

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. 23-031**

APPLICATION: Application of Jeremy and Heather Alderman for an administrative review to place a secondary farm dwelling on a 47.82-acre parcel in an SA (Special Agriculture) zone located at 4170 Coates Crest Way SE, Salem (T8S; R2W; Section 19; Tax lot 400).

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

EXPIRATION DATE: This decision is valid only when exercised by **November 18, 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. Prior to the issuance of any permits, Property Line Adjustment case 22-005 shall be completed to the satisfaction of the Planning Division and all conditions of approval for said case met. A re-plat survey has not been submitted.
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. Prior to the issuance of any permits, the applicants shall sign and record a Use of Agriculture Land for Dwelling Qualification-OAR 660-033-135 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.
4. The applicant shall obtain all permits, including subsurface sewage, required by the Marion County Building Inspection Division to place or construct the secondary farm dwelling.
5. 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.
6. The secondary farm dwelling shall be assigned the address of **4178 Coates Crest Way SE**, 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.

7. Applicants should contact the Turner 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 **November 20, 2023**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **November 21, 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 Special Agriculture in the Marion County Comprehensive Plan and is correspondingly zoned SA (Special Agriculture). The primary intent of both this designation and zone is to promote and protect small farm operations or areas with a mixture of good and poor farm soils.
2. The subject property is located at the end of Coates Crest Way SE, a private road, which is east off the end of Coates Dr SE. The parcel includes one legal dwelling, built in 2021, and accessory/farm structures. It falls within the SGO (Sensitive Groundwater Overlay) and has a couple small sections of identified, 3-point value, geo-hazard located on it.
3. The subject property has several past land use cases on it, including Planning approved Partition 13-016 and Property Line Adjustment 22-005. However, while deeds for PLA22-005 were recorded, other conditions of approval, such as a re-plat, were never met. Therefore, PLA22-005 is not deemed complete, and the current configuration of tax lots of 400 and neighboring 500 do not match the legal lots. The completion of PLA22-005 will resolve this and be made a condition of approval. Once PLA22-005 is finalized, per the definitions in Marion County Code 17.110.427 and 17.110.680, the subject parcel will be considered legal for land use purposes.
4. Properties to the west are small to medium sized parcels with homesites. To the south, is a large parcel in active farm use, and to the east are medium sized parcels. These parcels to the west, south, and east are all zoned SA, while properties to the north are zoned AR (Acreage Residential). The northern AR parcels are small parcels which are developed with homesites.
5. Soil Survey of Marion County indicates that approximately 95.3% of the soils on the subject property 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 and Parks Charges will be assessed at the time of application for building permits.

Marion County Building Division commented: “Building Inspection recommends the proposed single-family dwelling be located 3 feet or more from property lines, otherwise additional fire resistive materials would be required on the exterior side of the exterior wall(s) adjacent to the property lines. Permits are required to be obtained prior to development and/or utilities installation on private property.”

Turner Fire District submitted comments, which are included in the case file.

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 pursuant to MCC (Marion County Code) 17.137.030(C).
8. Secondary farm dwellings for family members involved in the management of the farm is provided for, and may be approved, when the criteria in MCC 17.136.030(C) are satisfied. The criteria include:
 1. *A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator’s spouse, which means grandparent, step-grandparent, grandchild, parent, step-parent, child, step-child, brother, sister, step-sibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use.*

Per the applicant’s statement the farm operator lives in the primary farm dwelling and their son, whose assistance is needed in the management and expansion of their farm, will live in the proposed secondary farm dwelling. The criterion is met.

2. *The farm operator shall continue to play the predominant role in management and use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding, and marketing.*

The applicants have stated they will remain the predominant manager of the farm operation. The criterion is met.

3. *A deed restriction is filed with the county clerk requiring removal of the dwelling when the occupancy or use no longer complies with the criteria or standards under which the dwelling was originally approved.*

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

4. *For purposes of this section, a commercial farm operation is one that meets the income requirements for a primary farm dwelling identified in subsection (A)(1)(b) of this section.*

Subsection (A)(1)(b) states:

“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, not including marijuana. 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;”

The applicants submitted their 2022 Schedule F Tax Form, which shows that the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in 2022. The proprietor generating the income is listed as Jeremy L. Alderman, and the principal crop/activity is recorded as grass seed. The applicant also submitted a letter from their CPA determining that the subject parcel had produced at least \$80,000 gross sales between January and September 11, 2023. The criterion is met.

5. *All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions:*

“It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.

These covenants, conditions, and restrictions can be removed only at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions is located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.”

This 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 SA zone have been met, and therefore this application is **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: November 3, 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.