

**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. 22-003**

**APPLICATION:** Application of David Hoffer on behalf of Dan & Polly Briscoe for an adjustment of the special setbacks for non-farm accessory structures from 100 feet to 70 feet on a 10.73 acre property in an EFU (Exclusive Farm Use) zone located at 5608 Evans Valley Loop NE, Silverton (T6S; R1E; Section 31D; Tax Lot 200).

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

**EXPIRATION DATE:** This decision is valid only when exercised by **April 21, 2024**. 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 proposed use is for land use purposes only. Due to septic, well, and drain field replacement areas, this parcel may not be able to support the proposed use. 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 applicant shall obtain approval for all required permits from the Marion County Building Inspection Division.
2. The proposed accessory structure shall maintain a 70-foot setback from the southern property line. All other special setbacks shall be as approved in CU91-061.

**OTHER PERMITS, FEES, AND RESTRICTIONS:** This approval does not remove or affect covenants or restrictions imposed on the subject property by deed or another 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 the Findings and Conclusions section 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 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) based on 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 in the Marion County Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on **April 21, 2022**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 22, 2022**, unless further consideration is requested.

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

1. The subject property is designated Primary Agriculture in the Marion County Comprehensive Plan and zoned Exclusive Farm Use (EFU). The intent of both this designation and zone is to promote and protect commercial agricultural operations. Surrounding properties are also zoned EFU and consist of a variety of small to large parcels. Most parcels are developed with dwellings. Active farms exist to the north, west, and east.
2. The property is located off the east side of Evans Valley Loop NE, approximately seven-tenths mile east from Evans Valley Loop's intersection with Valley View Road NE. The property is currently developed with single family non-farm dwelling and an accessory shop building. The single-family dwelling was permitted as a non-farm dwelling per land use case Conditional Use 91-061. The parcel has been permanently removed from farm/forest tax deferral as a result of the non-farm dwelling.
3. Soil Survey of Marion County Oregon indicates 52.2% of the subject property is high-value farm soils.
4. The parcel on which the accessory structure will be placed was the subject of land use case Conditional Use 91-061. Therefore, the parcel is considered legal for land use purposes.
5. Marion County Building Division commented that permit(s) are required for the construction of the proposed shop. Slopes impacting the structure, whether with cuts or fills, may require additional information during plan review.
6. Marion County Septic Division commented that if the proposed shop is to be plumbed, contact Marion County Septic.
7. All other contacted agencies either failed to comment or had no objection to the proposal.
8. According to Marion County Code (MCC) 17.116.020, to approve an adjustment to the special setback standards for non-farm dwellings, the adjustment application need only address the criteria found under MCC 17.136.070(A). These include:

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

The applicant states that the reduced setbacks are necessary in order to avoid building on steeper slopes. The applicant states that the encroachment into the special setback on the south side of the property will cause less impact than if they were to otherwise place the building closer to the north or east property lines. This is because the neighboring property to the south is less intensively farmed (with one animal enclosure based on aerial imagery), while those to the north and east are actively and more intensively farmed (with either Christmas trees or other crops based on aerial imagery). Furthermore, the applicant has provided a letter from the owner of the property to the south which indicates they have no objection to the adjustment. The criterion is met.

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

The applicant's own parcel is zoned EFU, although it is not in active farm or forest operation. The proposed building site would minimize impacts on potential farm or forest use because it is clustered with the existing structures on the property. The applicant has stated that the proposed location requires no new or expanded access. It can be concluded that the location will have less impact by leaving more open land that could be used for forest or farming operations. The criterion is met.

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

The applicants indicate through their statement and site plan that no new access roads will be necessary. The pre-existing driveway will be used to access the proposed accessory structure. The criterion is met.

*(d) The risks associated with wildfire are minimized.*

The applicants indicate that the area around the proposed accessory structure has been cleared of combustible materials. In addition, the proposed building will be metal clad, minimizing the amount of combustible material. The criterion is met.

9. Based on the above findings, it has been determined that the applicants' request meets all applicable criteria for adjustment of the special non-farm setbacks and is, therefore, **APPROVED**, subject to conditions.

Brandon Reich  
Planning Director/Zoning Administrator

Date: April 6, 2022

If you have any questions regarding this decision contact Daniel Jansen 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.