

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
ADMINISTRATIVE REVIEW CASE NO. 22-006

APPLICATION: Application of Thomas Johnson and Kirk Hansen for an administrative review to place a Secondary Farm dwelling on a 9.5 acre parcel in an EFU (Exclusive Farm Use) zone located at 7729 Lakeside Drive NE, Gervais (T6S; R2W; Section 21; tax lots 300, 400, and 500).

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

EXPIRATION DATE: This decision is valid only when exercised by **April 21, 2026**, 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 be sure the subject property can accommodate the proposed use the applicant should check with 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 secondary farm dwellings shall be manufactured homes. The applicants shall obtain all permits, including subsurface sewage disposal, required by the Marion County Building Inspection Division.
2. Prior to issuance of any building permit for the secondary farm dwellings, the applicants shall sign a Marion County Secondary Farm Dwelling Removal Agreement for the each of the secondary farm dwellings. The applicants shall record the Statement with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
3. The secondary dwellings shall be continuously occupied by a person working on the farm, as described in this decision.
4. The farm operator shall continue to play the predominant role in management and farm use of the farm.

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 be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

5. The applicants should contact the Marion County Fire District No. 1 to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide.
6. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories listed in Finding #6 below, that may be required.

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) 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. 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 **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 appealed.

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 EFU (EXCLUSIVE FARM USE). The intent of both designation and zone is to promote and protect commercial agricultural operations.
2. The subject property is located on the northeast side of Lakeside Drive NE. The subject property is located approximately 0.72 miles from the intersection of Lakeside Drive NE and Brooklake Road NE. The property was established in its current configuration on July 1, 1975, under Contract 64142 which is found in Reel 18, Page 1325. This property is legal for the purposes of land use.
3. Surrounding properties in all directions are in farm use and in an EFU zone.
4. The applicants are proposing to place a secondary farm dwelling for a farm worker on Tax Lot 400.
5. Soil Survey of Marion County Oregon indicates the subject property is composed entirely of high-value farm soils.
6. Marion County Building Inspection commented that there are no Building Inspection concerns. Permit(s) is/are required for the placement of a manufactured home on private property and additional utilities 36 ft or more from the manufactured home to connect to any existing utilities currently on the property.

Marion County Fire District No. 1 commented on access, premise identification, and gates requirements; see comments in file.

Marion County Septic Division made the following comments:

1. A site evaluation approval is on record for a proposed farm worker shop (150 gallons per day, #07-00187). An installation permit was issued but no system was installed so this permit is expired. It is this office's understanding that the applicant wishes to obtain a new septic permit utilizing the existing site approval for the proposed dwelling as well as installing a restroom in the existing shop for up to 4 farm workers. The applicant will need to demonstrate in their application that there is sufficient approved area for both the shop with up to 4 employees (150 gallons per day) but also the dwelling (typically 450 gallons per day for up to 4 bedrooms). It is not clear if there is sufficient area for an initial and repair system of this size, it is the applicant's responsibility to demonstrate this requirement can be met, otherwise a new site evaluation will be required to establish a large enough approved area. It should be noted that there is no guarantee a standard system would be approved elsewhere on the property.
2. The area approved in the site evaluation and installation permit required an easement because the system was proposed to cross a property line bisecting the property. For the proposed dwelling (on tax lot 400) to connect to a system located partially on tax lot 300, an easement will be required.

Marion County Land Development, Engineering, and Permits made the following comments:

ENGINEERING REQUIREMENTS

- A. An Access Permit will be required at the time of application for building permits. Preliminary field inspection indicates a drainage culvert is needed by evidence of ponding water as noted by the adjacent degrading asphalt road pavement.
- B. The subject property is within the unincorporated area of Marion County and will be assessed Transportation & Parks System Development Charges (SDCs) upon application for building permits per Marion County Ordinances.
- C. Utility work in the public right-of-way requires permits from MCPW Engineering.

All other contacted agencies either failed to comment or 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 17.136.030(B) of the Marion County Code (MCC) are satisfied. The applicable standards include:

- 1. *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.*

The applicants state that the primary dwelling is occupied by the farm's owner and manager. The secondary farm dwelling will be occupied by an employee of the farm. This criterion is met.

- 2. *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.*

The applicant states that the primary farm dwelling is located at 7185 Lakeside Drive NE and is occupied by the farm. The applicant also states that a nursery employee and his family live at 7215 Lakeside Drive NE, which is the adjacent property to 7729 Lakeside Drive NE. This criterion is met.

- 3(c). *On a lot or parcel on which the primary farm dwelling is not located, when the secondary farm dwelling is limited to only a manufactured dwelling with a deed restriction filed with the county clerk. The deed restriction shall require the additional dwelling to be removed when the lot or parcel is conveyed to another party. Occupancy of the additional farm dwelling shall continually comply with subsection (B)(1) of this section.*

The secondary dwelling is proposed to be located on a different lot or parcel from the primary farm dwelling. The applicant is proposing to place one manufactured home on the property. As a condition of approval, the applicant shall be required to file a declaratory statement with the Marion County Clerk's Office acknowledging that the home must be removed if the parcel is conveyed to another party or farm operation ceases to exist. This criterion is met.

- 4. *The primary dwelling to which the proposed dwelling would be accessory satisfies the following criteria:*

- b. 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 applicant has stated that the gross farming sales from this business has generated over \$350,000.00 in each of the last two years. According to two Schedule F documents submitted, the applicant had a total of \$375,745 and \$339,522 in farm income from 2020 and 2019, respectively. The 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.

There are no fish and wildlife habitat policies that effect this 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 nonresidential 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 one manufactured dwelling for the secondary farm dwelling. This criterion will be a condition of any approval.

8. Based on the above findings, it has been determined that the proposed secondary dwelling satisfies all applicable criteria 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 Jared Bradford at (503) 566-4173.

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.