

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. 23-046**

APPLICATION: Application of Thomas and Melissa Coleman (Trustees of the Coleman Living Trust) and Westwood Farm Inc, Arrowhead Farm Inc, Echo Ridge Farm Inc and Fairfield Farms Inc for a property line adjustment to adjust the property lines on a 7.95-acre parcel and a 406.89-acre parcel to create a 32.24-acre parcel and a 382.6-acre parcel in an EFU (Exclusive Farm Use) zone located in the 4400 block of Ray Bell Rd NE, St. Paul (T4S; R2W; Section 06; Tax Lots 1400 & 1402).

DECISION: The Planning Director for Marion County has **APPROVED** the above-listed Property Line Adjustment application subject to certain conditions. **PLEASE READ ALL CONDITIONS BELOW.**

EXPIRATION DATE: Title transfer instruments accomplishing the property adjustments shall be recorded by the applicants with the Marion County Clerk by **February 21, 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. 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.
2. Per Marion County Surveyor's Office: no survey is required for abutting properties greater than ten acres per ORS 92.060(8), and property line adjustment deeds shall be recorded with the Marion County Clerk's Office per ORS 92.190 (4).
3. The property line adjustment deeds shall reference Planning Land Use Case PLA23-046.

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.

5. Prior to recording the deed all taxes due must be paid to the Marion County Tax Office, which can be reached at (503) 588-5215 for verification of payments.

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 **February 21, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **February 22, 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 subject properties are located on the eastern and western side of Riverside Dr NE, approximately 1.5 miles north of its intersection with Mission Rd NE. Tax lot 1402 is in the northwest corner of tax lot 1400. Both are bare land in commercial farm use. Tax lot 1400 has a strip along the western boundary within the Greenway Management Overlay zone, and is entirely within either the floodway, 100-year floodplain or 500-year floodplain. The western boundary of this tax lot is the Willamette River, and it is bounded on the east by a perennial stream that feeds into an identified wetland. At the south end of the identified wetland there is a canal/ditch which follows a crop boundary. Along this same eastern boundary on either side of the stream are areas of identified 3-point value GeoHazard.

Tax lot 1402 is almost entirely within the 100 and 500-year floodplain. Its western boundary shares the eastern boundary of tax lot 1400 described above, and from what staff has been able to determine is landlocked.

3. Tax lot 1400 has been subject to multiple approved land use cases. The most recent was Property Line Adjustment case 09-007 and its configuration has not been altered since. Therefore, tax lot 1400 is considered one parcel and is legal for planning purposes.

Tax lot 1402 was subject to Administrative Review 06-007. Based on its findings, tax lot 1402 consists of two legal lots, which are considered legal for planning purposes.

4. With the exception of tax lot 1401, located directly to the east of 1400 and northeast of 1402, adjacent properties in all directions are medium to large commercial farms zoned EFU (Exclusive Farm Use). Tax lot 1401 is a small acreage homesite.
5. Soil Survey for Marion County, Oregon, indicates that approximately 94.7% of tax lot 1400, and 59.3% of tax lot 1402, is classified as high value soils.
6. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Surveyor's Office commented:

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

Marion County Building Division commented: "No Building Inspection concerns. Permits are required to be obtained prior to development and/or utilities installation on private property."

Marion County Septic commented: “No septic permits required.”

Marion County Assessor’s Office provided comments relating to the subject parcels’ property taxes.

All other contacted agencies either failed to comment, had no comment, or stated no concern with/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 subject parcels are 406.89 acres and 7.95 acres in size. Therefore, at least one of the two parcels must remain above the minimum parcel size after the property line adjustment is complete. The applicants propose the resulting parcels be 382.6 and 32.24 acres in size, therefore, the criterion is met.

2. *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.*

The subject parcel tax lot 1400 has a minimum parcel size of 120 acres. The proposed adjusted size of this parcel is 382.6 acres. Therefore, 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 adjustment proposed between the parcels will move the property line to roughly follow a perennial creek, which flows through an identified wetland (Tribbett Reservoir). This is also the approximate division line between the identified floodway and the 100-year floodplain. No impact on the lands’ ability to be farmed is foreseen. 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; or*
- 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.*
- 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 subject parcel has a legal dwelling, nor does either parcel have a qualifying Measure 37/49 claim. The criteria in subsection (4) do not apply.

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 the any adverse impacts on the continued practice of commercial agriculture on the resulting parcels; and*
 - b. *Does not increase the potential number of dwellings on the resulting parcels.*

No dwellings exist on the subject parcels, nor will the adjustment grant the placement of a dwelling. This section does not apply.

8. Based on the above findings, the applicants' proposal meets the criteria for a property line adjustment in a EFU zone. The property line adjustment request is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: February 6, 2024

If you have any questions regarding this decision contact Nicole Inman 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.