

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/CONDITIONAL USE CASE NO. 17-039**

APPLICATION: Application of Pratum Co-Op and Fordyce LLC to adjust the property lines on a 73.20 acre parcel and an 8.77 acre parcel to create a 67.70 acre parcel and a 14.27 acre parcel and then a conditional use to expand the warehousing area of an existing commercial activity in conjunction with farm use on the resulting 14.27 acre parcel in an EFU (Exclusive Farm Use) zone located at 8955 Sunnyview Road NE, Salem. (T7S; R2W; Section 13, tax lot 1300 and Section 13CA; tax lot 100).

DECISION: The Planning Director for Marion County has **APPROVED** the above-listed Property Line Adjustment/Conditional Use 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 **November 24, 2019**. 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. **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. **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. 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 application for building permits dedicate a 30-foot right-of-way (R/W) half-width along the subject property #8955 Sunnyview Road frontage owned by Pratum Co-Op.

Condition B – Prior to issuance of building permits associated with the proposed business expansion, submit an engineered civil site plan to MCPW Engineering for review and approval that addresses onsite grading,

stormwater management, access, traffic circulation, and parking. Prior to issuance of a Certificate of Occupancy, applicant shall construct PW Engineering identified onsite improvements.

4. 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:

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

6. 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).
7. The applicants should contact Marion County District 1 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 **November 24, 2017**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **November 25, 2017** 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 agricultural operations.
2. The properties are located on the north side of Sunnyview Road NE, approximately 2,500 feet east of its intersection with Howell Prairie Road NE. The 8.77 acre parcel is developed with buildings of the Pratum Co-Op: fertilizer plant, office, warehouse, shop, and storage facilities. The 73.20 acre parcel is in farm use. The parcels are considered as being legally created and obtain their current configuration as a result of Property Line Adjustment/Conditional Use Case (PLA/CU) 04-014.
3. Adjacent properties to the north, east, and south are zoned EFU and in farm use, except for the Pratum School, which is located near the southwest corner of the property. Properties to the west, located across the railroad tracks, are zoned AR (Acreage Residential) and contain small parcels developed with single family dwellings.

4. Soil Survey for Marion County, Oregon, indicates approximately 99% of the soils on the subject tax lots are classified as high value farm soils.
5. The applicants are proposing to adjust the property lines on a 73.20 acre parcel and an 8.77 acre parcel to create a 67.70 acre parcel and a 14.27 acre parcel and then a conditional use to expand the warehousing area for the co-op. Similar expansions were approved in 1994 (CU/PLA94-032) and 2004 (PLA04-014).
6. Public Works Land Development and Engineering Permits requests that the following conditions lettered A and B are included in the approval of the land use case. They also commented on engineering requirements that available for review in the file.

***Condition A** – Prior to application for building permits dedicate a 30-foot right-of-way (R/W) half-width along the subject property #8955 Sunnyview Road frontage owned by Pratum Coop.*

R/W dedication requirements for conditional uses are in general accordance with Marion County Code (MCC) 17.119.60. The R/W dedication shall be depicted as a total 30-foot half-width dedicated to the public for road purposes. The nexus for this requirement is anticipated addition of traffic to county roads and the need to accommodate future road widening and drainage improvements, and space for utilities.

***Condition B** – Prior to issuance of building permits associated with the proposed business expansion, submit an engineered civil site plan to MCPW Engineering for review and approval that addresses onsite grading, stormwater management, access, traffic circulation and parking. Prior to issuance of a Certificate of Occupancy, applicant shall construct PW Engineering identified onsite improvements.*

Marion County Surveyor's Office commented that no survey is required because the resulting parcels are over 10 acres in size.

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

Marion County Building Inspection commented that building permits will be required for new structures or changing the use of existing structures.

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

7. Under provision in Section 17.136.090 of the Marion County Code (MCC), non-farm parcels and parcels for commercial activities in conjunction with farm use must be only large enough to accommodate the use. In addition, the expansion of the parcel cannot be approved until the use is approved. Based on these provisions, the condition use request will be review first, followed by the property line adjustment.

Conditional Use

8. In order to expand the Pratum Co-Op, an existing commercial activity in conjunction with farm use, the criteria in MCC 17.136.030 (A) and (D) must be satisfied. The specific criteria in 17.136.030(D) include:

D. Commercial Activities in Conjunction with Farm Use:

1. *The commercial activity must be primarily a customer or supplier of farm uses.*
2. *The commercial activity must enhance the farming enterprises of the local agricultural community to which the land hosting that commercial activity relates.*
3. *The agricultural and commercial activities must occur together in the local community.*
4. *The products and services provided must be essential to the practice of agriculture.*

The co-op provides services to local farmers in the county. The proposed warehouse will be used for processing, storing, and blending of grass grown by local farmers. The activity enhances and is integral to grass seed farmers in the area and is essential to this type of farm use. These criteria are satisfied.

9. The compatibility criteria in MCC 17.136.060(A) include:

A. *The following criteria apply to all conditional uses in the EFU zone:*

1. *The use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use. Land devoted to farm or forest use does not include farm or forest use on lots or parcels upon which a non-farm or non-forest dwelling has been approved and established, in exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.*
2. *Adequate fire protection and other rural services are, or will be, available when the use is established.*
3. *The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.*
4. *Any noise associated with the use will not have a significant adverse impact on nearby land uses.*
5. *The use will not have a significant adverse impact on potential water impoundments identified in the Comprehensive Plan, and not create significant conflicts with operations included in the Comprehensive Plan inventory of significant mineral and aggregate sites.*

As proposed, the use will not take land away from farming or farm-related enterprises. It will not raise the cost of leasing or purchasing land for farming. The establishment of a warehouse on property that is to be added to the co-op ownership will have little or no impact on the surrounding area. Fire protection is provided by Marion County and electronic monitoring of the warehouses is provided by Salem Fire Alarm. Other needed rural services are available to the property. There are no identified water impoundments, groundwater sensitive areas, significant mineral and aggregate sites, areas of significant fish and wildlife habitat, steep slopes, or areas of air or water quality concerns identified on or near the property. The use will not increase the level noise appreciably over what currently is emitted from the property. These criteria are met.

The proposal meets all the applicable criteria to expand the commercial activity in conjunction with farm use.

Property Line Adjustment

10. The criteria for reviewing lot line adjustments within an EFU zone are listed in MCC17.136.090(C) MCC and include:

- (a) *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.*
- (b) *If the minimum parcel size in MCC 17.136.090(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 17.136.030(A) so long as the adjustment:*
1. *Does not increase 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.*

Each of the existing parcels is less than 80 acres in size, therefore the criteria in (a) and (b) are met. The proposed reconfiguration will result in the removal of approximately five and one half acres from land planted in crops, however, that land will be committed to commercial activity described, which supports and is essential to farm activities taking place in the area. Each of the resulting parcels remain suitable for farm use, the criterion in (c) is satisfied. The proposal does not seek to reduce or enlarge either parcel in order to qualify for a dwelling. The criteria in (d) and (e) are met.

11. Based on the above findings, the applicants' proposal meets the criteria for a property line adjustment and a conditional use to expand existing commercial activity in conjunction with farm use in an EFU zone and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Planning Director

Date: November 8, 2017

If you have any questions regarding this decision contact Joe Fennimore 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.