

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. 20-018**

APPLICATION: Application of the Paul Kraemer Living Trust and the Michelle Kraemer Living Trust to adjust the property lines on a 159.03 acre parcel and a 92.43 acre parcel to create a 179.39 acre parcel and an 80.20 acre parcel in an EFU (Exclusive Farm Use) located at 18827 Abiqua Road NE, Silverton (T6S; R1E; Section 34; tax lots 100 and 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 **June 12, 2022** (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. A re-plat (in the form of a partition plat) is required, due to the adjustment of a partition plat parcel line or subdivision lot line. A property line adjustment deed for the area being transferred shall be recorded with the Marion County Clerk's Office, prior to the recording of the re-plat. Deed recording reference numbers shall be noted on the plat. As 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. The deeds conveying the re-platted parcels shall be recorded after the recording of the re-plat.
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.

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

4. 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.

5. 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).
6. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirement, 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 (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 **June 12, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **June 13, 2020** 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 directly north of the intersection of South Abiqua Rd NE and Abiqua Rd NE. Each parcel contains a dwelling and are in timber production. The 92.43 acre parcel also has three multipurpose buildings, two lean to buildings and a machine shed. It should also be noted that Abiqua Rd Ne crosses a small section of the southeastern most portion of the 92.43 acre parcel. The parcels were created by Partition 14-002 and are therefore considered lawfully created parcels for land use purposes.
3. Adjacent properties to the north are zoned EFU and consist of parcels in agriculture and timber production that also contain dwellings. Properties to the east are zoned FT (Farm/Timber) and are in various stages of agriculture and timber production while also containing dwellings. Properties to the south are zoned either EFU or FT and are in various stages of agriculture and timber production while also containing dwellings. Properties to the west are zoned either FT or AR (Acreage Residential) and consist of small acreage home sites and parcels in agriculture production.
4. Soil Survey for Marion County, Oregon, indicates approximately 44.4% 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 159.03 acre parcel and a 92.43 acre parcel to create a 179.39 acre parcel and an 80.20 acre parcel.
6. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

ENGINEERING REQUIREMENT

- A. Prior to PLA Survey approval, acquire an Access Permit from PW Engineering to inspect and document the field access established to TL 100 for which we have no record of having authorized. In accordance with MCC 11.10, new and or modified accesses require a Permit. Review of remote photo imagery indicates that the approach generally appears to be conforming. Nevertheless, upon field inspection the Applicant could potentially be required to make modification to correct a deficiency.

Marion County Surveyor's Office commented:

1. A re-plat (in the form of a partition plat) is required, due to the adjustment of a partition plat parcel line or subdivision lot line. A property line adjustment deed for the area being transferred shall be recorded with the Marion County Clerk's Office, prior to the recording of the re-plat. Deed recording reference numbers shall be noted on the plat. As 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. The deeds conveying the re-platted parcels shall be recorded after the recording of the re-plat.
2. Must comply with all provisions per ORS 92.185 (6).
3. Must be surveyed and platted per ORS 92.050, and the plat submitted for review.
4. Checking fee and recording fees required.
5. A current or updated title report must be submitted at the time of review.

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

Various agencies were contacted about the proposal and given an opportunity to comment. All 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 parcels subject to a proposed lot line adjustment are larger than the minimum parcel size pursuant to MCC136.090(A)(1), the same number of parcels shall be as large or larger than the minimum parcel size after the adjustment. When all parcels subject to the proposed adjustment are as large or larger than the minimum parcel size, no parcel shall be reduced below the applicable minimum parcel size.*
 - (b) *If the minimum parcel size in MCC136.090(A)(1), is larger than 80 acres, and a parcel subject to lot line adjustment is smaller than the minimum parcel size but larger than 80 acres, the parcel shall not be reduced in size through lot line adjustment to less than 80 acres.*
 - (c) *Any lot line adjustment shall result in a configuration of parcels that are at least as suitable for commercial agriculture as were the parcels prior to the adjustment.*
 - (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. Both parcels are larger than 80 acres and will remain so after the property line adjustment is complete, criterion #7 (a) & (b) are met. The reconfiguration will not result in the removal of any land from agriculture production because both properties are actively in timber and agricultural production and will remain in that use after. It appears that the proposal would result in more effective management of the parcels. The parcels are not being adjusted in such a way as to qualify for a dwelling. The criteria in #7 above 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.

The Marion County Surveyor commented that a survey (replat) is required; therefore, this will be made a condition of approval.

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: May 28, 2020

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.