

**NOTICE OF DECISION
ADMINISTRATIVE REVIEW CASE NO. 18-003**

APPLICATION: Application of Johnathon and Crystal Lewis for an administrative review to locate farm working housing as secondary farm dwelling on a 5 acre parcel in a SA (Special Agriculture) zone located in the 5700 block of Aetna Street SE, Salem (T7S; R2W; Section 33B; tax lot 200).

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

EXPIRATION DATE: This decision is valid only when exercised by **February 23, 2022** unless an extension is granted. The effective period may be extended for two years subject to approval of an extension (form available from the Planning Division). Request for an extension must be submitted to the Planning Division prior to expiration of the 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 ensure 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. The applicants shall obtain all building permits necessary to convert the existing building into farm labor housing.
2. The secondary dwelling shall be registered as farm labor housing with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750, per their requirements.
3. Prior to issuance of any permits, the applicants shall sign a Removal Agreement (enclosed) for the multi-unit residential structure approved as a secondary farm dwelling. The applicants shall record the statement with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
4. Prior to issuance of any building permit, the applicants shall sign and submit a Declaratory/Farm-Forest Statement (enclosed) to the Planning Division. 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. It is recommended that the agencies mentioned in Finding #6 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

5. Applicants 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. Fire District access standards may be more restrictive than County standards. The fire district contact is Paula Smith at (503) 588-6513.

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 disagrees 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 fee of \$200.00) 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 **February 23, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **February 24, 2018** unless appealed.

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

1. The subject property is designated Special Agriculture in the Marion County Comprehensive Plan and zoned SA (Special Agriculture). The intent of both this designation and zone is to promote and protect commercial agricultural operations.
2. The subject property is located at the southern end of Aetna Street SE, approximately 1000 feet southwest of its intersection with 59th Avenue SE. According to Assessor's records, the property was described by deed (Reel 82, Page 688) as far back as May 24, 1977. At that time there were no requirements for this kind of land division; therefore, the property was legally created. The property contains a building previously used for seedling production which is proposed to be used as farm housing. Another building on the property contains RVs owned by the property owners.
3. Properties in all directions are zoned SA and consist of properties being farmed and some rural home sites.
4. The applicants are proposing to use an existing building on the property as farm housing.
5. Soil Survey of Marion County Oregon indicates 100% of the subject property is high-value farm soils.
6. Public Works Land Development and Engineering Permits commented on requirements that are not part of the land use decision and available for review in the planning file.

Marion County Fire District #1 commented on access, signage and fire safety requirements. Paula Smith at MCFD#1, 503-588-6513, is the contact person.

Marion County Building Inspection commented that building and septic permits would be required. Please contact them for additional information: 503-588-5147.

All other commenting agencies stated no objection to the proposal.

7. Secondary farm dwellings customarily provided in conjunction with farm use may be approved when the standards in Chapter 17.137.030(B) of the Marion County Code (MCC) are satisfied. These standards include:
 - (a) *The primary dwelling and the proposed dwelling will each be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year –round assistance in the management of the farm uses, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator.*

According to information provided by the applicant, the primary dwelling is located at 5590 State Street. In a phone conversation with the applicant's representative, it was determined that the State St. dwelling is occupied by a person working on the farm. The owners of the farm operation and land live in a different county. This criterion is met.

- (b) *There is no other dwelling on lands in the EFU, SA or FT zone owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm and could reasonably be used as an additional farm dwelling.*

In a phone conversation with the applicant's representative, it was determined that aside from the dwelling on State Street, which is occupied by a person working on the farm, there are no other dwellings owned by the farm operation. This criterion is met.

(c) *The proposed dwelling will be located:*

On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as existing farm labor housing on the farm operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The county shall require all accessory farm dwellings approved under this subsection to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or

The applicants are proposing to convert an existing building into a multi-unit residential structure for farm labor housing. Subject to conditions of approval, this criterion is met.

(d) *The primary farm dwelling to which the proposed dwelling would be accessory satisfies the following criterion:*

On land identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and the farm operator earned at least \$80,000 in gross annual income from the sale of farm products, not including marijuana, in the last two years, three of the last five years, or the average of the best three of the last five years.

The land at 5590 State Street is entirely high-value. The applicants submitted tax statements for 2015 and 2016 indicating that the farm operation produced gross income in excess of \$80,000 each year from the sales of nursery crops. This criterion is met.

(e) *The dwelling will be consistent with the fish and wildlife habitat policies of the Comprehensive Plan if located in a designated big game habitat area.*

The property is not in a big game habitat area. This criterion does not apply.

(f) *Secondary farm dwellings shall be a manufactured home, or other type of attached multi-unit residential structure allowed by the applicable state building code, and a deed restriction filed with the county clerk requiring removal of the manufactured home or removal, demolition or conversion to a non-residential use if other residential structures are used, when the occupancy or use no longer complies with the criteria or standards under which the manufactured home was originally approved.*

The applicants propose to convert an existing building into an attached multi-unit residential structure. A condition of approval will require the recording of a removal agreement in the deed records for the property, this criterion is met.

8. MCC 17.137.100 (C) requires that a declaratory statement be recorded for all approved dwellings indicating that there are farm and forestry operations nearby that may impact the use of the approved dwelling. The recording of this statement can be made a condition of any approval.

9. Based on the above findings, it has been determined that the proposed secondary dwelling request satisfies all applicable criteria and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Planning Director

Date: February 8, 2018

If you have any questions regarding this decision contact Brandon Reich 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.