

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 MODIFIED DECISION  
PROPERTY LINE ADJUSTMENT/CONDITIONAL USE CASE NO. 18-009**

**APPLICATION:** Application of Jonathan and Janeece Price to adjust the property lines on a 0.55 acre parcel and a 3.32 acre parcel to create a 3.0 acre parcel and a 0.87 acre parcel and a conditional use to establish a cleaning product supply business as a home occupation on the resulting 3.0 acre parcel in an EFU (Exclusive Farm Use) zone at 10588 Crosby Rd NE, Woodburn (T5S: R1W; Section 05C; tax lots 600 and 700).

**DECISION:** Notice is hereby given that the Planning Director for Marion County has **APPROVED a MODIFIED** property line adjustment for Jonathan and Janeece Price and Mark Schue to adjust the property lines on a 0.55 acre parcel, a 3.32 acre parcel and a 1.08 acre parcel to create a 3.0 acre parcel and a 1.95 acre parcel and a conditional use to establish a cleaning product supply business as a home occupation on the resulting 3.0 acre parcel in an EFU (Exclusive Farm Use) zone at 10588 Crosby Rd NE, Woodburn (T5S: R1W; Section 05C; tax lots 600, 700 and 500).

**EXPIRATION DATE:** Title transfer instruments accomplishing the property adjustments shall be recorded by the applicants with the Marion County Clerk by **April 16, 2020**. 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:

**PROPERTY LINE ADJUSTMENT**

1. **Property line adjustment deeds shall be recorded with the Marion 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. Deed recording reference numbers shall be noted on the required survey.
3. The applicants shall have the parcels surveyed per ORS 92.060 (7). The survey shall be filed with the Marion County Surveyor and shall contain the notation that the survey is the result of Property Line Adjustment Case 18-009. (Final Plat Instructions enclosed).
4. **Prior to recording the deeds or filing the plat,** the applicants shall obtain any septic review and/or evaluations that may be required from the Marion County Building Inspection Division.
5. 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.

**CONDITIONAL USE**

6. The applicant shall obtain all required permits from the Marion County Building Inspection Division.

7. The applicant shall sign and submit a Farm/Forest Declaratory Statement (form enclosed) to the Planning Division. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.

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

8. The business shall continuously comply with the home occupation criteria in MCC 17.136.050(C) and listed in Finding #11.
9. Failure to continuously comply with the Conditions of Approval may result in this approval being revoked. Any revocation can be appealed to a Marion County Hearings Officer for a public hearing.
10. 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 be contacted to identify restrictions or necessary permits.

11. Prior to recording the plat all taxes due must be paid to the Marion County Tax Office (at 503-588-5215 for verification of payments).

**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 **April 16, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 17, 2018** 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 Primary Agriculture in the Marion County Comprehensive Plan and correspondingly zoned EFU (Exclusive Farm Use). The intent of both this designation and zone is to promote and protect commercial agricultural operations.
2. The properties are located on the south side of Crosby Rd NE approximately 1,140 feet east of its intersection with Boones Ferry Rd NE. The 0.55 acre parcel identified as tax lot 600 contains an existing dwelling and septic system. The 3.32 acre parcel identified as tax lot 700 contains an accessory structure and a well. The 1.08 acre parcel identified as tax lot 500 contains an existing dwelling, accessory structures, well and septic system. The properties are described in deeds separately and are considered separate legal parcels.
3. Surrounding properties in all directions are in farm use in an EFU zone.
4. Soil Conservation Service Soil Survey of Marion County indicates the properties are 78% high-value farmland soils.

5. The applicants originally proposed to adjust the property lines on a 0.55 acre parcel and a 3.32 acre parcel to create a 3.0 acre parcel and a 0.87 acre parcel and a conditional use to establish a cleaning product supply business as a home occupation on the resulting 3.0 acre parcel. Subsequently, the applicants **MODIFIED** the application of Jonathan and Janece and Mark Schue to adjust the property lines on a 0.55 acre parcel, a 3.32 acre parcel and a 1.08 acre parcel to create a 3.0 acre parcel and a 1.95 acre parcel and a conditional use to establish a cleaning product supply business as a home occupation on the resulting 3.0 acre parcel. The applicants are requesting a property line adjustment as the existing dwelling located on tax lot 600 encroaches over the property line and onto tax lot 700 and to also enlarge tax lot 500.

6. Public Works Land Development and Engineering Permits commented on requirements that are not part of the land use decision and available for review in the planning file.

Marion County Surveyors Office commented “Current or updated title report, survey checking fee, and recording fee required. Must be surveyed per ORS 92.060(7), and the survey submitted for 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 deeds 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 Planning requires perimeter descriptions of the resultant properties.”

Marion County Building Inspection Onsite Wastewater Specialist commented that septic permits are required.

Marion County Tax Office provided information regarding taxes on the subject properties.

7. The criteria for reviewing property line adjustments within an EFU zone are listed in Section 17.136.090(C) of the Marion County Code (MCC). These criteria are as follows:

- (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 the 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.*
8. The existing parcels are less than 80 acres in size prior to the adjustment; the criteria in #7(a) and (b) are met. The reconfiguration will not result in the removal of any land from agriculture production. The applicants are requesting a property line adjustment as the existing dwelling located on tax lot 600 encroaches over the property line and onto tax lot 700 and to also enlarge tax lot 500. It appears that the proposal would result in more effective management of the parcels for the property owners. Both parcels already contain a dwelling prior to the adjustment. The criteria in #7(c), (d), and (e) are met.
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. Marion County Code (MCC) 17.136.050 permits a home occupation subject to the criteria in MCC 17.136.060(A) and (C) with the filing of a declaratory statement regarding nearby farm and forest practices. The recording of a declaratory statement can be made a condition of any approval.
11. MCC 17.136.060 (C) provides specific criteria for approval of a home occupation:
- A. *A home occupation or bed and breakfast inn shall be operated by a resident of the dwelling on the property on which the business is located. Including residents, no more than five full-time or part-time persons shall work in the home occupation ("person" includes volunteer, nonresident employee, partner or any other person).*
  - B. *It shall be operated substantially in:*
    - a. *The dwelling; or*
    - b. *Other buildings normally associated with uses permitted in the zone in which the property is located.*
  - C. *It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.*
  - D. *A home occupation shall not be authorized in structures accessory to resource use on high-value farmland.*
  - E. *A sign shall meet the standards in Chapter 17.191 MCC.*
  - F. *The property, dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.*
  - G. *Retail and wholesale sales that do not involve customers coming to the property, such as Internet, telephone or mail order off-site sales, and incidental sales related to the home occupation services being provided are allowed. No other sales are permitted as, or in conjunction with, a home occupation.*

Information provided by the applicants, Jonathan and Janece Price, indicates they will operate ChemClear Northwest, a cleaning product supply business and are the residents of the property. Occasionally one additional person who lives offsite, will work at the home occupation. The use will take place in the accessory building and there appears to be adequate room on the property for employee parking. Retail sales to the public from the property are not part of the business operation. The operation is allowed one commercial vehicle in conjunction with the home occupation. The proposed use is not anticipated to interfere with uses on surrounding properties. The home occupation will take place in an accessory structure that was constructed as a residential accessory structure. Any sign will be required to meet the standard in MCC 17.191. It appears that any noise or odors associated with the business would be limited to the property. The home occupation business should not cause significant emissions including noise, odors, vibration, and fumes, smoke, fire hazard, or electronic, electrical, or electromagnetic interference. The property won't be used for assembly or dispatch of employees to other locations. No sales are proposed from the property. The proposal meets the criteria above.

12. In addition to the specific criteria, MCC 17.136.060(A) contains general criteria that applies to any conditional use:
- A. *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.*

- B. Adequate fire protection and other rural services are, or will be, available when the use is established.*
- C. The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.*
- D. Any noise associated with the use will not have a significant adverse impact on nearby land uses.*
- E. 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.*

The proposed use will take place in an existing accessory building on the property. There is no anticipated impact from the use on surrounding farm or forest practices. Woodburn Fire District provides fire protection to the property and the Marion County Sheriff provides police protection. Other rural services are available to the property, such as a well and septic system. There are no identified watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality issues on the property. No significant noise is anticipated from the property because of the proposed use. There are no identified potential water impoundments or mineral and aggregate sites on the property or nearby that would be affected by this proposed use. These criteria are met by the proposal.

- 13. 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.
- 14. Based on the above findings and conclusions, the proposal meets the criteria for a property line adjustment in an EFU zone and it has been determined that the request for a home occupation satisfies all applicable criteria and is therefore, **APPROVED**, subject to conditions.

Joe Fennimore  
Director-Planning Division

Date: March 30, 2018

If you have any questions please contact Patty Dorr 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.