

Attention Property Owner: A land use proposal has been submitted for property near where you live or near property you own. State law requires 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
ADJUSTMENT CASE NO. 18-001**

APPLICATION: Application of Kent and Rebecca Kaufman for an adjustment to reduce the required special 100 foot dwelling setback from adjacent property in farm use from the west and northwest property lines to 30 feet on a 4.0 acre parcel in an AR (Acreage Residential) zone located at 1155 Hereford Wy SE, Salem (T7S; R2W; Section 34CA; tax lot 1000).

DECISION: The Planning Director for Marion County has **APPROVED** the above-described Adjustment, subject to certain conditions.

EXPIRATION DATE: This decision is valid only when exercised by **March 16, 2020** unless an extension is granted. The effective period may be extended for one year subject to approval of an extension. Request for an extension must be submitted to the Planning Division prior to expiration of the approval (form available from the Planning Division).

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:

1. The applicants shall obtain any permits required by the Marion County Building Inspection Division.
2. The proposed dwelling shall be no closer than 30 feet from the west and northwest property lines.
3. Prior to issuance of any building permit for a new dwelling, the applicants shall sign and submit a Farm-Forest Declaratory Statement to the Planning Division (enclosed). This Statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by 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 any restrictions or conditions thereon.

4. The applicants should contact Marion County Fire District #1 to obtain a copy of the District's Recommended Building Access, water supply and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards. Contact Paula Smith at MCFD#1 at (503) 588-6513 for more information.

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 deny the application. Anyone who disagree with the Director's decision may appeal the decision to a Marion County hearings officer. The applicant may also request reconsideration (one time only and a \$200.00 fee) 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. Appeals must be in writing (form available from the Planning Division) and received in the Marion County Planning Division, 5155 Silverton Rd. NE, Salem by 5:00 p.m. on **March 16, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective on **March 17, 2018** unless appealed.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which the decision was based are noted below.

1. The property is designated Rural Residential in the Marion County Comprehensive Plan and zoned AR (Acreage Residential).
2. The undeveloped subject property is located on the northwest corner of Hereford Wy SE and Canyon St SE. The property was created in its current configuration as Parcel 3 of Partition Plat No 2018-05, with Partition Case 16-014 (P16-014) and is consider a legally created parcel.
3. Surrounding properties to the north, east and south are zoned AR and in residential use. Property to the west is zoned SA (Special Agriculture) and property to the northwest is zoned EFU (Exclusive Farm Use) and both are in farm use.
4. The applicant requests to reduce the required 100 foot special dwelling setback from the west and northwest property lines to 30 feet.
5. Marion County Building Inspection Division stated that a building permit will be required for new construction
Marion County Tax provided tax information concerning the parcel.

Marion County Fire District #1 commented that the access easement and water supply must comply with the Oregon Fire Code. The applicant should contact Marion County Fire District #1 to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide.

All other contacted agencies either failed to respond or stated no objection to the proposal.

6. According to MCC 117.116.020(B) in order to adjust the special setback standards in the AR zone only the criteria listed in MCC 17.128.050(A) must be met. These include:
 - A. *Any new dwelling in an AR zone shall be required to maintain a special setback from any parcel in the EFU, SA, FT, or TC zones. A 100-foot setback is the standard adjacent to farm use and 200 feet is the standard adjacent to forest uses. These setbacks may be reduced if it is determined, concurrently with any land use application or as provided in Chapter 17.116 MCC, that a lesser setback will meet the following review criteria for alternative home sites:*
 1. *The location of the home site will have the least impact on nearby or adjoining forest or agricultural lands.*
 2. *The location of the home site ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.*
 3. *The amount of agricultural and forestlands used to site access roads, service corridors, the dwelling and structures is minimized.*
 4. *The risks associated with wildfire and minimized.*
 - B. *The owner of a proposed dwelling to be located within 500 feet of the EFU, SA, FT, TC zones shall be required to concur in the filing of the declaratory statement prescribed in the respective resource zone.*
7. The applicants are proposing to construct a new dwelling on a small knoll located in the northwestern corner of the subject property. Based on the shape of the knoll and several large oak and fir trees located in that area on the property the applicants are requesting a reduction in the setback. At this location, impacts to cropland or other farming activities should be minimal with most of the intensive agriculture activities taking place farther to the west. The building site is also buffered along the western property line by mature vegetation. A reduction of the setback for the proposed dwelling would not be expected to significantly impact farming practices in the area.

There is no evidence that the adjustment will have any significant adverse impact on other property in the area, and it appears that the proposed construction is consistent with existing dwellings in the vicinity. There is no indication

the proposal would create health and safety issues in the vicinity. The degree of adjustment requested appears to be the minimum necessary to allow construction of a dwelling that meets the property owner's needs and allows more efficient use of the remainder of the property.

In addition, the County requires a Declaratory Statement be recorded with the property deed as the subject property is in a resource zone. This serves to notify the applicants and subsequent owners that farm or timber operations are located in the area. Based on available information the proposal meets the criteria listed in #6 above.

8. Based on the above discussion, the request to reduce the special dwelling setback from the west and northwestern property line is **APPROVED**, subject to conditions.

Joe Fennimore
Director-Planning Division

Date: March 1, 2018

If you have any questions regarding this decision contact Patty Dorr 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.