

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
ADJUSTMENT CASE NO.21-006**

APPLICATION: Application of Edward and Nadya Shinen for an adjustment to reduce the special 200 foot dwelling setback from the south property line to 155 feet and adjust the special 100 foot accessory structure setback to 70 feet on an 24.72 acre parcel in an FT (Farm Timber) zone located at 5231 Timber Trail Rd NE, Silverton (T6S; R1E; Section 33; Tax lot 900).

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 **January 19, 2024** (two years) 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 all permits required by the Marion County Building Inspection Division.
2. Prior to issuance of any permits, the applicant shall submit a site plan for review and approval by the Planning Director.
3. The dwelling shall maintain at least a 155 foot setback from the southern property line and any accessory structures must maintain a 70 foot setback from the southern property line. All other special setbacks shall be as approved in AR20-012.

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. The applicant is advised of the following:

4. 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 \$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 **January 19, 2022**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective on **January 20, 2022** 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. The major purpose of this designation and the corresponding Farm Timber zone is to promote the continuation of commercial agricultural and forestry operations.
2. The property is located on the west side of Timber Trail Rd, approximately 0.45 miles south of its intersection with South Abiqua Rd. The property is currently vacant and covered in various tree species. There is a mapped wetland on the western portion of the property, but it will not interfere with the placement of the dwelling.
3. Surrounding uses are residential to the north and east, consisting of smaller parcels developed with dwellings. To the south and west are large parcels that are currently in timber production and do not have dwellings on them. This property was the subject of land use cases AR20-012, AR08-8 and PLA07-32 and is therefore considered legal for land use purposes.
4. Soil Survey of Marion County Oregon indicates 65% of the subject property is high-value farm soils.
5. The applicant is proposing to reduce the special 200 foot dwelling setback from the south property line to 155 feet and adjust the special 100 foot accessory structure setback to 70 feet. All other special setbacks will be met.
6. Agency comments:

Marion County Building Inspection commented:

“Permits required for any proposed structures or utilities.”

Marion County Septic commented:

“This property has been previously evaluated for the installation of a septic drainfield under permit 21-010264 and 20-000428. Neither of these approved areas that were evaluated will be encroached upon by the proposed change.”

Various agencies were contacted about the proposal and given an opportunity to comment. All other contacted agencies either failed to comment or stated no objection to the proposal.

7. According to MCC 117.116.020(B) in order to adjust the special setback standards in the FT zone only the criteria listed in 17.139.070(A) must be met. These include:

(a) *The location of the home site will have the least impact on nearby or adjoining forest or agricultural lands.*

The setbacks will be reduced to the proposed distances to alleviate the building on steep slopes, this placement allows for a more feasible building site. It will require less site disturbance and grading than the previous spot and still maintain a 155 foot dwelling setback and 70 foot accessory structure setback to the nearest parcel which is currently vacant. The criterion is met.

(b) *The location of the home site ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.*

The location of this home site will allow for less site disturbance and grading than previously required by the 200 foot setbacks. It will not impact farm or forest practices as it preserves more of the land to be devoted to forest use. The criterion is met.

- (c) *The amount of agricultural and forestlands used to site access roads, service corridors, the dwelling and structures is minimized.*

As explained above, this location will require the least impact to the site as the reduced setbacks will require less road and infrastructure to be built on the parcel. The criterion is met.

- (d) *The risks associated with wildfire and minimized.*

The dwelling will be required to maintain fuel breaks as well as a fire hazard reduction plan as recommended by the Oregon Department of Forestry and shall meet the fire protection and hazard reductions as listed in MCC 17.138.060 as part of the administrative review which approved the dwelling. AR20-012. The criterion is met.

8. Based on the above discussion, it has been determined that the request for setback reductions satisfies all applicable criteria and is, therefore, **APPROVED**.

Brandon Reich
Planning Director

Date: January 4, 2022

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.