

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/ADMINISTRATIVE REVIEW CASE NO. 19-001**

**APPLICATION:** Application of GWM Trucking LLC to adjust the property lines on a 121.23 acre parcel and a 5 acre parcel to create a 4 acre parcel and a 122.23 acre parcel and an administrative review to change the location of a replacement dwelling approved under AR15-017 in an EFU (Exclusive Farm Use) zone located at 3605 and 3636 Talbot Road S, Jefferson (T9S; R3W; Section 30; tax lots 700 and 701).

**DECISION:** Notice is hereby given that the Planning Director for Marion County has **APPROVED** the above described request 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 **February 13, 2021**. 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. **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. Property line adjustment deeds shall be recorded with the Marion County Clerk's Office prior to submitting the property line adjustment survey.
3. Deed recording reference numbers shall be noted on the required survey.
4. The applicants shall have the 4.0 acre parcel surveyed per ORS 92.060 (7). The survey shall be filed with the County Surveyor and shall contain the notation that the survey is the result of Property Line Adjustment Case 19-001. (Final Plat Instructions enclosed).
5. **Prior to recording the deeds or filing the survey,** the applicants shall obtain any septic review and/or evaluations that may be required from the Marion County Building Inspection Division.
6. 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.

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

7. 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.

8. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #6 below, that may be required.
9. Prior to recording the deeds 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 **February 13, 2019**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **February 14, 2019** 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 north and south side of Talbot Road South, approximately 1,000 feet east of its intersection with Marlatt Road S. The 121.23 acre parcel identified as tax lot 700 contains an existing dwelling, farm structures, well and septic system on the north side of Talbot Rd and on the south side of Talbot Rd the property contains farm structures, well and existing system where a previously existing dwelling was located. The 5 acre parcel identified as tax lot 701 is currently undeveloped.  
  
Both properties were subject of a previous land use case, Administrative Review 15-017 (AR15-017), that approved a replacement dwelling. The properties were created in their current configuration by Property Line Adjustment Case #15-030 and are considered legal parcels for land use purposes.
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 100% high-value farmland soils.
5. The applicant proposes to adjust the property lines on a 121.23 acre parcel and a 5 acre parcel to create a 4 acre parcel and a 122.23 acre parcel and an administrative review to change the location of a replacement dwelling approved under AR15-017. The previous dwelling was at 3636 Talbot Rd and located on the south side of Talbot Rd. AR15-017 approved the dwelling to be replaced onto the newly adjusted 5 acre parcel currently identified as tax lot 701 on the north side of Talbot Rd. The applicant is asking to adjust the property lines with this application along with the replacement dwelling location so the proposed 4 acre parcel will be at its original location on the south side of the road encompassing the existing farm buildings. The replacement dwelling approval would still be valid until January 1, 2024.

6. Public Works Land Development and Engineering Permits commented:

“Engineering Requirements

- A. In accordance with Marion County Code 11.10, driveways must meet sight distance, design, spacing, and safety standards. The following numbered sub-requirements pertain to access requirements and are identical to those in our June 12, 2015 memorandum regarding #AR15-017:
- 1) A total of one (1) residential access will be allowed to serve the property. There is an existing residential access.
  - 2) At the time of application for building permits, an Access Permit will be required, for one, since the County has no access permit records for the property.
  - 3) As part of the Access Permit requirement noted above, it will be required to install a driveway drainage culvert under the field access, with said access being located 225 feet to the west of the residential access. It is noted that the two property accesses do not meet the Marion County Rural Transportation System Plan 300-foot spacing standard between private accesses for a Major Collector road; however, the accesses are long-established, are currently in use, and come to within 75% of the spacing standard.
- B. The subject property is within the unincorporated area of Marion County and may be assessed Transportation & Parks System Development Charges (SDCs) upon application for building permits, per Marion County Ordinances #00-10R and #98-40R, respectively.
- C. Both a Marion County Work in Right-of-Way Permit and a Utility Permit are required in order to install utilities within County-controlled public right-of-ways.”

Marion County Surveyors Office commented: “No survey required on the 122.23 acre parcel. The 4.0 acre parcel must be surveyed per ORS 92.060(7) and the survey submitted for review. A survey checking fee must be paid at the time of review. Property line adjustment deed shall be recorded with the county clerk. Marion County Planning requires perimeter descriptions of the resultant properties. 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.”

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. According to MCC 17.136.090(A)(1) the minimum lot size for a parcel in an EFU zone is calculated as follows:
- (a) *All parcels wholly or in part within 500 feet of the subject parcel shall be identified.*
  - (b) *The average (mean) size of all parcels larger than 40 acres identified in paragraph (a) of this subsection shall be determined.*
  - (c) *The acreage size calculated in paragraph (b) of this subsection, rounded to the nearest 10 acres, is the minimum parcel size, unless such parcel size is less than 80 acres, in which case the minimum parcel size is 80 acres.*
- In this instance, the average calculated parcel size is 68 acres (409.64 acres/6 parcels), therefore, the minimum parcel size for this proposal is 80 acres under provisions of #8 above.
9. One of the parcels exceeds 80 acres and the other does not. One parcel, after the adjustment would still exceed 80 acres and one would remain below the minimum. Therefore, the proposed adjustment meets the required minimum parcel sizes in #7(a) and (b). The reconfiguration will not result in the removal of any land from agriculture production. It appears that the proposal would result in more effective management of the parcels. The 122.23 acre parcel will contain the existing dwelling. The four acre parcel will be available for placement of a dwelling under approvals granted by AR15-017. Therefore, the parcels are not being adjusted in such a way as to qualify for a dwelling. The criteria in #7(c), (d), and (e) are met.
10. 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.
11. 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.
12. Based on the above findings and conclusions, the proposal meets the criteria for a property line adjustment in an EFU zone and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore  
Director-Planning Division

Date: January 29, 2019

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.