

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.21-056**

APPLICATION: Application of 9410 Rambler Drive NE LLC to adjust the property lines on a 0.18 acre parcel, a 0.93 acre parcel, and a 1.93 acre parcel to create a 2.76 acre parcel in an Exclusive Farm Use (EFU) zone located at 9410 Rambler Drive NE, Silverton. (T6S, R2W, Section 13D, Tax Lot 200).

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 **December 4, 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. The property line adjustment must be surveyed per ORS 92.060(7) and the survey submitted for review.
2. **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. **Marion County Planning requires perimeter descriptions of the resultant properties.**
3. Survey checking fee required at the time of review.
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.
5. This decision does not approve an expansion of the existing school. Further land use review may be required.
5. All conditions listed in Finding #6 shall be met.

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

6. 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.

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 **December 4, 2021**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **December 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 at the intersection of Rambler Drive NE and Howell Prairie Road NE. The property is developed with an existing elementary school. Parcel 1 was first described in its current configuration on November 8, 1909 by Volume 110, page 74. Parcel 2 was first described in its current configuration on August 6, 1956 by Volume 491, page 353. Parcel 3 was created by Marion County Court case 13C12001.
3. Adjacent properties are zoned EFU in all directions and are in large scale commercial farm use.
4. Soil Survey for Marion County, Oregon, indicates approximately 100% of the soils on the subject tax lots are classified as high value.
5. The applicants are proposing to consolidate 3 parcels of approximately 1.65 acres, 0.18 acres, and 0.93 acres to create one parcel of 2.76 acres.
6. Marion County Land Development and Engineering Permits (LDEP) commented:
ENGINEERING ADVISORY
 1. Unrelated to the subject PLA, but as a courtesy reminder related rather to the modular building expansion of which there are five, there is a stipulation on each building permit tied to issuance of Certificate of Occupancy for dedication of public right-of-way over the right-hand slip lane connecting Rambler Drive to Howell Prairie Road.

Marion County Surveyor's Office commented:

1. Must be surveyed per ORS 92.060(7) and the survey submitted for review.
2. Survey checking fee required at the time of review.
3. Property line adjustment deeds shall be recorded with the Marion County Clerk's Office. 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 Building Inspection commented that more information was needed to make a determination of potential requirements.

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

Roger Kaye commented that "this application is for a property line adjustment however the drawings show a plan for a school w/classroom buildings and a gym. The property is zoned EFU. New public or private schools are not permitted in the EFU zone. Since the applicant is only applying for a property line adjustment the county should be aware of the restrictions in the development plans".

Marion County Septic commented:

- Marion County has no official records of the septic system currently serving this property. An existing system evaluation report was submitted detailing the condition of the existing septic system; the septic tank was found to have numerous holes causing untreated sewage to leak into the ground.
- An application for an authorization notice to add modular buildings for a total of 166 students and staff maximum at the entire facility was submitted to this office on June 28, 2021 and denied under OAR 340-071-0205 and OAR 340-071-0130, due to the large flow increase and leaking septic tank. A major alteration application to expand the septic system has been submitted and test pits were evaluated by this office. A report with results and minimum code requirements was sent out on September 3, 2021; it is our understanding that a professional design to meet these requirements is underway and will be submitted to this office when complete.
- Preliminary onsite wastewater design drawings are included in this application, specifics of these plans will be reviewed when they are complete and submitted to this office; however the gym and addition on to the existing building itself was not previously proposed. These will require an authorization notice approval in the future if and when they are proposed to the Marion County Building Department.
- The existing septic tank that is leaking is required to be repaired per OAR 340-071-0215(1); as stated in the letter sent out on September 3, 2021, it is not acceptable to simply wait until the entire new system is approved to replace this tank.

Various agencies were contacted about the proposal and given an opportunity to comment. 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.*

All parcels are less than 2 acres in size. Based on these facts, this 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.*

All parcels are less than 80 acres in size. Based on these facts, this criterion is met.

- (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.*

This property line adjustment will consolidate all parcels into one 2.76 acre parcel that would encompass the existing school. Comments received from Roger Kaye state that no new schools can be permitted on High Value Farmland, however the school existed prior to 1956. Consolidating three parcels of less than 2 acres in size each is at least as suitable for commercial agriculture as prior to the adjustment as there will be more farmland under common ownership after 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.*

No parcel will be increased to larger than the minimum parcel size and this adjustment will not qualify either parcel for a dwelling. The 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.*

No dwellings will be located on different parcels; the land being consolidated is an existing school site. The criterion is met.

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.
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. Nothing in this decision authorizes expansion of the existing school. Further land use review may be required to expand the school.
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

Date: November 19, 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.