

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. 22-009**

APPLICATION: Application of Jennifer Anderson for an administrative review to place a primary farm dwelling and an accessory agriculture building on a 1.44-acre parcel in an EFU (Exclusive Farm Use) zone located at the 13,000 block of East College Road, Mt. Angel (T6S; R1W; Section 11CA; Tax Lot 300).

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

EXPIRATION DATE: This decision is valid only when exercised by **May 19, 2026**, unless an extension is granted. The effective period may be extended once for two years, and then up to five more times for one year each, 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 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 permits, including subsurface sewage disposal, required by the Marion County Building Inspection Division.
2. Prior to issuance of any building permit for a new dwelling, the applicants shall sign and submit a Declaratory/Farm-Forest Statement 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.
3. Prior to issuance of any building permit for a new dwelling, the applicants shall sign and submit a Use of Agriculture/Forest Land for Dwelling Qualification Declaratory Statement 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.
4. Prior to the final occupancy, the applicant must provide evidence to the satisfaction of the Planning Director that the dwelling is, or will be, occupied by the owner or an employee of the current farm operation.

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:

7. The applicants should contact the Mt. Angel 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.

8. 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) 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 **May 19, 2022**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or visit the office. This decision is effective on **May 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 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. Dwellings in conjunction with farming may be approved subject to certain criteria, specifically found in Marion County Code Chapter 17.136.030(A)(1).
2. The subject property is located on the 1300 block of East College Road in Mt. Angel and is approximately 2,000 feet from the intersection of East College Road and Humpert Lane NE. The property is developed with one general purpose building and lean-to-light, which were both built in 1990. According to the applicant's 1040 2019, 2020, and 2021 tax records, the property is being used to farm honeybees. A deed dating from July 22, 1976, describes the parcel in its current form. Therefore, the parcel legal for land use purposes.
3. The parcel to the south is zoned Exclusive Farm Use (EFU) and is the Mount Angel Abbey while the parcels to the north, east, and west are zoned EFU and consist of small to large acreage farm operations.
4. The applicant is proposing to place the primary farm dwelling in the southern portion of the property with the proposed agricultural building built in the southwestern portion.
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 (LDEP) requested that the following Requirements be included in the land use decision:

ENGINEERING REQUIREMENTS

- A. An Access Permit will be required at the time of application for building permits. Although the land use application site plan depicts two accesses, only one total access point will be allowed to East College Road. That access will need to be aligned perpendicularly with the road for a minimum distance of 20 feet.
- B. Transportation & Parks System Development Charges (SDCs) will be assessed for the dwelling upon application for building permits.
- C. Utility work in the public right-of-way requires permits from MCPW Engineering.

Marion County Septic commented that a site evaluation approval has been issued for the future septic system to serve the future dwelling and accessory AG building. A construction/installation permit is required prior to installation of the septic system.

All other contacted agencies stated no objections to the proposal.

7. Primary farm dwellings located on high-value farmland may be approved when the standards in Chapter 17.136.030(A) (1) of the Marion County Code (MCC) are satisfied. These standards include:

A. There is no dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term “farm operation” means all lots or parcels of land in the same ownership that are used by the farm operator for farm use;

According to the applicant statement and Marion County Assessor’s records, there is no dwelling on the property. The parcel is being used as a farm operation by the applicant to farm honeybees which is accounted for in the applicant’s 1040 tax information. Additionally, the term *farm use* encompasses the use of honeybees and is defined in MCC 17.110.223. Specifically, MCC states about honeybees, “‘Farm use’ means the current employment of land for the primary purpose of obtaining a profit in money by...feeding, breeding, management and sale of, or the produce of, livestock, poultry, furbearing animals or honeybees...or any other agricultural or horticulture use...”. Clearly, the farming of honeybees on this parcel meets the definition of what farm use is as defined by MCC 17.110.223. The criterion is met.

B. The farm operator earned on the subject tract in the last two years, three of the last five years, or the average of the best three of the last five years at least \$80,000 in gross annual income from the sale of farm products. In determining gross annual income from the sale of farm products, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented, shall be counted;

As part of this application, 1040 tax documents were submitted for the tax years of 2019, 2020, and 2021. In 2019, the gross income was \$225,421.00 and in 2020, the gross income was \$197,560.00. Subsequently, the gross income for 2021 was \$367,271.00. Additionally, the parcel was purchase in 2019 by the applicant which means the land is owned by them.

Regarding the term *farm products*, they are defined in the final paragraph of MCC 17.110.223. Specifically, farm products, “...means that those products or by-products are raised on the farm operation where the preparation occurs or on other farmland, provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land.” According to subsequent comments from the applicant on the farm’s operations, the parcel is used to grow new colonies, maintain, store, build new equipment, and stage bee colony movement for honey extraction and seasonal work. This work can be categorized as preparation for the products (honeybees) on the parcel which matches the definition of farm products as previously defined. With all three tax years meeting and exceeding the minimum gross annual income for the preceding three years of this application and the farm products meeting the definition as established in MCC 17.110.223, the criterion is met.

C. The subject tract is currently employed for the farm use that produced the income required in subsection (A)(1)(b) of this section;

According to the applicant, the subject tract is being farmed for honeybees which is a farm use that has been previously defined in this staff report. As stated earlier, the applicant’s 2019, 2020, and 2021 show that the gross income needed to qualify for a primary farm dwelling comes from the farming of honeybees. Therefore, the criterion is met.

D. The proposed dwelling will be occupied by a person or persons who produced the commodities which generated the income in subsection (A)(1)(b) of this section.

According to the applicant’s statement, the proposed primary farm dwelling will be occupied by the applicant. This is the same person who is engaged in farming that produces the income documented in the 1040 tax information. This corroborated through the 1040 tax documents and the deed produced by the applicant. Therefore, this criterion is met.

8. Although the primary farm dwelling is approved, the applicants will be required to sign and record a Farm/Forest Declaratory Statement prior to placing a new dwelling on the property as a condition of approval. This acknowledges the impacts of farm management practices conducted in the area.
9. Although the primary farm dwelling is approved, the applicants will be required to sign and record a Use of Agriculture/Forest Land for Dwelling Qualification OAR 660-006-0027 Declaratory Statement prior to placing a new dwelling on the property as a condition of approval. This acknowledges that the land referenced in this decision cannot be used to justify a dwelling in conjunction with farm use on any other parcel.
10. Based on the above findings, it has been determined that the property meets the criteria for establishing a farm dwelling and the request, therefore, is **APPROVED**, subject to certain conditions.

Brandon Reich
Planning Director/Zoning Administrator

Date: May 4, 2022

If you have any questions regarding this decision contact Jared Bradford at (503) 566-4173.

Mortgagee, Lienholder, Vendor or Seller: ORS Chapter 215 requires that if you receive this Notice, it must promptly be forwarded to the purchaser.