

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
VARIANCE CASE NO. 23-010**

APPLICATION: Application of William and Lucille McGill Trust for a variance to vary the minimum lot size on a 110.27-acre parcel, involved in Property Line Adjustment case 23-022, in an Exclusive Farm Use (EFU) zone located at 5244 Jefferson Marion Rd SE, and 15333, 15633, and 15843 Pletzer Rd SE, Turner (T10S; R2W; Section 05; Tax lot 1000; Section 05A; Tax lots 600, 800 and 900).

DECISION: The Planning Director for Marion County has **APPROVED** the above-listed Variance application subject to certain conditions.

EXPIRATION DATE: This variance is valid only when exercised by **October 19, 2025** (two years). The effective period of an approved application 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 proposed uses is for land use purposes only. Due to septic, well and drain field 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. The applicant shall obtain all permits required by the Marion County Building Inspection Division.
2. Conditions of approval for Property Line Adjustment case 23-022 shall be met.

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 the Findings and Conclusions section below be contacted to identify restrictions or necessary permits.

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 **October 19, 2023**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 20, 2023**, 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 farm operations.
2. The subject properties are small and large-size farm parcels located southwest of the intersection of Marion Rd SE and Pletzer Rd SE, and west of Pletzer Rd SE approximately 1,700 feet south of the intersection of Colgan Rd SE and Pletzer Rd SE. The subject properties have perennial and intermittent streams along with an identified wetland area that Edgar Slough runs through. The subject properties fall within the Santiam Water Control District. Tax lot 600 is divided by Jefferson Marion Rd SE, with a small sliver north of the road and vast majority to the south.
3. Tax lot 600 contains one legal dwelling, a 1993 Fleetwood double wide manufactured home. Per Laserfiche permit 555-98-09439, MANF-1530601, this 1993 manufactured home was a replacement dwelling for a pre-1977 mobile home and the replacement was allowed per Administrative Review 98-079. Tax lot 600 also has farm/accessory structures. It has been described in its present configuration since at least Vol. 609 Page 813 recorded on November 29, 1965.

Tax lot 800 contains one legal dwelling built in 1974 and a several farm/accessory structures. It has existed in its current configuration since at least Feb. 29, 1968, as recorded in Vol. 643 Page 517.

Tax lot 900 is bare land and has existed in its current configuration since at least Vol. 613 Page 46, which was a correction deed for Vol. 611 Page 333 (recorded Jan. 4, 1966).

Tax lot 1000 has three legal dwellings on it along with multiple farm/accessory structures. One of the three dwellings was built in 1951, and another in 1952. The third dwelling is a manufactured home that was permitted in August of 1977, prior to the State's adoption of planning and zoning law on September 1, 1977. Therefore, even though the manufactured home was built/placed in 1978, Staff deems it a legal dwelling with no conditions or restrictions, which could have been imposed for homes established after planning and zoning law was adopted. Tax lot 1000 was the subject of an approved Land Use Case (PLA22-047).

Therefore, per the definitions in Marion County Code 17.110.427 and 17.110.680, these parcels are considered legal for land use purposes.

4. Properties in all directions are zoned EFU (Exclusive Farm Use). The majority of the existing land use pattern is a mixture of medium to large commercial farms with some homesites. The exception is a couple small acreage homesites to the west of tax lot 600. These are also zoned EFU.
5. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Building Division commented: "No Building Inspection concerns. Permits would be required to be obtained prior to any development and/or utilities installation on private property."

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

6. The applicant proposes to reduce the 100-acre minimum parcel size calculated in PLA23-022 to 90 acres in order to accommodate for property line adjustments that better reflect the farming practices in existence on the subject properties due to natural terrain and preexisting man-made features.
7. In order to obtain a variance, the proposal must meet the criteria found in Marion County Code 17.122.020(A). These criteria are:
 1. *There are unnecessary, unreasonable hardships or practical difficulties which can be relieved only by modifying the literal requirements of this title; and*

The property line adjustment proposes to shift the property lines in such a way that tax lot 1000, after the northeast and southeast corners are adjusted for, is approximately 94.2 acres in size. This configuration is created using natural and existing man-made features. The variance is the minimum necessary for the applicant to accomplish their property line adjustments while keeping the large, farmable area intact.

- 2. There are unusual circumstances or conditions applying to the land, buildings, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings, or uses in the same zone; however, nonconforming land uses or structures in the vicinity or violations of land use regulations or standards on the subject property shall not in themselves constitute such circumstances or conditions; and*

The minimum acreage size in PLA23-022 was calculated using a 235-acre parcel (09-2W-32-01300) which lays north of the subject properties across both a 60-foot-wide railroad dedication and a 60 wide dedicate public right of way (Jefferson Marion Rd / Market Road 35). The minimum acreage size calculated should this parcel not be included in the analysis is 80.095 acres, rounding to an 80-acre minimum size. In such a circumstance the proposed 94.2-acre parcel is well over the minimum that would be required. The criterion is met.

- 3. The degree of variance from the standard is the minimum necessary to permit development of the property for the proposed use; and*

The variance is the minimum necessary to accommodate the proposed property line adjustments as it maintains the large farmable area as a single parcel. The criterion is met.

- 4. The variance will not have a significant adverse effect on property or improvements in the neighborhood of the subject property; and*

Lowering the minimum parcel size from 100 acres to 90 acres will not have a significant adverse effect as a 94.2-acre parcel matches the surrounding medium to large sized parcels. It also maintains the existing farm practices. The criterion is met.

- 5. The variance will not have a significant adverse effect upon the health or safety of persons working or residing in the vicinity; and*

The granting of reduced parcel size will not have a significant adverse effect upon the health or safety of adjacent properties or people. The reduced parcel size will still be roughly 14.2 acres over the State required minimum for this zone. The criterion is met.

- 6. The variance will maintain the intent and purpose of the provision being varied*

The proposal upholds the intent of the provision, a minimum parcel size, as the intent of having such is to maintain large tracts of farmland. The applicant proposed an alteration of property configurations which better represents the farmable areas across the subject parcels and uses natural and existing man-made features to divide them along standard, acceptable boundaries. Therefore, the criterion is met.

8. Based on the above findings, the applicants' proposal meets the criteria for a variance in the Acreage Residential zone. The variance request is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: October 4, 2023

If you have any questions regarding this decision contact Nicole Inman 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.