

**Attention Property Owner:** A land use proposal has been submitted for property near where you live or 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 MODIFIED DECISION  
PROPERTY LINE ADJUSTMENT CASE NO. 17-038**

**APPLICATION:** Application of Gregory Blankenship and Jacqueline Browning to adjust the property lines on a 4.25 acre, 3.73 acre, 1.27 acre and 0.76 acre parcel to create a 4.25 acre, 3.73 and 2.03 acre parcel in an SA (Special Agriculture) zone located at 2798 Nehalem Street S, Salem. (T8S; R3W; Section 20C; tax lots 1700, 1800, 1900, 2000).

**DECISION:** Notice is hereby given that the Planning Director for Marion County has **APPROVED A MODIFIED DECISION** by determining that the existing 4.25 acre parcel and 3.72 acre parcel are separate legal lots and that the 1.27 acre tax lot and 0.76 acre tax lot are one parcel containing 2.03 acres.

**EXPIRATION DATE:** Title transfer instruments accomplishing the property adjustments shall be recorded by the applicants with the Marion County Clerk by **November 23, 2019**. 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 request 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 proposal 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. A deed shall be recorded combining tax lots 1700 and 2000 into one perimeter legal description by deed, or the property must file a combination form with the Marion County tax assessors' office to consolidate them into a single tax lot.

**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 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 (Appeal 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 23, 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 24, 2017** unless further consideration is requested.

**FINDINGS AND CONCLUSIONS:** The findings and conclusions on which the decision was based are noted below.

1. The subject properties are designated Special Agriculture in the Marion County Comprehensive Plan and correspondingly zoned SA (Special Agriculture). The primary intent of both this designation and zone is to promote and protect commercial agricultural operations.
2. The parcels are located on the south side of Nehalem Street S in the 2,700 block. The southern portion of the property contains a dwelling.
3. Surrounding uses consists of property in farm use, rural home sites, and timbered properties in an SA zone. To the northeast are rural home sites in an AR (Acreage Residential) zone.
4. The Soil Conservation Service’s Soil Survey of Marion County states the properties are 100% high-value farmland soils.
5. The applicants are proposing to adjust the property lines on a 4.25 acre, 3.73 acre, 1.27 acre and 0.76 acre parcel to create a 4.25 acre, 3.73 and 2.03 acre parcel.
6. Marion County Surveyors Office commented: “Must be surveyed per ORS 92.060 (7) and the survey submitted for review. Survey checking fee required at the time of review. 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 Building Inspection Onsite Wastewater Specialist commented that septic permits are required.

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

7. First it must be determined the number of legally created parcels on the subject property. The property was originally Lot 11 of Sunnyside Fruit Farms No. 14, a legally platted subdivision. Subsequently, the following deeds were recorded with the indicated effect:

	Deed	Property described by deed (based on existing tax lots)
1	Starting as Lot 11 of Sunnyside Fruit Farms No. 14	1700/1800/1900/2000
2	Reel 34, Page 1200 (January 16, 1976) Created tax lots 1700 and 2000 together separate from tax lots 1800 and 1900 together	1700/2000 and 1800/1900
3	Reel 34, Page 1201 (January 16, 1976) Placed 1900 and 2000 together	1900/2000, 1800, 1700
4	Reel 34, Page 1203 (January 16, 1976) Placed tax lots 1700 and 2000 together again	1700/2000, 1800, 1900
<b>Marion County began regulating the division of rural property on September 1, 1977.</b>		
5	Reel 129, Page 92 (June 21, 1978) Created parcels 1700 and 2000.	1700, 1800, 1900, 2000
6	Reel 508, Page 375 (December 9, 1986) Deed recombined all parcels back into Lot 11 of Sunnyside Fruit Farms No. 14 as a result of fulfilling contract of sale	1700/1800/1900/2000
7	Reel 529, Page 336 (March 6, 1987) Deed lists four parcels	1700, 1800, 1900, 2000
8	Reel 693, Page 250 (June 1, 1989) Deed lists four parcels	1700, 1800, 1900, 2000
9	Reel 1229, Page 57 (March 29, 1995) Deed lists four parcels	1700, 1800, 1900, 2000
10	Reel 1700, Page 16 (June 28, 2000)	1700, 1800, 1900, 2000

	Deed lists four parcels	
11	Reel 1313, Page 146 (May 28, 1996) Memorandum of contract lists four parcels	1700, 1800, 1900, 2000

In 1976, the two southern parcels were created together as one parcel separate from the northern portion of Lot 11. Then, the eastern half of Lot 11 was described separately without regard for the prior division of the southern portion of the property. Then, tax lots 1700 and 2000 were described by deed again. All of this had the effect of creating three legal parcels: 1800, 1900 and 1700/2000 together.

In 1978, the four tax lots were described separately on a deed; however, at that time Marion County regulated property divisions and there is no evidence that the property was approved for a division. Therefore, this deed is unable to create separate legal parcels of land.

In 1986, the deed appears to recombine all of the property into one lot again matching the original boundaries of Lot 11 of Sunnyside Fruit Farms No. 14. However, this deed does not appear to have the purpose of describing legal property, but instead to convey an interest in land as a result of a land sale contract being completed.

The deeds subsequent to 1986 all describe four parcels of land; however, no property division was approved by the county subsequent to such divisions being required in 1977.

Therefore, the property consists of three parcels of land as described by deeds in 1976: tax lots 1700/2000 together, tax lot 1800, and tax lot 1900.

In 2000, an administrative review case was approved (AR 00-37) to replace an existing dwelling on the subject property. The dwelling was placed across the tax lot lines 1700 and 2000. This additionally has the effect of combining those two tax lots and is further evidence of the two tax lots together comprising one legal parcel.

8. Based on the above findings and conclusions, it is determined that the property consists of three parcels of land as described by deeds in 1976: tax lots 1700/2000 together, tax lot 1800, and tax lot 1900.
9. In order to implement this legal lot determination, tax lots 1700 and 2000 need to be combined into one perimeter legal description by deed, for file a consolidation form with the Marion County Tax Assessor. This can be made a condition of any approval.

Joe Fennimore  
Director-Planning Division

Date: November 7, 2017

If you have any questions please contact Brandon Reich at (503) 588-5038.

Notice to Mortgagee, Lienholder, Vendor, Seller: ORS Chapter 215 requires if you receive this Notice it must be forwarded to the purchaser.