

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. 21-035**

APPLICATION: Application of Gabrielle Whitaker (Jensen) to adjust the property lines on a 1.95 acre parcel and a 67.90 acre parcel to create a 1.95 acre parcel and a 67.90 acre parcel in an EFU (Exclusive Farm Use) zone located at 3905 Talbot Rd. S, Jefferson. (T9S, R3W, Section 30, Tax Lots 400 & 500).

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 **August 5, 2023** (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. **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 is recorded by the applicants with the Marion County Clerk.**
2. **Prior to recording the property line adjustment deeds,** the applicant shall have the 1.95 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 21-035. (Final Plat Instructions enclosed).
3. 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.
4. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the final plat for recordation until the following conditions have been satisfied:

Condition A - Prior to PLA survey approval, acquire an Access Permit, and under the Permit, reconfigure the east access approach to #3735 Talbot Road (TL 400) to be perpendicular to afford adequate Intersection Sight Distance.

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.

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 **August 5, 2021**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective, **August 6, 2021** 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 on the north side of Talbot Road S, approximately 0.50 miles northwest of the intersection of Talbot Road S and Marlatt Road S. Tax lot 500 is developed with a dwelling and two outbuildings. Tax lot 400 is developed with a dwelling and two outbuildings. The subject properties were created in 1979 with approval of Major Partitioning Case number 79-49 and later reconfigured with approval of Lot Line Adjustment Case number 87-5. Property Line Adjustment case 13-030 was applied for and approved, but never initiated. The properties are considered legal for the purposes of land use.
3. Adjacent properties are zoned EFU in all directions and contain dwellings and large scale agriculture operations.
4. Soil Survey for Marion County, Oregon, indicates approximately 99.90% of the soils on the subject tax lots are classified as high value.
5. The applicants are proposing to adjust the property lines on a 1.95 acre parcel and a 67.90 acre parcel to create a 1.95 acre parcel and a 67.90 acre parcel.
6. Marion County Surveyor's Office commented:
 1. No survey required on the resultant property that is greater than ten acres.
 2. The 1.95 acre parcel must be surveyed per ORS 92.060(7) and the survey submitted for review.
 3. Survey checking fee required at the time of review.
 4. 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 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. [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 Assessor's Office provided information regarding taxes on the subject properties. Marion County Land Development Engineering and Permits (LDEP) requested that the following be included in the land use decision.

Condition A - Prior to PLA survey approval, acquire an Access Permit, and under the Permit, reconfigure the east access approach to #3735 Talbot Road (TL 400) to be perpendicular to afford adequate Intersection Sight Distance.

Access work is typically an Engineering Requirement; however, it is being elevated to Condition status as a matter of timing for completion. The driveway approach meets the road at a highly skewed angle, making it impracticable during egress to view traffic coming from the west.

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.*

The minimum parcel size as calculated pursuant to MCC 17.136.090(A)(1) is 110 acres. The largest parcel involved in the property line adjustment is 67.90 acres in size. Based on these facts, the criterion does not apply.

- (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.*

Tax lot 400 is 67.90 acres in size and tax lot 500 is 1.95 acres in size. Based on this fact, the 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 applicant states that this adjustment is at least as suitable for commercial agriculture as before because the adjustment proposes to change which dwelling is associated with the farm land, but no changes are proposed to the farmable acres. This 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.*

No parcel of land will be able to qualify for a dwelling based on size after adjustment and no dwelling approval is sought with this application. Neither parcel that has been approved for a dwelling qualified for a dwelling based on an acreage standard. Based on these facts, this criterion is met.

- (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.*

The dwelling located on tax lot 400 is proposed to be located on tax 500 after the proposed adjustment. Adverse impacts on commercial agriculture will not be increased the parcel is not proposed to increase in size. The relocation will not increase the potential number of dwellings on the resulting parcels because both parcels currently have existing dwellings located on them. The relocation of the common boundary lines does not increase any parcel to a size that would allow it to qualify for a dwelling based on an acreage standard. This criterion is met.

8. This property line adjustment meets all applicable criteria in the EFU zone pursuant to MCC 17.136.090.
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, the applicants' proposal meets the criteria for a property line adjustment in an EFU zone. The property line adjustment request is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Planning Director

Date: July 21, 2021

If you have any questions regarding this decision contact Alyssa Schrems 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.