

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. 25-015**

APPLICATION: Application of Warren & Nancy Kimsey and Tina & Michael Carr for a property line adjustment to adjust the property lines on a 1.34-acre parcel and a 2-acre parcel to create a 0.6-acre parcel and 2.7-acre parcel in an EFU (Exclusive Farm Use) zone located at 17544 Old Mehama Rd SE, Stayton (T9S; R1E; Section 9C; Tax lots 1200 & 1300).

DECISION: The Planning Director for Marion County has **APPROVED** a **MODIFIED** Property Line Adjustment application subject to certain conditions:

APPLICATION: of Warren & Nancy Kimsey and Tina & Michael Carr for a **MODIFIED** property line adjustment to adjust the property lines on a 3.34-acre parcel and a 6.25-acre parcel to create a 2.6-acre parcel and 6.99-acre parcel in an EFU (Exclusive Farm Use) zone located at 17544 Old Mehama Rd SE, Stayton (T9S; R1E; Section 9C; Tax lots 1000, 1100, 1200, 1300, 1400, 1600).

EXPIRATION DATE: Title transfer instruments accomplishing the property adjustments shall be recorded by the applicants with the Marion County Clerk by **June 13th, 2027** (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 properties 10 acres or less must be surveyed per ORS 92.060 (7) and the survey submitted for review. Survey checking fees are required at the time of review. Property line adjustment deeds shall be recorded with the Marion County Clerk's Office. Per ORS 92.190 (4).
2. 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.
3. 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. It is recommended that the agencies mentioned in Finding #6 below be contacted to identify restrictions or necessary permits.

5. 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).

6. 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 **June 13th, 2025**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **June 16th, 2025** unless further consideration is requested.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which decision was based are noted below.

1. The subject property is designated Primary Agriculture in the Marion County Comprehensive Plan and correspondingly zoned EFU (Exclusive Farming Use). The purpose of the EFU zone is to provide areas for continued practice of commercial agriculture. These areas are generally well suited for large-scale farming. The EFU zone is also intended to allow other uses that are compatible with agricultural activities, to protect forests, scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water and land resources of the county.
2. The properties are located on the south side of Old Mehama Road SE approximately one quarter of a mile east of its intersection with Silbernagel Road SE. Tax lot 1200 contains a 1947 dwelling, several accessory structures, a corral, and land that is being cultivated. This lot (tax lot 1200) was created in its current configuration as part of a Lot Line Adjustment case in 1988 (LLA88-005). The results are shown on Survey 31289 from 1988. Therefore, tax lot 1200 is legal for land use purposes.

Staff could not find a deed that accurately matches tax lot 1300 in its current configuration, however, tax lot 1300 is shown on a 1988 survey in its current configuration and acreage (Survey 31289). The Kimsey family has owned land around this area since at least 1941, and the deeds have changed over the years via sales of parcels and at least one property line adjustment. In addition, the property lines have been adjusted to account for Old Mehama Rd SE. Several of these older deeds described the road as part of the land in the perimeter descriptions. No records could be found that indicate that tax lot 1300 had a dwelling. Staff concluded that tax lot 1300 was inadvertently created in its current configuration through LLA88-005 and was surveyed in 1988 as part of **land** use case LLA88-005. Staff has found that after LLA88-005 was approved - the applicants did not dissolve the property lines/tax accounts or record new perimeter description deeds leading to the confusion as to what was created and when.

In summation, Staff concluded that tax lots 1000, 1100, 1400, and 1600 are one parcel of land and that tax lots 1200 and 1300 are another separate parcel of land and Staff is proposing a modified property line adjustment. In order to address this issue and get the applicants the desired property lines, Staff is recommending a modified application:

Application of Warren & Nancy Kimsey and Tina & Michael Carr for a MODIFIED property line adjustment to adjust the property lines on a 3.34-acre parcel and a 6.25-acre parcel to create a 2.6-acre parcel and 6.99-acre parcel in an EFU (Exclusive Farm Use) zone located at 17544 Old Mehama Rd SE, Stayton (T9S; R1E; Section 9C; Tax lots 1000, 1100, 1200, 1300, 1400, 1600).

3. Surrounding uses consist of a power substation and commercial farm operations to the north on land zoned P (Public) and EFU (Exclusive Farm Use). To the south and east the predominate use is commercial farming and homes on larger acreage properties on land zoned EFU. To the west the uses are also on land zoned EFU in small farm and acreage homesites.
4. Soil Survey for Marion County, Oregon, indicates approximately 98.5% of the soils on the subject tax lots are classified as high value.

5. The applicants are proposing to adjust the property lines on two parcels of land that Staff has determined to be 3.34-acre parcel of land and 6.25-acre parcel of land to create a 2.6-acre parcel of land and a 6.99-acre parcel of land. The purpose of this adjustment is to provide more area for the existing homesite on tax lot 1200 to pasture the owner's horses and to better care for the land.
6. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Surveyor's Office commented:

- 1) Properties 10 acres or less must be surveyed per ORS 92.060 (7) and the survey submitted for review.
- 2) Survey checking fee required at the time of review.
- 3) Property line adjustment deeds shall be recorded with the Marion County Clerk's Office. Per ORS 92.190 (4).

Marion County Land Development Engineering and Permits (LDEP): Commented that they are concerned that the lot being reduced not become landlocked and expressed preference that the reduced lot be a flag lot with access to Old Mehama RD SE.

ENGINEERING ADVISORY

- A. Consider reconfiguring the smaller parcel with a 20-foot wide flag portion to Old Mehama Road or granting an access and utility easement over the larger parcel.

Marion County Building commented: "No Building Inspection concerns. It is recommended new property lines be established at least 3 feet from existing residential structures for fire separation purposes."

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. 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.*

Neither of the parcels involved in the proposal are larger than the minimum parcel size, nor will either parcel be brought above the minimum parcel size. The criterion 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.*

Neither of the parcels involved in the proposal are over the minimum parcel size to start, therefore the criterion does not apply.

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.*

Of the two parcels involved in the proposal, one (tax lot 1200) currently has a dwelling, several accessory structures, a corral, and land that is currently utilized for agriculture purposes. The applicants are proposing to transfer approximately 0.74-acres of the underutilized land (tax lot 1300) to the residential property to provide additional space the occupants' horses. The remainder of tax lot 1300 will become a flag lot with a connection to Old Mehama RD SE and remain part of the larger tract of land owned by the Kimsey family. The adjusted property line will

follow the east-west line of the naturally occurring stream that traverses the parcel, this configuration will allow the Carr family to expand their agricultural use onto land that is not currently being maintained. It should be noted that tax lot 1300 does not currently qualify for special tax exemption for agricultural use – per the Marion County Tax Assessor's Office. The resulting configuration will still be suitable for commercial agricultural use in the future. 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.*

Tax lot 1300, which is the parcel of land decreasing in size as a result of the proposal, does not contain a dwelling or have an approval for the construction of a dwelling; No approval for a dwelling based on an acreage standard would be possible as a result of the proposal; and finally, none of the parcels involved in the proposal were created by a Measure 49 waiver. Therefore, the criteria 4a-d are 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 dwelling will be located on a different lot or parcel as a result of this proposal. The criterion 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.
9. 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.
10. 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: May 29th, 2025

If you have any questions regarding this decision contact George Brandt 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): 091E09C001200, 091E09C001300

Owner Name: CARR, MICHAEL J & CARR, TINA A

Situs Address: 17544 OLD MEHAMA RD SE

City/State/Zip: STAYTON, OR, 97383

Land Use Zone: EFU

School District: NORTH SANTIAM

Fire District: STAYTON

Legend



Input Taxlots



Lakes & Rivers



Highways



Cities



scale: 1 in = 347 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.