

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. 25-016**

**APPLICATION:** Application of David & Betty Gobbel and Daniel & Constance Moffitt for a property line adjustment to adjust the property lines on a 1-acre parcel and a 18.5-acre parcel to create a 1.92-acre parcel and a 17.58-acre parcel in an EFU (Exclusive Farm Use) zone located at 4402 and 4372 Brush Creek Dr NE, Silverton (T7S; R1W; Section 4, Tax lot 1500, 1600 & 1700).

**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 26<sup>th</sup>, 2027** (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. Per the Marion County Surveyor's Office; Properties 10 acres or less must be surveyed per ORS 92.060 (&) and the survey submitted for review. Survey checking fees are required at the time of review and property line adjustment deeds shall be recorded with the Marion County Clerk's Office, per ORS 92.190 (4).
2. 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.
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 the Silverton Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.

**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 26<sup>th</sup>, 2025**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **June 27<sup>th</sup>, 2025**, 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 along the east side of Brush Creek Dr NE, roughly 1500 feet south of the intersection between Brush Creek Dr and Silverton Rd NE. The subject properties involved in this proposal consist of 3 tax lots but only 2 legal parcels. A review of the subject properties case history found that the legal configuration of the parcels is tax lots 1500 & 1700 as one parcel together and tax lot 1600 as a separate legal lot. In the findings of Lot Line Adjustment case LLA92-031 it was found that the 0.92-acre area comprised of tax lot 1700 was sold off from the 17.58-acre tax lot without going through the partitioning or property line adjustment process. These findings were also the precedent for denying a previous application for a medical hardship on the 17.58-acre tax lot (CU84-089). The purpose of case LLA92-031 was to correct this lot legality issue and was essentially the same as the current proposal. However, that proposal was ultimately denied upon reconsideration because the Lot Line Adjustment criteria at the time were not addressed. Following the denial of LLA92-031, the applicants did not submit any further land use applications, and the issue remained unresolved. This new proposal, involving the entire area comprised of the legal lots, is attempting to resolve the lot legality situation and can be considered by staff.
3. Adjacent properties are comprised mostly of EFU zoned parcels engaged in commercial agriculture, primarily in row crops or berry fields. The most distinct land use outside of farming in the immediate surrounding area is a railroad line that crosses Brush Creek Dr 700 feet north of the subject parcels.
4. Soil Survey for Marion County, Oregon, indicates approximately 99.6% 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 1.0-acre parcel and an 18.50-acre parcel to create a ~2.0-acre parcel and a ~17.50-acre parcel, which will resolve an illegal land sale.
6. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Surveyor's Office commented:

1. Properties 10 acres or less must be surveyed per ORS 92.060 (&) 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).

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

Marion County Building Department commented: "No Building Inspection concerns with property line adjustment. Prior to construction of a lean-to onto an existing shop building, a permit may be required to be obtained. Discussion with a county building plans examiner to determine permitting needs is recommended prior to beginning of construction."

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:

1. *When one or more lots or parcels subject to a proposed property line adjustment are larger than the minimum parcel size pursuant to subsection (A)(1) of this section, 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.*

Neither of the two subject parcels are above the minimum parcel size of 80-acres for the EFU zone and the none of the resultant parcels would be brought over 80-acres by this proposal. The criterion does not apply.

2. *If the minimum parcel size in subsection (A)(1) of this section 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.*

None of the subject parcels are over 80-acres in size nor will be made over 80-acres but less than the minimum parcel size for the area. This criterion does not apply.

3. *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 1-acre portion of the subject 18.50-acre parcel being transferred by this proposal is developed with a large barn accessory structure and is separated from the portion of the property being used as a commercial farm field by the driveway accessing the dwelling site at 4372 Brush Creek Dr NE (the dwelling located on tax lot 1500). While the open space around the structure could be utilized as part of a farming operation, it would not be realistic to say it can be easily incorporated with the rest of the fields on the 18.50-acre parcel. Practically speaking, it would be used on its own for implement storage or new farm buildings based on the location and existing infrastructure on the parcels. As such, the transfer would not impact the overall potential to farm the parcels and leave them in a state where they are just as suitable for commercial agriculture as before. Therefore, the criterion is met.

4. *A property line adjustment may not be used to:*
  - a. *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;*

Both subject parcels currently contain a dwelling, so there are no vacant parcels that could be qualified for a dwelling via this proposal. The criterion is met.

- b. *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;*

Both subject parcels currently contain a dwelling, so there are no vacant parcels that could be qualified for a dwelling via this proposal. The criterion is met.

- c. 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; or*

None of the land involved in this proposal has been used to qualify a tract of land for a dwelling, as the existing dwellings both pre-date the adoption of Planning and Zoning ordinances in Marion County. As such, it is not possible that land previously used to qualify for a dwelling could be used to qualify a new parcel for a dwelling as a result of this proposal. The criterion is met.

- d. Adjust a property line that resulted from a subdivision or partition authorized by a Measure 49 waiver so that any lawfully established unit of land affected by the property line adjustment is larger than the size granted by the waiver.*

Neither of the subject properties were part of a Measure 49 claim. The criterion is met.

- 5. *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:*
  - a. Does not increase any adverse impacts on the continued practice of commercial agriculture on the resulting parcels;*
  - b. Does not increase the potential number of dwellings on the resulting parcels; and*
  - c. Does not 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 existing dwelling would be located on a different lot or parcel as a result of this proposal. This section 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.
- 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: June 11<sup>th</sup>, 2025

If you have any questions regarding this decision contact Alexnder Seifer 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.



## ZONING MAP

**Input Taxlot(s):** 071W040001500, 071W040001600, 071W040001700

**Owner Name:** GOBBEL, DAVID J & GOBBEL, BETTY J

**Situs Address:** 4402 BRUSH CREEK DR NE

**City/State/Zip:** SILVERTON, OR, 97381


**Land Use Zone:** EFU


**School District:** SILVER FALLS

**Fire District:** SILVERTON

### Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



scale: 1 in = 490 ft

DISCLAIMER: This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.