

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. 24-018**

APPLICATION: Application of Zorn Farms, Inc. for a property line adjustment to adjust the property lines on a 166.7-acre parcel and a 526.7-acre parcel to create a 116.5-acre parcel and a 576.9-acre parcel in an EFU (Exclusive Farm Use) zone located at: 21713 French Prairie Rd NE. St. Paul (T4S; R2W; Section 9 & 10; Tax lot 100, & 400).

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 31, 2026** (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 drain field 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; no survey is required for properties greater than ten acres per ORS 92.060 (8). 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.
4. All resultant lots or parcels shall be at least 88.00-acres in size.

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. 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).
7. The applicants should contact the St. Paul 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 **September 3, 2024**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective on **September 4, 2024**, unless further consideration is requested.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which the 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 McKay Rd NE along the full distance between where McKay Rd intersects French Prairie Rd NE and River Rd NE (Hwy 219). Both properties contain land on either side of McKay Rd. The property consisting of tax lot 400 contains a manufactured home and several farm buildings located at the southwest corner of the intersection of McKay Rd and French Prairie Rd. Most of the remaining property consists of large farm fields and a large riparian wetland bordering Mission Creek. Tax lot 100 contains no buildings and consists of mostly the same farm fields and riparian wetland found on tax lot 400. Tax lot 400 has been the subject of several land use cases, most recently PLA16-007 which adjusted the property lines into their current configuration. Tax lot 400 is legal for land use purposes. Tax lot 100 does not appear to have been involved in any previous land use cases. Deed research found that tax lot 100 has been described as a separate legal lot since at least 1965, when it was conveyed with the land in tax lot 400 from Frank and Amelia Wilcox to several parties including the Zorn and Owen families (deed found in Volume 606, Page 598). Most recently tax lot 100 was vested land from the vacated public right-of-way for Gearin Rd NE in 1999 and has not changed its configuration since. Tax lot 100 is legal for land use purposes.
3. All adjacent properties are engaged in commercial agriculture in some capacity and are all zoned EFU. Prevalent agricultural uses include hazelnut orchards, traditional row crops and at least one dairy. The main notable feature in the area is Mission Creek and the extensive riparian wetland along its extent in the area.
4. Soil Survey for Marion County, Oregon, indicates approximately 92.8% 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 518.03-acre parcel and a 162.80-acre parcel to create a 576.9-acre parcel and a 116.5-acre parcel. Based on the submitted site plan for the proposal, the applicants intend to transfer the large portion of riparian wetland along Mission Creek from tax lot 100 to tax lot 400.
6. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Surveyor's Office commented:

- 1) No survey required for properties greater than ten acres per ORS 92.060 (8).
- 2) Property line adjustment deeds shall be recorded with the Marion County Clerk's Office. Per ORS 92.190 (4).

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

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.*

All the lots or parcels involved in the proposed adjustment are larger than 80-acres. Based on the proposed configuration, none of the resultant lots or parcels will be made smaller than the 80-acre minimum parcel size for EFU parcels. The criterion is met.

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.*

A review of the surrounding parcels within 500-feet of the parcels subject to this proposal found that 19 were over 40-acres in size. These were the basis for the minimum lot size calculation for the area. The minimum lot size for the area was calculated to be 88.00-acres. None of the involved lots or parcels in the proposed property line adjustment are below 88-acres and all resultant lots or parcels will remain larger than 88-acres based on the submitted proposal. The criterion is met.

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 proposed property line adjustment will adjust the common boundary line of the two involved parcels to be more in line with the path of Mission Creek. This is a more natural border between the two properties and there are no proposed changes in use for either of the parcels involved. They will essentially remain the same in use, just with a different boundary. 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;*

The lot that is increasing in size already contains a dwelling and cannot qualify for additional dwellings based off of an acreage standard. 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;*

The lot that is increasing in size already contains a dwelling and cannot qualify for additional dwellings based off of an acreage standard. 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 property being transferred has been used to qualify a tract for a dwelling based on an acreage standard, nor could it be used to qualify the tract for a dwelling based on an acreage standard since the parcel gaining land already contains a dwelling. 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 properties involved in the proposed adjustment were created by a partition or subdivision authorized by a Measure 49 waiver. 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.*

None of the criteria in section 5 above apply as no dwellings will be located on a different parcel as a result of the proposed property line adjustment.

8. 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.
9. 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: August 16, 2024

If you have any questions regarding this decision contact Alexander 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.