

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. 24-021**

**APPLICATION:** Application of Pathway AGR Lands LLC, Chapin JRLT Chapin, Austin R. Chapin & Leanna M. Chapin, Paul L. Chapin, Chapin AG Lands #2 LLC, and Joyce Chapin Hirsch to adjust the property lines on a 79.6 acre parcel, a 42.69 acre parcel, a 63.89 acre parcel, a 304.72 acre parcel and a 1.0 acre parcel to create a 80.53 acre parcel, a 41.39 acre parcel, a 64.95 acre parcel, a 304.03 acre parcel and a 1.0 acre parcel in an EFU (Exclusive Farm Use) zone located at: 411 Salmon ST N, 9088 4TH Ave N, 9155 Wheatland RD NE, 390 Salmon ST N, 8792 Ravena DR N (T6S; R3W; Section 11; Tax lot 900; Section 14; Tax lots 400, 500, 600, 700).

**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 **October 2<sup>nd</sup>, 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 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: No surveys are required for properties greater than ten acres per ORS 92.060 (8), however, properties 10 acres or less must be surveyed per ORS 92.060 (7) and the survey submitted for review. Survey checking fees are required at the time of review. Finally, 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 Marion County No. 1 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 **October 2<sup>nd</sup>, 2024**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 3<sup>rd</sup>, 2024**, 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. The properties are also located in the Floodplain Overlay Zone, within the identified 100-year floodplain of the Willamette River.
2. The properties are located at the intersection of 4<sup>th</sup> Ave N and Salmon St N, on all sides of the intersection. The primary area where the proposed property line adjustment will occur is southeast of the intersection.

Tax lot 500, which shall be referred to as Parcel 1, contains a primary farm dwelling, several farm related structures that were once part of a dairy operation, and a second mobile home south of the primary farm dwelling. The property also contains a manure storage pond that was approved through case FP02-017 for use with a commercial dairy operation, although the dairy is no longer in operation and a bulldozer is visible in the July 2023 aerials removing the earthen mounds making up the pond's walls. As previously stated, Parcel 1 was subject to case FP02-017 and was identified as legal for land use purposes. It has not changed its configuration since and remains legal for land use purposes.

Tax lot 700, which shall be referred to as Parcel 2, contains a 1925 dwelling and a 1930 dwelling (as identified by the Marion County Tax Assessor), several accessory structures, and open farm fields. The parcel was subject to two land use cases, most recently CU77-088, which was denied, but the parcel remains legal for land use purposes.

Tax lot 400, which shall be referred to as Parcel 3, contains a dwelling and accessory structures in the northwest corner of the parcel while the rest is comprised of a hazelnut orchard. The parcel was most recently the subject of land use case P83-001, which was ultimately denied because the proposal did not meet the criteria for a partition, but the parcel was identified as legal for land use purposes.

Tax lot 900, which shall be referred to as Parcel 4, contains several hundred acres of hazelnut orchards, 3 dwellings and several accessory structures located around each homesite. Additionally the property contains a small piece of land on the southeast side of the intersection of 4<sup>th</sup> Ave and Salmon St, which is the part of the parcel involved in this proposal. It was created in its current configuration case P/PLA07-062 and has remained in the same configuration since. It is legal for land use purposes.

Tax lot 600, which shall be referred to as Parcel 5, contains a 1942 dwelling and prior to the earliest recorded deed (from 1994), there appears to have been a court judgement that identified the parcel as legal for land use

purposes, although the inclusion of this lot in the proposal is for the purposes of establishing an easement for access to other properties and not to adjust the property lines of this parcel.

3. Adjacent properties consist of a mixture of small homesites and large commercial farming operations, mostly involving hazelnut orchards. All the properties to the north and west of the involved parcels are located within the 100-year floodplain of the Willamette River. Finally, the city of Keizer urban growth boundary is located about half a mile to the south of the proposal area.
4. Soil Survey for Marion County, Oregon, indicates approximately 97% of the soils on the subject tax lots are classified as high value.
5. The applicants are proposing to adjust the property lines on four different parcels and are including a fifth parcel which will be involved in gaining an access easement for some of the other parcels involved. The intension is to simplify the shared boundary line between the parcels.
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) 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).

Marion County Septic commented: "Parcels 1, 2, 3, and 4 are okay. Parcel 5 will require an Existing System Evaluation. A repair area must be established on the plot plan meeting setbacks in OAR 340-071-0220 and a Site Evaluation may be required to establish a repair area."

Marion County 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.*

The minimum lot or parcel size for the area was calculated using the method referenced in the code section above. 8 parcels were identified as meeting the criteria and a minimum parcel size of 130-acres was calculated. Only one parcel involved in the proposal is larger than the minimum parcel size (Parcel 4) and the proposal would result in the same number of lots or parcels remaining at least 130-acres in size. 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.*

As previously described, the minimum size for lots or parcels in the area is 130-acres. None of the original lots or parcels involved in the proposal are less than 130-acres and larger than 80-acres. Not lots or parcels that were originally above 80-acres will be made smaller than 80-acres. 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 proposal will not significantly change the suitability of the parcels for farming. The intention is to straighten out and simplify shared property lines between the parcels. Only a small portion of each property is involved in the adjustment and the majority of the original farmable land is not changing lots. 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;*
  - 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;*
  - 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*
  - 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.*

Every lot or parcel involved in the proposal already contains at least one dwelling, so no vacant tracts will be qualified for a dwelling and none of the properties were established as a result of a Measure 49 waiver. The criteria are 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 dwellings would be located on a different lot or parcel as a result of the submitted proposal. The criterion does not apply.

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: 9/17/2024

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.