

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.23-012**

APPLICATION: Application of German Apostolic Christ Church and Melvin & Sally Kaufman for a property line adjustment to adjust the property lines on a 35.5-acre parcel, a 2.2-acre parcel, and a 57.8-acre parcel to create a 0.79-acre parcel, a 3.7-acre parcel, and a 91.0-acre parcel in an EFU (Exclusive Farm Use) zone located at 10675 Kaufman Road NE and 11155 Kaufman Road NE (T7S; R1W; Section 8C; Tax Lots 700, 1000; Section 8D Tax Lot 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 **April 1, 2025**. 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 applicants shall have the 0.79 acre and the 3.7 acre parcels 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 23-012. (Final Plat Instructions enclosed).
3. 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 required survey.
4. **Prior to recording the deeds,** the applicants shall obtain any septic review and/or evaluations that may be required from the Marion County Building Inspection Division.
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. It is recommended that the agencies mentioned in Finding #6 below be contacted to identify restrictions or necessary permits.

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).

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 **April 3, 2023**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 4, 2023** 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 Kaufman Rd NE, approximately 900 feet east of its intersection with 105th Ave NE. Tax lot 800 contains a church building and was described by deed in volume 740, page 366 on November 30th 1972. Tax lot 500 contains a dwelling and six accessory structures and was the subject of CU 05-025 and was described by deed in July of 1971. Tax lot 1000 contains a dwelling and six accessory structures and is described by volume 740, reel 364 on November 3rd 1972 and therefore all parcels are considered legal for land use purposes.
3. Adjacent properties are zoned EFU in all direction and consist of parcels generally in commercial farm use. Large and smaller parcels are mixed in this area, but all appear to have some level of farm operation present on them. The area is characterized by grass seed and turf production.
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 adjust the property lines on a 35.5-acre parcel, a 2.2-acre parcel, and a 57.8-acre parcel to create a 0.79-acre parcel, a 3.7-acre parcel, and a 91.0-acre parcel.
6. Marion County Surveyor's Office commented:
 1. No survey required for properties greater than ten acres per ORS 92.060 (8).
 2. Properties 10 acres or less 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. 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 Assessor's Office provided information regarding taxes on the subject properties.

Marion County Septic Department commented:

“The applicant proposes to adjust the property lines of proposed parcel A (0.79 acres) so that the pressure transport line and drainfield will be on a separate lot (proposed parcel C). This requires an easement in accordance with OAR 340-071-0130(11), instructions with specific requirements are available from this office. A site evaluation approval is required for the future repair area of parcel A due to the extremely limited area.”

Marion County Building Department commented:

“No Building Inspection concerns as the proposed property lines appear to be ten feet or more from existing structures. Permits would be required for any future development and/or utilities on private property.”

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 involved with this proposal are under the minimum parcel size so therefore it 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.*

The minimum parcel size in this area is not over 80 acres. This section 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.*

This property line adjustment is being done to consolidate the farmland into one larger tract and make the house its own separate lot. This also allows the Church to absorb a small nursery area for their use. The 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.*

The resulting large parcel, 91 acres, will not be large enough to qualify itself for a homesite based on acreage alone, as it already contains an existing dwelling and would also need to meet the income requirements of a primary farm dwelling. Additionally, that parcel already contains a

home, section 1 and 2 do not apply. No lands are being used to qualify for a new home. The only parcel without a home is the Church parcel in this proposal, which is developed with church buildings and would not qualify for a dwelling based on an acreage standard. The only way for this parcel to qualify for a home would be through a primary farm dwelling. The criterion in three do not apply.

(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 are proposed to be placed on different parcels. The criterion 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: March 17, 2023

If you have any questions regarding this decision contact Austin Barnes 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.