

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. 24-022**

APPLICATION: Application of CMP Roth Farms, LLC and Lisa E. Schurter Living Trust for a property line adjustment to adjust the property lines on a 16.2-acre parcel, a 103.75-acre parcel and a 61.23-acre parcel to create a 22.33-acre parcel, a 100.04-acre parcel, and a 60.43-acre parcel in the EFU (Exclusive Farm USE) zone located at 5174 Shannon Rd NE, Silverton (T7S; R1W, Section 6; Tax lots 200, 100, 301).

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 **September 12, 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. At least one of the resulting parcels shall be at least 90-acres in size; the calculated local minimum parcel 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 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 **September 12, 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 13, 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.
2. The properties are located on the east side of Shannon Rd NE approximately 2,475 feet south of the intersection with Hazelgreen Rd NE. The two larger parcels (tax lots 100 & 301) are in use as large farm fields and contain no structures. Tax lot 200 contains a 2008 dwelling and several farm and residential accessory structures. Tax lot 200 also contains structures used as part of a trucking business approved as a commercial in conjunction with agriculture operation by case V/CU10-006, which also permitted a height variance for a private wind turbine. The three parcels involved in this proposed property line adjustment were most recently involved in property line adjustment case PLA19-005, which created all three parcels in their current configuration. All three parcels are considered legal for land use purposes.
3. Adjacent properties consist primarily of commercial farming operations. Other uses include the small rural commercial zoning located around the intersection of Howell Prairie Rd and Silverton Rd located southwest of the subject properties, which also contains Central Howell Elementary School and an Apostolic Christian Church.
4. Soil Survey for Marion County, Oregon, indicates approximately 98% 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 16.2-acre parcel with two adjacent farm parcels of 61.23 and 103.75-acres respectively to increase the size of the 16.2-acre parcel to 22.33-acres. The larger farm parcels will become 60.43-acres and 100.04-acres.
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 Building commented: “No Building Inspection concerns as it appears the proposed property lines are further away from existing structures. Prior to development, permits may be required to be for any future structures and/or utilities installation on private property.”

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 parcel size in the local area was calculated to be 90-acres by taking the average size of all parcels within 500-feet that were over 40.00-acres in size. Only one of the parcels involved in the proposed property line adjustment are above 90-acres and the proposed configuration would result in the same number of parcels larger than the 90-acre minimum for the area. 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.*

None of the parcels involved in the proposed property line adjustment that are currently over 80-acres would be brought below 80-acres as a result of the 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 would result in active farmland being transferred from larger farm parcels to a smaller parcel engaged in both farm use and a commercial use in conjunction with agriculture. Even with the transfer of land to the smaller parcel, the two larger farm parcels will still remain viable for commercial agriculture as they will still consist of mostly open farm fields. The smaller parcel will increase in suitability for agriculture by increasing the amount of open land which can be farmed on the property 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 only parcel that would increase in size as a result of the proposal is the only parcel involved with in the proposal that currently contains a dwelling and none of the other parcels are currently approved for the construction of a dwelling. 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 only parcel that would increase in size as a result of the proposal is the only parcel involved with in the proposal that currently contains a dwelling and none of the other parcels are currently approved for the construction of a dwelling. 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*

No lots or parcels would be made large enough to qualify for a dwelling based off an acreage standard as a result of the 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.*

None of the lots or parcels involved in the proposal were part of 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.*

No dwellings will be located on a different parcel as a result of the proposal. The criteria in #5 above do 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: August 28, 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.