

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. 23-025**

APPLICATION: Application of Thomas and Margaret Barnett for an administrative review to establish an additional secondary farm dwelling in conjunction with farm use on a 35.50-acre parcel in a EFU (Exclusive Farm Use) zone located in the 12800 block of Arndt Road NE, Aurora (T4S; R1W; Section 3; Tax Lot 700).

DECISION: **PLEASE READ ALL CONDITIONS.** The Planning Director for Marion County has **APPROVED** the above-described application subject to certain conditions. **PLEASE READ ALL CONDITIONS BELOW.**

EXPIRATION DATE: This decision is valid only when exercised by **October 6, 2027** (four years), unless an extension is granted. The effective period may be extended 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 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 all permits required by the Marion County Building Inspection Division to place or construct the secondary farm dwelling.
2. Prior to the issuance of any permits, the applicants shall sign and record a Secondary Farm Dwelling Removal Agreement. The applicants shall record the agreement with the Marion County Clerk's Office after it has been reviewed and signed by the Planning Director.
3. The occupants of the primary dwelling and all secondary dwellings shall continue to be principally engaged in the farm operation and in the farm use of the land.
4. **This additional secondary farm dwelling will be assigned the address of 12844 Arndt Rd NE, Aurora OR 97002.** Effective when building permits are applied for.

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.

5. Applicants should contact the Aurora Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations. 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) 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. 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 Road NE, Salem, by 5:00 p.m. on **October 6, 2023**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 7, 2023**, 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 correspondingly zoned EFU (Exclusive Farm Use). The primary intent of both this designation and zone is to promote and protect commercial agricultural operations.
2. The subject property is located south of Arndt Rd NE, approximate 0.5 miles west of its intersection with I-5. The subject property, tax lot 700, is part of a larger farm operation. Roughly the northern half of the subject parcel is farmed. There is a large parking lot in the northwest corner and one farm structure. Multiple perennial streams, including Deer Creek, crisscross the southern section of the parcel with a small amount of wetland identified in the southeast corner. Most of the southern section of the parcel is covered with timber.

The farm operation's primary farm dwelling, an existing secondary farm dwelling, and farm stand are located on tax lot 800, directly to the west of the subject parcel.

Another dwelling is located on map tax lot 04-1W-05-00500, addressed as 11062 Arndt Rd NE.

3. Tax lot 700 has an approved land use case on it, Property Line Adjustment 20-011 and the property has not changed configuration since. Therefore, per the definitions in Marion County Code 17.110.427 and 17.110.680, the subject parcel is considered legal for land use purposes.

Tax lot 800, relevant to this application due to its relation to the farm operation's primary dwelling, has had several land use cases. Administrative Review (AR) 09-009, which granted the primary farm dwelling; AR12-007, which granted a farm stand; and AR14-003, which granted a secondary farm dwelling. Therefore, per the definitions in Marion County Code 17.110.427 and 17.110.680, this parcel is also considered legal for land use purposes.

4. Surrounding properties in all directions are medium to large sized EFU parcels that are commercially farmed.
5. Soil Survey of Marion County indicates that approximately 81.1% of the soils on the subject property (tax lot 700) are classified as high value, and approximately 86.9% of tax lot 800 soils are classified as high value.
6. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Land Development Engineering and Permits (LDEP) commented:

ENGINEERING REQUIREMENTS

- A. An Access Permit will be required at the time of application for building permits to document in PW Eng records the legal access point to the public road.
- B. Transportation System Development Charges will be assessed at the time of application for building permits.
- C. Utility service extension work in the public R/W requires permits from MCPW Engineering.

Marion County Building Division commented: "A manufactured home placement permit is required to be obtained prior to installation of the manufactured home and/or utilities on private property. Building Inspection

recommends the home be placed at least 3 feet to any property line. If any less, then additional fire resistive materials may be required to be installed on the exterior of the manufactured home.”

All other contacted agencies either failed to comment or stated no comment/objection to the proposal.

7. The applicants are proposing to place a secondary farm dwelling on the subject parcel, tax lot 700, for current farm employees to live in.
8. Secondary farm dwellings customarily provided in conjunction with farm use may be approved when the criteria in MCC 17.136.030(B) are satisfied. The criteria 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.*

Per a phone conversation between the applicant, Thomas Barnett, and Associate Planner Nicole Inman on 9/15/2023 at 4:49 pm all current homes are, and the proposed home will be, lived in by either the farm operator or a farm employee. The 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 applicants purchased this property in 2020. It lies directly next to another EFU parcel which they own, tax lot 800. Tax lot 800 has two dwellings. Per a phone conversation the farm operator owns one other parcel of land located at 11062 Arndt Rd NE which also has a dwelling. Per the applicant all dwellings across the parcels are lived in by either him and his wife as the farm owners or their employees. The criterion is met.

3. *The proposed dwelling will be located:*
 - a. *On the same lot or parcel as the primary farm dwelling; or*
 - b. *On the same contiguous ownership as the primary dwelling, and the lot or parcel on which the proposed dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the same ownership; or*
 - 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; or*
 - d. *On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable State Building Code or similar types of farm worker housing as that existing on farm operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The county shall require all accessory farm dwellings approved under this subsection to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or*
 - e. *On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size and the lot or parcel complies with the gross farm income requirements in subsection (B)(4) of this section, whichever is applicable.*

The proposed secondary farm dwelling will be a manufactured home located on a separate parcel than the primary farm dwelling as described in (3)(c). A Home Removal Agreement shall be made a condition of approval. The criterion is met.

4. *The primary dwelling to which the proposed dwelling would be accessory satisfies the following criteria:*
 - a. *On land not 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 \$40,000 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; or*
 - 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;*
 - c. *The primary dwelling is located on a commercial dairy farm as defined in this chapter; and*
 - i. *The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and*
 - ii. *The Oregon Department of Agriculture has approved a permit for a confined animal feeding operation under ORS 468B.050 and 468B.200 through 468B.230; and*
 - iii. *The Oregon Department of Agriculture has approved a producer license for the sale of dairy products under ORS 621.072;*
 - d. *In determining the gross income in subsections (B)(4)(a) and (b) of this section, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.*

The primary dwelling to which the proposed dwelling would be accessory is located on land identified as high-value farmland based on the available soils data. It is not located on a commercial dairy. Therefore, (4)(b) must be met, while (4)(a) and (4)(c) do not apply.

The applicants submitted their 2021 and 2022 Schedule F Tax Forms, which show that the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in the last two years. The proprietor generating the income is listed as Thomas E. & Margaret M. Barnett. The criterion is met.

5. *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.*

The dwelling will not be located within a designated big game habitat area. This section does not apply.

6. *A deed restriction filed with the county clerk requiring removal of the 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.*

This requirement shall be made a condition of approval. The criterion is met.

9. Based on the above findings, it has been determined that the criteria to establish a secondary farm dwelling in the EFU zone have been met, and therefore this application is **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: September 21, 2023

If you have any questions regarding this decision contact Nicole Inman 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.