

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. 24-003**

APPLICATION: Application of the Jubitz Corporation on behalf of the Robert W. Gabriel Trust for a property line adjustment to adjust the property lines on a 10-acre parcel and a 130.45-acre parcel to create a 3.39-acre parcel and a 137.06-acre parcel in the EFU (Exclusive Farm Use) zone located at 12704 Ehlen Rd NE, Aurora (T4S; R1W; Section 10; Tax lot 1700 & Section 15; Tax lot 400).

DECISION: The Planning Director for Marion County has **APPROVED** the above-listed Property Line Adjustment 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 **March 12, 2026** (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. A re-plat (**in the form of a partition plat**) is required, due to the adjustment or elimination of a partition plat parcel line or subdivision lot line.
2. Must be surveyed and platted per ORS 92.050, and the plat submitted for review. Checking fee and recording fees will be required. A current or updated title report must be submitted at the time of review.
3. Applicants shall obtain any septic review and/or evaluations that may be required from the Marion County Building Inspection Division.
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 #6 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 the Aurora 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 **March 12, 2024**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **March 13, 2024**, 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 at 12704 Ehlen Rd NE, outside of the ID (Interchange District) zoned tract at the I-5 interchange where Ehlen Rd NE meets the interstate. The parcels are mostly flat with large fields in agricultural use and swaths of woody areas around perennial and intermittent streams. The subject parcels were previously the subjects of a property line adjustment in 2015 (PLA15-012) that resulted in their current configurations. Both subject parcels are therefore considered legal for land use purposes.
3. Adjacent properties to the northwest are in the interchange district around I-5 and correspondingly zoned ID (Interchange District). Directly adjacent to the northwest is an RV park. On the other side of I-5 is a large gas station, storage facilities, and several trucking related businesses. To the north, east and south of the subject parcels are EFU (Exclusive Farm Use) zoned properties in agricultural use. To the south and west of the subject parcels runs Senecal Creek. A few small tributaries of which originate on the largest of the subject parcels (TL400 of Section 15).
4. Soil Survey for Marion County, Oregon, indicates that Tax lot 400 of Section 15 contains approximately 87.6% high value soils and Tax lot 1700 of Section 10 contains approximately 68.1% high value soils.
5. The applicants are proposing to adjust the property lines on a 10-acre parcel and a 130.45-acre parcel to create a 3.39-acre parcel and a 137.06-acre parcel. The adjusted property lines will allow for the planned realignment of Dolores Way NE to wrap around the smaller of the two parcels rather than divide it.
6. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Surveyor's Office commented:

- A re-plat (**in the form of a partition plat**) is required, due to the adjustment or elimination of a partition plat parcel line or subdivision lot line.
- Must be surveyed and platted per ORS 92.050, and the plat submitted for review.
- Checking fee and recording fees required.
- A current or updated title report must be submitted at the time of review.

Marion County Building Inspection commented: No Building Inspection concerns as the proposed property line(s) do not appear to impact any existing structures regulated by the state building code. Permit(s) would be required to be obtained prior to development and/or utilities installation on private property.

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:

(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.*

One of the subject parcels is larger than the minimum parcel size, and one of the resulting parcels will be larger still. The criterion is met.

(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.*

No parcel within 500 feet of the subject parcels is larger than the largest parcel subject to the proposed PLA, and that parcel is proposed to become larger. This criterion does not apply.

(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.*

The proposed property line adjustment will create a slightly larger parcel in agricultural use, and it will therefore being even slightly more suitable for commercial agriculture than in its current state. The criterion is met.

(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.*

The largest subject parcel of the proposed PLA already contains a dwelling. This criterion does not apply.

(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.*

No dwellings will be located on different parcels as a result of the proposed property line adjustment. This criterion does not apply.

8. The Marion County Surveyor commented that a survey (replat) is required, therefore, this will be made a condition of approval.
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: February 26, 2024

If you have any questions regarding this decision contact John Speckman 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): 041W100001700, 041W150000400

Owner Name: ROBERT W GABRIEL TR & GABRIEL, ROBERT W TRE

Situs Address: 12704 EHLEN RD NE

City/State/Zip: AURORA, OR, 97002

Land Use Zone: EFU

School District: NORTH MARION

Fire District: AURORA

<p>Legend</p> <ul style="list-style-type: none"> Input Taxlots Lakes & Rivers Highways Cities 		
<p> N</p> <p>scale: 1 in = 961 ft</p>	<p>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.</p>	