

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.

CORRECTED NOTICE OF DECISION
ADMINISTRATIVE REVIEW CASE NO. 18-016

APPLICATION: Application of James C. Ruef, LLC, for an administrative review to replace an existing mobile home on a 31.39 acre parcel in a FT (Farm Timber) zone located at 20489 Hazelnut Ridge Road SE, Scotts Mills (T6S; R1E; Section 25; tax lot 500).

DECISION: The Planning Director for Marion County has determined that the residence was a legally established dwelling and can be replaced, and the existing dwelling may be converted to a farm office, subject to conditions.

CORRECTION: In the Decision issued on July 10, 2018, Finding #7 stated that the majority of the property was in forest use on January 1, 1993. The applicant contacted staff with information that the property was actually predominantly in farm use at that time. This Decision corrects this finding.

EXPIRATION DATE: This decision is valid only when exercised by **August 1, 2022** unless an extension is granted. The effective period may be extended for two years 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 proposed uses is for land use purposes only. Due to septic, well, and drainfield replacement areas, this parcel may not be able to support the proposed activities. 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:

1. The applicants shall obtain all permits required by the Marion County Building Inspection Division.
2. Prior to issuance of any building permit, the applicants shall sign and submit a Farm-Forest Declaratory Statement (enclosed). The statement shall be recorded by the applicant with the Marion County Clerk after they have been reviewed and signed by 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. The applicant is advised of the following:

3. 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 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 **August 1, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **August 2, 2018** unless appealed.

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

1. The subject property is designated Farm Timber in the Marion County Comprehensive Plan and zoned FT (Farm Timber).
2. The subject property is located on the north side of Hazelnut Ridge Road NE, approximately ½ mile east of its intersection with Crooked Finger Road NE. The property contains a manufactured home, well, septic system, and accessory buildings. The mobile home was legally placed on the property with a permit on March 10, 1981, and the legal description of the property has not changed since that time. The property is considered a legal lot for land use purposes.
3. Surrounding properties to east, south and west are zoned FT and contain a mixture of farm and forest uses. Property to the north is zoned TC (Timber Conservation) and devoted to forest uses.
4.

<u>Soil Name</u>	<u>Total Acreage</u>	<u>CU.FT/AC/YR</u>	<u>Total Cu. FT./YR</u>
MCCULLY	31.39	171	5,367.69
5. The applicant is proposing to replace an existing manufactured home on the property. Since the manufactured home was legally placed on the property and is currently shown on the Assessor records, it could be replaced without this administrative review. In this instance, the applicant wants to remove the existing home and preserve the right to replace it in the future.
6. Marion County Building Inspection Division commented that building permits are required for placement of a dwelling on the property.

Marion County Wastewater Specialist commented that septic system permits will be required.

Silverton Fire District advises that the new dwelling will need to meet the Oregon Fire Code related to access and water supply. If those standards cannot be met the building official will need to apply alternative standards in accordance with OAR 918-480-0125.

7. Chapter 17.139.020(E) of the Marion County Code (MCC) allows the alteration, restoration, or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.139.070(B), when the dwelling:
 - a. *Is assessed in the current county assessor's records as a site-built dwelling or manufactured home.*

The current Assessor records show a manufactured home is currently located on the property.

- b. *The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:*
 - 1) *Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or*
 - 2) *If the dwelling to be replaced is in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and*
 - 3) *If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.*

In a conversation with staff, the applicant indicates that he intends to remove the manufactured home as soon as possible.

- c. *The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted to a nonresidential use.*

The home will be removed, this standard is not applicable.

- d. *If the lot or parcel was predominantly devoted to farm use on January 1, 1993, the replacement dwelling may sited on any part of the same lot or parcel. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned FT or EFU the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling.*

The entire property is zoned FT, this standard is not applicable.

- e. *If the lot or parcel was predominantly devoted to forest use on January 1, 1993, the replacement dwelling shall be situated in the same location as the existing dwelling.*

In the initial decision, staff found that the majority of the property was in forest use on January 1, 1993. After a subsequent conversation with the applicant it was discovered that the property was actually predominantly in farm use at time. This standard is not applicable.

- f. *Replacement under this section includes a dwelling replaced pursuant to MCC 17.139.080(C) when a fire report is provided at the time building permits are applied for.*

The dwelling to be replaced was not the subject of a fire, this standard is not applicable.

8. Based on the findings in #7 above, it has been determined that the dwelling is legally established, meets the applicable standards in MCC 17.139.020(E) and that it may be replaced.
9. Although the replacement dwelling is approved, the applicants will be required to sign and record a Farm/Forest Declaratory Statement as a condition of approval. This acknowledges the impacts of farm and forest management practices conducted in the area.

Joe Fennimore
Planning Director

Date: July 17, 2018

If you have any questions regarding this decision contact Joe Fennimore 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.