

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. 24-001**

**APPLICATION:** Application of Donald G. Annotti for a property line adjustment to adjust the property lines on a 20.82-acre parcel and a 2.00-acre parcel to create a 21.46-acre parcel and a 1.36-acre parcel in a SA (Special Agriculture) zone located at 4160 Coates Crest Way SE, Salem (T8S; R2W; Section 19A; Tax Lot 1900 and T8S; R2W; Section 19; Tax Lot 402).

**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. Prior to Planning signing off on the plat, the dwelling issued under building permit 555-22-006001-DWL shall be fully decommissioned into a storage building.
2. 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.
3. The current dwelling (555-22-006001 DWL) shall connect to the new approved septic area before the new dwelling (555-22-008817 DWL) is finalized and shall obtain any septic review and/or evaluations that may be required from the Marion County Septic 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.

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 Turner 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 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 small farm operations or areas with a mixture of good and poor farm soils.
2. The properties are located at the end of a private road, Coates Crest Way SE, which comes off a non-county road Coates Dr SE. Tax Lot 402 (Section 19) is a 2.00-acre rectangular lot that was created as a result of approval of land use case P13-016 and has not changed its configuration since. The subject parcel is considered legal for land use purposes. The lot contains a dwelling with an open building permit which is addressed in detail in finding 3.  
  
Tax Lot 1900 (Section 19A) is a 20.82-acre lot with no dwellings and was involved in land use case PLA20-013 and is therefore considered legal for land use purposes. There is a ditch that runs along the Western boarder of the property and is crossed by a bridge providing road access to Coates Crest Way SE.
3. Tax lot 402 currently has two open building permits for dwellings. Only one home is allowed per parcel. The applicant has decided to complete and then decommission the dwelling applied for under 555-22-006001 DWL. The applicant has decided that the dwelling in this permit will be carried out to completion, and that the structure will then be decommissioned to a non-dwelling structure (storage building) prior to the execution of the property line adjustment. The home being built under 555-22-008817 DWL will become the sole single family dwelling allowed on this lot. This shall be made a condition of approval.
4. All adjacent properties to the subject parcels are zoned SA (Special Agriculture) and consist of parcels involved in various types of farm use with some small acreage home sites mixed in.
5. Soil Survey for Marion County, Oregon, indicates approximately 99.7% of the soils on tax lot 402 are classified as high value, while 79.9% of the soils on tax lot 1900 are classified as high value.
6. Various agencies were contacted about the proposal and given an opportunity to comment.

Turner Fire District commented:

“Fire apparatus access, fire protection water supplies, and other fire service features are required to comply with the Oregon Fire Code (OFC) and the Marion County Fire Code Applications Guide (MCFCAG). The following links to the OFC and the MCFCAG are provided to assist applicants, design professionals, and/or developers.”

“**NOTE:** Robert of Barker Surveying, Applicant Representative, is encouraged to contact Turner Fire District for assistance with determining how best to address fire service features including fire apparatus access and fire protection water supplies for this location and/or project.”

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”

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

Marion County Building Division commented: “No Building Inspection concerns. Proposed property lines are suggested to be established at least 3 feet from existing residential structures, 10 feet from commercial structures if applicable. If any less, additional fire resistive materials may be required to be applied to existing exterior walls which would require permits prior to installation.”

Marion County Septic Division commented: “Current dwelling (“barndominium”) must connect to new approved area before new dwelling is finalized.”

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 SA zone are listed in Chapter 17.137.090(C) MCC. These criteria are as follows:

1. *When one or more lots or parcels subject to a proposed property line adjustment are larger than the minimum parcel size pursuant to subsection (A)(1) of this section, 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.*

The minimum parcel size listed in MCC 17.137.090(A)(1) for SA parcels is 80 acres. Both parcels are under this threshold, therefore, this section does not apply.

2. *If the minimum parcel size in subsection (A)(1) of this section 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.*

The minimum parcel size is not larger than 80 acres; both parcels are under the minimum parcel size. Therefore, this section does not apply.

3. *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.*

Tax lot 402 is a non-farm parcel as it was created as part of a Measure 37/49 claim and is not currently in farm use. Therefore, it is not subject to the requirement that it be “as suitable for commercial agriculture”. The proposed configuration of lots will not negatively impact any potential to farm as it involves the decrease in size of tax lot 402 (non-farm parcel) and increase in size of tax lot (1900) farm parcel. The criterion is met.

4. *A property line adjustment may not be used to:*

- a. *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;*
- b. 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;*
  - c. 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; or*
  - d. Adjust a property line that resulted from a subdivision or partition authorized by a Measure 49 waiver so that any lawfully established unit of land affected by the property line adjustment is larger than the size granted by the waiver.*

No lot will be increased larger than the minimum parcel size. Tax lot 1900 in the proposed configuration cannot qualify for a dwelling based on tract acreage. Tax lot 402 was created by Partition case P13-016 and is eligible for one single family dwelling on the lot based on the rights granted by a Measure 37/49 claim. In the proposed configuration, tax lot 402 is reducing in size from 2.00-acres to 1.36-acres. Since the lot created by the Measure 37/49 claim is not increasing above the 2.00-acres granted in the claim and none of the properties would qualify for a dwelling based on tract acreage, section 4 does not apply.

- 5. *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 17.137.030(A) so long as the adjustment:*
  - a. Does not increase any adverse impacts on the continued practice of commercial agriculture on the resulting parcels;*
  - b. Does not increase the potential number of dwellings on the resulting parcels; and*
  - c. not 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.*

As addressed in finding 3, there is an active building permit for a dwelling on tax lot 402 in the section of land that will move to tax lot 1900 in the proposed property line adjustment. The applicant has stated that they will complete building the dwelling to follow through with the active permit but will decommission the dwelling to a non-dwelling structure before enacting the property line adjustment. This shall also be made a condition of approval. Since there will no longer be a dwelling on the land being moved by the time of the property line adjustment, section 5 does not apply.

- 8. 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.

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 Alex Seifer 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.