

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. 24-029**

APPLICATION: Application of NW Framing and Construction LLC and Fred Kasachev to adjust the property lines on a 10.48 acre parcel and an 11.65 acre parcel to create an 18.87 acre parcel and a 3.26 acre parcel in a FT (Farm Timber) zone located at 17524 South Abiqua Road NE, Silverton. (T6S; R1E; Section 28CC; tax lots 800 and 1000).

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 3rd, 2026** (two years). The effective period may be extended for an additional year subject to approval of an 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 proposal is for land use purposes only. Due to septic, well and drainfield replacement areas, this parcel may not be able to support the proposal. To be sure the subject property can accommodate the proposed use the applicant should contact 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. **Property line adjustment deeds shall be recorded with the county clerk meeting requirements identified in ORS 92.190(4).** The deeds shall contain the names of the parties, the description of the adjusted lines, references to original recorded documents and signatures of all parties with proper acknowledgment. The deeds shall include a perimeter description of each resulting parcel. **This property line adjustment is not complete until the title transfer instruments accomplishing the property adjustments is recorded by the applicants with the Marion County Clerk.** The survey shall note that this is resulting from PLA case 24-029.
2. No survey required for properties greater than ten acres per ORS 92.060 (8).
Properties 10 acres or less must be surveyed per ORS 92.060 (7) and the survey submitted for review.
Survey checking fee required at the time of review.
Property line adjustment deeds shall be recorded with the Marion County Clerk's Office. Per ORS 92.190 (4).
3. 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.
4. 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:

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 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 restrictions or conditions.

6. Prior to recording the deeds all taxes due must be paid to the Marion County Tax Department (contact the Marion County Tax Department at 503-588-5215 for verification of payments).

APPEAL PROCEDURE: The Marion County Zone Code provide 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 together with the appeal fee in the Marion County Planning Division, 5155 Silverton Road NE, Salem, by 5:00 p.m. on **October 3rd, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or the office. This decision is effective **October 4th, 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 Farm/Timber in the Marion County Comprehensive Plan and correspondingly zoned FT (Farm/Timber). The primary intent of this designation and zone is to promote and protect commercial agricultural and timber operations.
2. The properties are located on the southern side of South Abiqua Rd in the 17,000 block. Tax lot 800 contains a dwelling and an accessory structure. Tax lot 1000 also contains a dwelling and accessory structure. Both parcels are legal as both were subject to PLA19-022, which is the same proposal as is presented here. The prior land use approval expired and the applicants are re-applying.
3. Adjacent properties in all directions are in farm or forest use and zoned FT or EFU.
4. Soil Survey for Marion County, Oregon, indicates 12.9% of soils on the properties are high value.
5. The applicants are proposing to adjust the property lines on a 10.48 acre parcel and an 11.65 acre parcel to create an 18.87 acre parcel and a 3.26 acre parcel.
6. 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).
 5. If it is necessary to re-configure the utility easement created by this partition plat (see map), then it will be the responsibility of the applicant to determine the names of all of the utility companies affected by the proposed re-configuration, and give this list of names to the Marion County Surveyor's Office. Letters of notice will be sent by this office to the affected utility companies, who will determine whether or not the easement is to be maintained.

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. In order to determine the criteria that apply, first a determination must be made as to whether the properties were predominately in farm or forest use on January 1, 1993. A recent aerial photograph indicates that the properties were predominantly in forest use. As the properties were predominately in farm use, the criteria in Marion County Code 17.139.090 (D) apply:

E. Property line adjustments if the land was predominantly devoted to forest use on January 1, 1993:

1. *Parcels larger than 80 acres may not be reduced to below 80 acres.*

All parcels are under 80 acres. This criterion does not apply.

2. *Parcels smaller than 80 acres may be reduced or enlarged, provided:*

- a. *If the tract does not include a dwelling and does not qualify for a dwelling under MCC 17.139.030(A) or (B), any reconfiguration after November 4, 1993, cannot in any way enable the lot or parcel to meet the criteria for a new dwelling under MCC 17.139.030(A) or (B).*

Both parcels contain dwelling. This criterion does not apply.

- b. *Except as provided in subsection (E)(2)(c) of this section, a lot or parcel that is reduced will be better suited for management as part of a commercial forest.*

This will transfer most of the undeveloped forest land to tax lot 1000, making forest management more practical and suitable. The criterion is met.

- c. *A lot or parcel may be reduced to the minimum size necessary for the use if the lot or parcel:*

- i. *Was approved as a non-farm or non-forest parcel; or*
- ii. *Is occupied by an approved non-farm or non-forest dwelling; or*
- iii. *More than half of the parcel is occupied by a use in MCC 17.139.020 or 17.139.050 other than a dwelling or farm or forest use; or*
- iv. *The lot or parcel is occupied by a dwelling established before January 1, 1994.*

Both parcels are already under the minimum lot size. This criterion does not apply.

- d. *A property line adjustment may not be used to:*

- i. *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;*
- ii. *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;*
- iii. *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*
- iv. *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.*

Both parcels contain legal established dwellings. The criterion 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. Based on the above findings, the proposal meets the applicable criteria and is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: September 17, 2024

If you have any questions regarding this decision contact Austin Barnes 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.