

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. 19-011**

APPLICATION: Application of Dylan and Stephanie Wells to adjust the property lines on a 2.28 acre parcel, a 1.90 acre parcel and a 10.0 acre parcel to create a 2.67 acre parcel, a 9.50 acre parcel and a 2.0 acre parcel in an EFU (Exclusive Farm Use) zone located at 10408 Crosby Road NE and 16990 Boones Ferry Road NE, Woodburn (T5S; R1W; Section 06AD; tax lots 1800 and 2000 and Section 06D; tax lot 300).

DECISION: Notice is hereby given that 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 May 2, 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 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. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use until the following condition has been satisfied:

Condition A – On the PLA survey, depict a recorded Access Easement across tax lot(s) 051W06AD01800 and/or 051W06AD02000 such that access for tax lot 051W06D00300 is derived from Crosby Road.
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 19-011. (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. **Prior to recording the deeds or filing the plat,** the applicant shall sign and submit a Shop/Storage Declaratory Statement (enclosed) to the Planning Division for review. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
6. **Prior to recording the deeds or filing the plat,** the applicants shall obtain a building permit through Marion County Building Inspection to convert the existing dwelling to a shop/storage building.
7. Deed recording reference numbers shall be noted on the required survey.

8. 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:

9. 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.

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

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 **May 2, 2019**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **May 2, 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 southeast corner of Crosby Rd NE and Boones Ferry Rd NE. The 1.90 acre parcel identified as tax lot 2000 contains an existing dwelling built in 1965, accessory structure, well and septic system. The subject parcel was described by deed (Volume 591, page 81) recorded on August 4, 1964, and is considered a legally created parcel for land use purposes.

The 2.28 acre parcel identified as tax lot 1800 contains farm structures. The subject parcel was described by deed (Volume 618, page 661) recorded on June 16, 1966, and is considered a legally created parcel for land use purposes.

The 10.0 acre parcel identified as tax lot 300 contains a new 2018 manufactured home that is replacing the existing dwelling built in 1946, accessory structures, well and septic systems. The property was the subject of a previous land use case, Administrative Review 94-66 (AR94-66), that approved an expansion and remodel of an existing dwelling and is considered a legal parcel for land use purposes.

3. Surrounding uses to the north, west and east consist of properties in farm use in an EFU zone. Property to the south is developed with a golf course and is zoned EFU and UT.

4. Soil Conservation Service Soil Survey of Marion County indicates the properties are 100% high-value farmland soils.
5. The applicants are requesting to adjust the property lines on a 2.28 acre parcel, a 1.90 acre parcel and a 10.0 acre parcel to create a 2.67 acre parcel, a 9.50 acre parcel and a 2.0 acre parcel. The applicant statement indicated there are three existing dwellings, two of which are on tax lot 300 and that the property line adjustment would result in each residence being on a separate parcel. Staff determined there are a total of two legal dwellings on two of the tax lots. According to building permit records the applicants were issued a manufactured home replacement permit (Permit Number #555-18-001910) on April 5, 2018 to replace the existing house (built in 1946) both of which are on tax lot 300 currently. The old residence is to be converted to storage only and cannot be occupied or used as a dwelling. This can be made a condition of approval. The proposed 2.67 acre parcel will contain the existing 1965 house. The proposed 2.0 acre parcel will contain the 2018 manufactured home. The proposed 9.50 acre parcel will contain the existing farm structures and the replaced 1946 dwelling that is being converted to a shop and storage building.
6. Public Works Land Development and Engineering Permits requested that the following Condition, Requirements and Advisories be included in the land use case:

“Condition A – On the PLA survey, depict a recorded Access Easement across tax lot(s) 051W06AD01800 and/or 051W06AD02000 such that access for tax lot 051W06D00300 is derived from Crosby Road.”

Nexus for the above Condition is in accordance with the Marion County Rural Transportation System Plan (TSP) Section 10.3.5 Policy 11.b whereby access is to be taken from the lower functional class roadway if a parcel has access options. Boones Ferry Road is classified as a Major Collector, while Crosby Road is a Minor Collector. This requested Condition is for Crosby Road access in lieu of the proposed access easement taken from Boones Ferry Road as depicted on the land use application site plan; it is not intended to provide additional access.”

Requirements:

- “B. 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:
1. Driveway permits will be required for any new access or change in use of the existing access to the public right-of-way.
 2. Ornamental vegetation is present within the public R/W along Crosby Road adjacent to the road and driveways. This vegetation has the potential to obscure vision onto the road and for other motorists. The Applicant is advised to keep the vegetation regularly trimmed down and back such that this will not become an issue.”

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.”

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

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. It appears that the proposal would result in more effective management of the parcels for the property owners. Currently the property line between tax lot 2000 and 300 runs through the middle of an existing outbuilding. The proposed 2.67 acre parcel will contain the existing 1965 dwelling and will entirely encompass the existing outbuilding. The proposed 2.0 acre parcel will contain the 2018 manufactured home. The proposed 9.50 acre parcel will contain farm structures and the replaced dwelling that is being converted to a shop and storage building. 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. 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.
- 11. 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: April 17, 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.