7 (1), (2), and (3).
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. Based on the above findings, the proposal meets the applicable criteria and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Planning Director

Date: August 31, 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.