

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.20-029**

**APPLICATION:** Application of Allen Investments and Jan & Cindy Hupp to adjust the property lines on a 42.82 acre property and a 34.07 acre property to create a 40.00 acre property and a 36.82 acre property in a FT (Farm Timber) zone located at 19502 Coyote Ridge Way NE and 19225 Brennamen Rd NE, Silverton (T7S, R1E, Section 15, Tax lots 1500 and 1100)

**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 19, 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. No survey required. The resultant properties are greater than ten acres.
2. 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.

**ADDITIONAL CONDITIONS:** Once the approved use is established the following conditions must be continually satisfied:

3. After the property line adjustment has been completed, no alteration of property lines shall be permitted without obtaining approval from the Planning Director first.

**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.

4. 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).
5. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for an 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 19, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or the office. This decision is effective **September 20, 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 Coyote Ridge Way, Brennamen Road, and Powers Creek Loop. Tax lot 1100 contains a dwelling and multiple accessory structures and buildings for farm use. Tax lot 1500 contains a dwelling and multiple accessory structures and buildings for farm use. A review of land use cases for the subject properties finds that both were created by Minor Partition File No 78-047 (P78-047). Both properties are considered legal units of land for the purposes of land use.
3. Adjacent properties in all directions are zoned FT and in various stages of forest use, some contain dwellings.
4. Soil Survey for Marion County, Oregon, indicates 37.6% of soils on the properties are high value.
5. The applicants are proposing to adjust the property lines on a 42.82 acre property and a 34.07 acre property to create a 40.00 acre property and a 36.82 acre property.
6. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

**Requirement:** Prior to PLA Survey approval, obtain an Access Permit from MCPW Engineering to realign the northern field access to the current Brennaman Lane property (referred to as Parcel A) such that it is perpendicular to Powers Creek Road, and add compacted crushed rock to the approach. Alternatively, the access may be permanently closed (also under an Access Permit).

Marion County Surveyor's Office commented:

1. No survey required on resultant property over 10 acres.
2. 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 Assessor's Office provided information regarding taxes on the subject properties.

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 predominantly in 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 as 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: September 4, 2020

If you have any questions regarding this decision contact Alyssa Schrems 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.