



Marion County
OREGON

CONDITIONAL USE APPLICATION

RECEIVED

FEB 19 2026

Marion County
Planning

Do not double-side or spiral bind any documents being submitted

Fee: Please check the appropriate box:

- | | |
|--|--|
| <input type="checkbox"/> Conditional Use - \$1450 | <input type="checkbox"/> Aggregate Site (non Goal 5) - \$3000 \$80/acre |
| <input type="checkbox"/> Conditional Use Hardship - \$450 | <input type="checkbox"/> Amend Conditions/Permit - \$600 |
| <input type="checkbox"/> Conditional Use Hardship Change of Occupant - \$120 | <input type="checkbox"/> Agri-Tourism Single Event - \$375 |
| <input checked="" type="checkbox"/> Non-Farm Dwelling \$1930 | <input type="checkbox"/> Agri-Tourism Max 6 Events - \$640 |
| <input type="checkbox"/> UT Zone Replacement Dwelling - \$450 | <input type="checkbox"/> Agri-Tourism Max. 18 Events/Longer Duration-\$640 |
| <input type="checkbox"/> Conditional Use Home Occupation - \$770 | |

APPLICANT(S): <i>ALMA ANN MINTEN Revocable Living Trust</i>	ADDRESS, CITY, STATE, AND ZIP: <i>P.O. Box 480, Sublimity, OR 97385</i>
APPLICANT(S) (if more than one):	ADDRESS, CITY, STATE, AND ZIP
APPLICANT REPRESENTATIVE: <i>EARL KIRK</i>	ADDRESS, CITY, STATE, ZIP: <i>4881 Skyline Rd S. #118, Salem, OR 97306</i>
DAYTIME PHONE (if staff has questions about this application): <i>503-779-7131</i>	E-MAIL (if any): <i>EARLKIRK@MSN.COM</i>
ADDRESS OF SUBJECT PROPERTY: <i>Tax Act (523741)</i> <i>6000 STATE ST., Salem, OR 524537</i>	SIZE OF SUBJECT PROPERTY: <i>3.94 ACRES</i>
THE PROPERTY OWNERS OF THE SUBJECT PROPERTY REQUEST TO (summarize here; provide detailed information on the attached "Applicant Statement" page): <i>Applicants Request a Conditional Use permit to establish a non-farm dwelling on parcel 3300 of the subject property. See attached "Applicant statement"</i>	

FOR OFFICE USE ONLY:

Township <i>T7S</i>	Range <i>R2W</i>	Section <i>33A</i>	Application elements submitted:
Tax lot number(s) <i>3300</i>	<input checked="" type="checkbox"/> Title transfer instrument		
Zone: <i>SA</i>	<input checked="" type="checkbox"/> Site plan		
Zone map number: <i>41</i>	<input checked="" type="checkbox"/> Applicant statement		
Case Number: <i>CU26-005</i>	<input type="checkbox"/> GeoHazard Peer Review (if applicable)		
<input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural	<input type="checkbox"/> Physician's Certificate (if applicable)		
	<input type="checkbox"/> Home Occ Supplemental (if applicable)		
	<input type="checkbox"/> Agri-Tourism Supplemental (if applicable)		
	<input checked="" type="checkbox"/> Filing fee		
	Application accepted by:		Set up by: <i>GB</i>
Date determined complete:	Date:		

IF THIS IS FOR A CONDITIONAL USE HARDSHIP:

WILL THE TEMPORARY DWELLING BE () MANUFACTURED HOME OR () RV? Check one.

IF USING AN RV, DO YOU INTEND TO:

() CONNECT TO THE EXISTING SEPTIC SYSTEM OR () USE THE RV HOLDING TANK? Check one.

NAME OF PERSON(S) WITH MEDICAL HARDSHIP:

HE/SHE/THEY WILL RESIDE IN: () PRIMARY DWELLING OR () TEMPORARY DWELLING

NAME OF CAREGIVER:

HE/SHE WILL RESIDE IN: () PRIMARY DWELLING OR () TEMPORARY DWELLING

RELATIONSHIP OF CAREGIVER TO PERSON(S) WITH MEDICAL HARDSHIP:

WHAT TYPE OF ASSISTANCE WILL CAREGIVER PROVIDE:

IF THERE ARE OTHER ADULTS THAT RESIDE OR WILL RESIDE IN THE DWELLING WITH THE PERSON(S) NEEDING CARE, PLEASE EXPLAIN WHY HE/SHE CANNOT BE THE CAREGIVER:

THE APPLICANT(S) SHALL CERTIFY THAT:

- A. If the application is granted the applicant(s) will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.
- B. I/We hereby declare under penalties of false swearing (ORS 162.075 and 162.085) that all the above information and statements and the statements in the plot plan, attachments and exhibits transmitted herewith are true; and the applicants so acknowledge that any permit issued on the basis of this application may be revoked if it is found that any such statements are false.
- C. I/We hereby grant permission for and consent to Marion County, its officers, agents, and employees coming upon the above-described property to gather information and inspect the property whenever it is reasonably necessary for the purpose of processing this application.
- D. The applicants have read the entire contents of the application, including the policies and criteria, and understand the requirements for approving or denying the application.

PRINTED NAME AND SIGNATURE of each APPLICANT of the subject property.

Print Name

Signature

Mary Ann Arnold Trustee

Mary Ann Arnold Trustee

Print Name

Signature

Nancy Minten

Nancy Minten

Print Name

Signature

Jean McLauchlan

Jean McLauchlan

Print Name

Signature

DATED this 15th day of February, 20 26



ADJUSTMENT APPLICATION

Do not double-side or spiral bind any documents being submitted.
Fee: \$600

PROPERTY OWNER(S): <i>ALMA ANN MINTEN REVOCABLE Living Trust</i>	ADDRESS, CITY, STATE, AND ZIP: <i>P.O. Box 430, Sublimity, Or. 97385</i>
PROPERTY OWNER(S) (if more than one):	ADDRESS, CITY, STATE, AND ZIP
APPLICANT REPRESENTATIVE: <i>EARL KIRK</i>	ADDRESS, CITY, STATE, ZIP <i>4881 Skyline Rd S. #118, Salem, OR</i>
DAYTIME PHONE (if staff has questions about this application): <i>503-779-7131</i>	E-MAIL (if any): <i>EARLKIRK@MSR.COM</i>
ADDRESS OF SUBJECT PROPERTY: <i>6080 STATE ST. SE. SALEM, ORE</i>	SIZE OF SUBJECT PROPERTY: <i>3.94 ACRES</i>
THE PROPERTY OWNERS OF THE SUBJECT PROPERTY REQUEST TO (summarize here; provide detailed information on the attached "Applicant Statement" page): <i>to establish a special setback for a proposed non-farm dwelling abutting a parcel in farm use. See page 10 and 11 of attached Applications.</i>	
WILL A RAILROAD HIGHWAY CROSSING PROVIDE THE ONLY ACCESS TO THE SUBJECT PROPERTY? () YES () NO IF YES, WHICH RAILROAD:	

FOR OFFICE USE ONLY:			
Township	Range	Section	Application elements submitted:
Tax lot number(s)			<input type="checkbox"/> Title transfer instrument
Zone:			<input type="checkbox"/> Site plan
Zone map number:			<input type="checkbox"/> Applicant statement
			<input type="checkbox"/> GeoHazard Peer Review (if applicable)
Case Number:			<input type="checkbox"/> Filing fee
<input type="checkbox"/> Urban <input type="checkbox"/> Rural			Application accepted by: _____ Set up by: _____
Date determined complete:			Date: _____

THE APPLICANT(S) SHALL CERTIFY THAT:

- A. If the application is granted the applicant(s) will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.
- B. I/We hereby declare under penalties of false swearing (ORS 162.075 and 162.085) that all the above information and statements and the statements in the plot plan, attachments and exhibits transmitted herewith are true; and the applicants so acknowledge that any permit issued on the basis of this application may be revoked if it is found that any such statements are false.
- C. I/We hereby grant permission for and consent to Marion County, its officers, agents, and employees coming upon the above-described property to gather information and inspect the property whenever it is reasonably necessary for the purpose of processing this application.
- D. The applicants have read the entire contents of the application, including the policies and criteria, and understand the requirements for approving or denying the application.

PRINTED NAME AND SIGNATURE of each owner of the subject property.

Print Name	Signature
Mary Ann Arnold Trustee	Mary Ann Arnold Trustee

Print Name	Signature
Nancy Minten	Nancy Minten

Print Name	Signature
Jean McLaughlan	Jean McLaughlan

DATED this 15th day of February, 2020

Conditional Use: Non-Farm Dwelling in SA Zone

Applicants:

Mary Ann Arnold, Trustee
Nancy Minten
Jean McLauchlan
PO Box 430
Sublimity, Oregon 97385

Owners:

Same as Applicants

Applicants Representative

Earl Kirk
4881 Skyline Rd. S Unit 118
Salem, Oregon 97306

General Info:

The subject property consists of parcel 072W33A 3300, consisting of 3.94 acres (**see Exhibit A**) located at 6080 State Street SE, Salem, Oregon. The property was legally created by deed December 28, 1979, (**see Exhibit B**) and transferred to Applicant's mother (Alma Minten) via a Warranty Deed on March 4, 1986, however additional information shows Alma and her husband initiated the purchase of this property on March 18, 1982, with a land sale contract (**see Exhibit C**). The property is currently bare land.

Request

The Applicants are requesting a Conditional Use Permit to establish a non-Farm dwelling on parcel 3300 of the subject property. The existing configuration of the subject property can be seen in (**see Exhibit A**).

Procedure

The request is being submitted for consideration to Marion County Planners. The Applicants have fully executed the County's Conditional Use Application form, along with submitting all the necessary materials for an evaluation of this proposal.

Vicinity Map and Surrounding Uses

A vicinity map, tax map and zoning map have been attached as (**see Exhibit C, D and E**). The subject property is located just outside of the Salem urban growth

boundary, east of Cordon Rd on the South side of State Street. Properties to the east and south are in mixed small-scale farm and residential uses. Willow Lake provides the western border of property, beyond which are numerous non-farm dwellings within an approved rural subdivision which was developed in the SA zone. Property to the north, across State Street, is zoned Industrial and is in Industrial use.

Application Purpose

The purpose of this application is to qualify the subject property for a non-farm dwelling by demonstrating compliance with the applicable conditional use criteria. In addition to the criteria for a non-farm dwelling, the applicants are addressing criteria to adjust the special setbacks applicable to non-farm dwellings, due to the relatively small parcel size and the limited area on which a dwelling may be placed due to the narrow configuration of the property.

Applicant Statement

Mary Arnold, Nancy Minten and Jean McLauchlan are sisters who inherited 3.94 acres of land in two tax lots (0722W33A 03300 and 0722W33A 03200 Parcel from their mother (Alma Minten). Parcel 3200 will have the driveway through it to the subject parcel. The property is located at 6080 State Street and is zoned SA (Special Agriculture). The subject property is undeveloped, approximately 3.94 acres. The remainder of the acres are either trees or part of a private lake known as Willa Lake. The boundary of subject property encompasses a portion of the lake. **(SEE exhibit F)**

Alma Minten (Applicates mother) applied for an administrative review in 1996 (AR-96-88) for a lot of record dwelling on the subject property and was granted approval by the planning Director. That approval expired and the daughters are now applying to place a non-farm dwelling on the subject property.

17.136.70 and 17.136.100

17.136(A) THE FOLLOWING CRITERIA APPLY TO ALL CONDITIONAL USES IN A SA ZONE:

1. THE USE WILL NOT FORCE SIGNIFICANT CHANGE IN OR SIGNIFICANTLY INCREASE THE COST OF ACCEPTED FARM OR FOREST PRACTICES ON SURROUNDING LANDS DEVOTED TO FARM OR FOREST USE. LAND DEVOTED TO FARM OR FOREST USE DOES NOT INCLUDE FARM OR FOREST USE ON LOTS OR PARCELS UPON WHICH A NON-FARM OR NON-FOREST DWELLING HAS BEEN APPROVED AND ESTABLISHED, IN EXCEPTION AREA APPROVED UNDER ORS 197.732OR IN ACKNOWLEDGE URBAN GROWTH BOUNDARY.

Response: The subject property consists of 3.9 deeded acres, encompassing tax lot 3300 (refer to Exhibit A). Situated on the east bank of Willa Lake, the boundary includes a portion of the lake itself. To the south lies a non-farm dwelling on a 6.4-acre parcel, approved by Marion County in 1984. The eastern boundary adjoins a 21-acre parcel featuring a single-family residence and approximately 15 acres of cultivated grass seed. North of the property, across State Street, are industrial zoned lands accommodating a Sanitary Service Company with truck storage and shops, along with a Plumbing Company and a 19.23-acre Business Park. The west side of Willa Lake is bordered by Lakeshore Terraces, comprising 35 single-family home sites developed in the SA zone. Most of the property is characterized as non-high value soil. Parcel 3300, proposed for a non-farm dwelling, septic, drainfield, and a domestic well. The applicants have submitted both letter and soil assessment reports from Andy Gallaher, indicating that the site's soils were determined by ground survey to be 51% predominantly class IV, with the remaining 49% comprising class II and class III soils. A letter from DLCD confirms that these reports satisfy state completeness requirements. Accordingly, the predominant class IV soil is classified as non-high value, non-irrigated and meets the criteria for review under non-farm use on poor soils.

A subsequent section of this report will address findings related to the 2,000-acre requirement and assess whether the proposed dwelling would alter the existing land use pattern within the area. The site where the improvements are being proposed should not negatively affect the adjoining farming practices to the east. As part of this review the applicants are proposing to place the proposed dwelling closer to the east and south boundary lines. In addition to the criteria for a non-farm dwelling on the parcel, the applicants will address the adjustment to the 200' setbacks required for parcels adjacent to a farming operation.

The subject property's low-value soils and limited usable area makes it unsuitable for farming. Although near the urban growth boundary and developed home sites, this parcel remains vacant and undeveloped.

The applicant believes this parcel meets the criteria for establishing a non-farm dwelling in the SA zone, which aligns with the original intent of the rules. Additionally, this non-farm use continues the pattern of residential development directly south and mirrors other non-farm residences already present on several nearby SA-zoned parcels. The applicant's representative has consulted with Marion County Planning Staff, who have aided in reviewing soil data and other relevant factors.

Applicable Criteria

MCC 17.137.050(A) authorizes the establishment of a single-family dwelling not associated with farm use, provided that a conditional use permit is obtained and the criteria outlined in **MCC 17.137.060(A)** are met, as well as those specified in **MCC 17.137.060(B)**, **17.137.070**, and **17.137.100**. This chapter applies specifically to all proposed developments within the SA zone.

MCC 17.137.060(A) governs all conditional uses in the SA zone, focusing on ensuring that new uses do not cause substantial changes to surrounding resource lands, can be sufficiently supported by existing rural services, and do not result in significant negative impacts on adjacent land uses or the environment. For the reasons detailed below, the Applicant asserts that this proposal meets these applicable criteria.

MCC 17.137.060(B) relates explicitly to requests for non-farm dwellings, with criteria designed to: (1) ensure the dwelling is sited only on land predominately comprised of low-value soil; and (2) confirm that any established dwelling will not materially disrupt the stability of the area's overall land use pattern. The Applicants have provided a soil review and cumulative impact analysis, both supporting the conclusion that this proposal complies with the relevant criteria.

MCC 17.137.070 and **MCC 17.137.100** set forth additional requirements and standards for the development of a non-farm dwelling in an SA zone. Most of these standards concern setbacks and various restrictions; compliance may be achieved through the imposition of suitable conditions of approval. The Applicants acknowledge that the development standards in these sections are applicable to any dwelling constructed on the subject property and reiterate that this proposal complies with all required criteria.

Each element will be addressed individually below.

Ors 215.296 Criteria & MCC 17.137.060

The following criteria apply to all conditional uses in the SA zone:

1. (A) WILL NOT FORCE A SIGNIFICANT CHANGE IN ACCEPTED FARM OR FOREST PRACTICES ON SURROUNDING LANDS DEVOTED TO FARM OR FOREST USE; AND
(B) WILL NOT SIGNIFICANTLY INCREASE THE COST OF ACCEPTED FARM OR FOREST PRACTICES ON SURROUNDING LANDS DEVOTED TO FARM OR FOREST USE.
(C) FOR PURPOSES OF SUBSECTION (A) AND (B), A DETERMINATION OF FORCING A SIGNIFICANT CHANGE IN ACCEPTED FARM OR FOREST PRACTICES ON SURROUNDING LANDS DEVOTED TO FARM AND FOREST USE OR A DETERMINATION OF WHETHER THE USE WILL SIGNIFICANTLY INCREASE THE COST OF ACCEPTED FARM OR FOREST PRACTICES ON SURROUNDING LANDS DEVOTED TO FARM OR FOREST USE REQUIRES:
 - (A) IDENTIFICATION AND DESCRIPTION OF THE SURROUNDING LANDS, THE FARM AND FOREST OPERATIONS ON THOSE LANDS, AND THE ACCEPTED FARM PRACTICES ON EACH FARM OPERATION AND THE ACCEPTED FOREST PRACTICES ON EACH FOREST OPERATION.
 - (B) AN ASSESSMENT OF THE INDIVIDUAL IMPACTS TO EACH FARM AND FOREST PRACTICE, AND WHETHER THE PROPOSED USE IS LIKELY TO HAVE AN IMPORTANT INFLUENCE OR EFFECT ON ANY OF THOSE PRACTICES: AND
 - (C) AN ASSESSMENT OF WHETHER ALL IDENTIFIED IMPACTS OF THE PROPOSED USE WHEN CONSIDERED TOGETHER COULD HAVE A SIGNIFICANT IMPACT TO ANY FARM OR FOREST OPERATION IN THE SURROUNDING AREA IN A MANNER THAT IS LIKELY TO HAVE AN IMPORTANT INFLUENCE OR EFFECT ON THE OPERATION.
 - (D) FOR PURPOSES OF THIS SUBSECTION, EXAMPLES OF POTENTIAL IMPACTS FOR CONSIDERATION MAY INCLUDE BUT ARE NOT LIMITED TO TRAFFIC, WATER AVAILABILITY AND DELIVERY., INTRODUCTION OF

WEEDS, PEST, DAMAGE TO CROPS OR LIVE LIVESTOCK, LITTER, TRESPASS, REDUCTION IN CROP YIELDS, OR FLOODING.

(E) FOR PURPOSES OF SUBSECTION (A) AND (B), POTENTIAL IMPACTS TO FARM AND FOREST PRACTICES OR THE COST OF FARM AND FOREST PRACTICES, IMPACTS RELATING TO THE CONSTRUCTION OR INSTALLATION OF THE PROPOSED USE SHALL BE DEEMED PART OF THE USE ITSELF FOR THE PURPOSE OF CONDUCTING A REVIEW UNDER SUBSECTION (A) AND (B).

(F) IN THE CONSIDERATION OF POTENTIALLY MITIGATING CONDITION OF APPROVAL UNDER ORS 215.296(2), THE GOVERNING BODY MAY NOT IMPOSE SUCH A CONDITION UPON THE OWNER OF THE AFFECTED FARM OR FOREST LAND ITSELF, NOR COMPEL SAID OWNER TO ACCEPT PAYMENT TO COMPENSATE FOR THE SIGNIFICANT CHANGES OR SIGNIFICANT INCREASES IN COST DESCRIBED IN SUBSECTION (A) AND (B).

2. ADEQUATE FIRE PROTECTION AND OTHER RURAL SERVICES ARE OR WILL BE AVAILABLE WHEN THE USE IS ESTABLISHED.
3. THE USE WILL NOT HAVE A SIGNIFICANT ADVERSE IMPACT ON WATERSHEDS, GROUND WATER, FISH AND WILDLIFE HABITAT, SOIL AND SLOPE STABILITY. AIR AND WATER QUALITY.
4. ANY NOISE ASSOCIATED WITH THE USE WILL NOT HAVE A SIGNIFICANT ADVERSE IMPACT ON NEARBY LAND USES.
5. THE USE WILL NOT HAVE A SIGNIFICANT ADVERSE IMPACT ON POTENTIAL WATER IMPOUNDMENTS IDENTIFIED IN THE COMPREHENSIVE PLAN AND NOT CREATE SIGNIFICANT CONFLICTS WITH OPERATIONS INCLUDED IN THE COMPREHENSIVE PLAN INVENTORY OF SIGNIFICANT MINERAL AND AGGREGATE SITES.

Response:

1. A. Within 1500 feet of subject property there is: directly east is a 21-acre parcel with a dwelling, along with approx. 15 acres of cultivated land which is planted in grass seed. West is a private Lake, to the North across State St. is an Industrial Park along with 2 or 3 industrial business, Behind the industrial park is a large solar farm on SA zone property, with 2 parcels one 18.56 acres of sod grasses and a 23.81 acre parcel of nurse stock plants that is divided by 63rd Ave. East of these parcels is a 45.57 acre parcel planted in nurse stock. To the South there is a 6.4 acre parcel with a non-farm dwelling along with a couple out buildings where they process wood products in small scale with access off 59th Ave. Southwest of this 6.4 acre parcel is a 11.9 acre nurse within the 1500 feet of subject property, that has access off 59th Ave (across Lake) along with access off Aetna St SE off of state street west of 59th Ave. South East of subject property is several small hobby farms with non-farm dwellings, these have access off 62nd Ave, on Kiger Way SE a graveled county road. East along 62nd Ave there are several parcels that have small acreages with non-farm dwellings, all with driveway access off 62nd Ave. Two parcels a 33.82-acre parcel which is planted in filbert trees, along with a 9.71-acre parcel that is used as pasture for livestock. So, any commercial farming operation within 1500 ft would not see any significant change to its operations due to its location to subject property.

B. The neighboring parcel constitutes a very small-scale agricultural operation with its own access off State Street and only sees operational activities 3 or 4 times a year, during planting, spraying which is done by hand, then harvest and mowing once harvest is completed. One new non-farm dwelling on the subject parcel, with its own access off State St. would not significantly change the Farm practices or increase the cost of acceptable farm practices. All other farm operations within 1500' of subject property would have no impact due to their access locations and having small hobby farms between them and subject property.

C. One additional non-farm dwelling, on subject parcel with its location to adjacent farming operations will have no significant impact on any farm operation.

D. All potential impacts are very limited. One new non-farm dwelling in this area will not impact traffic sense it will have its own access off State St onto parcel 3200 owned by the applicants, which was approved in a application # 96-88 lot of record approval. One additional domestic well will not impact water availability since this is not a sensitive water area. The applicants have owned this property for over 30 years, and there has not been any impact to existing farming whether it be weeds, pests, or damage to the neighboring farm crops. Property includes a fence along State St. that has kept unwanted introduces out, and that fence will remain in place. Having one additional managed hobby farm in the area will not impact on the uses in this area.

E. All equipment and materials used to construct the proposed dwelling will not have a significant impact on or cost increase to the neighboring farm. Applicants will bring all equipment and materials onto subject property thru their own property (Parcel 3200) to a approved staging area, where it will remain until it is used.

F. All conditional requirements for use under ORS 215.296 will be followed and adhere to, so as not to force a significant change or cost to farm practices on surrounding lands devoted to farm use.

2. The subject property is within the service areas of Marion County Fire District 1 and the Marion County Sheriff's Office. Marion County Public Works will issue a permit for driveway access off State Street, ensuring compliance with site distance, design, and applicable safety standards. Water supply and wastewater disposal systems will be located on-site. Proposed locations for the driveway, septic system, primary and backup drainfield along with a domestic well are indicated in the site plan. PGE service will come off State Street. All services will meet the requirements of Marion County Public Works' conditional use permit standards for non-farm dwellings.

3. No significant adverse impact to the watershed is anticipated. Willa Lake is a private body of water with all associated water rights held by the applicants; these rights pertain solely to storage, **(see Exhibit G)** with no provision for the removal of water from the lake. Willa Lake is fed by a seasonal creek at its southern end. Marion County also shows from the National Wetland Inventory, indicating possible wetland on the east bank of lake from high water mark towards lake where trees are located. If in fact this was determined to be wetland there would be no impact since all development would be 70' outside the 30' foot setup required for wetland development. **(See Exhibit H)** All relevant conditional use permit standards for a non-farm dwelling will be adhered to. The subject property does not fall within a surface water critical area, and the addition of one domestic well will not affect the region. There will be no impact on fish and wildlife habitats within Willa Lake, which has remained a private body of water since its construction in 1974. The subject property is not in a Fish and Wildlife Habitat area. The parcel is primarily level, exhibiting only a slight gradient from east to west.
4. The applicants intend to construct a single-family residence on the subject property. Typical residential use is not expected to have a significant adverse effect on neighboring properties. The applicants will comply with the Marion County noise ordinance.
5. The Marion County Comprehensive Plan identifies no potential water impoundments or significant minerals and aggregate resources within the vicinity of the subject property that could result in conflicts associated with the proposed dwelling.

A. MCC 17.137.060(B)

NON-FARM DWELLING. THE FOLLOWING ADDITIONAL CRITERIA APPLY TO NON-FARM DWELLING REQUEST.

1. THE DWELLING WILL BE SITED ON A LOT OR PARCEL THAT IS PREDOMINANTLY COMPOSED OF CLASS IV THROUGH CLASS VIII SOILS THAT WOULD NOT, WHEN IRRIGATED, BE CLASSIFIED AS PRIME, UNIQUE, CLASS I OR CLASS II SOILS. SOILS CLASSIFICATION SHALL BE THOSE OF SOIL CONSERVATION SERVICE IN ITS MOST RECENT PUBLICATION, UNLESS EVIDENCE IS SUBMITTED AS REQUIRED IN MCC 17.137.120(B)
2. THE DWELLING WILL BE SITED ON A LOT OR PARCEL THAT DOES NOT CURRENTLY CONTAIN A DWELLING AND WAS CREATED BEFORE JANUARY 1, 1993. THE BOUNDARY OF THE LOT OR PARCEL CANNOT BE CHANGED AFTER NOVEMBER 4, 1993, IN A WAY THAT ENABLES THE LOT OR PARCEL TO QUALIFY FOR A NON-FARM DWELLING.
3. THE DWELLING WILL NOT MATERIALLY ALTER THE STABILITY OF THE OVERALL LAND USE PATTERN OF THE AREA. IN MAKING THE DETERMINATION THE CUMULATIVE IMPACT OF POSSIBLE NEW NON-FARM DWELLING AND PARCELS ON

OTHER LOTS OR PARCELS IN THE AREA SIMILARLY SITUATED SHALL BE CONSIDERED. TO ADDRESS THIS STANDARD INFORMATION OUTLINED IN MCC 17.137.030(D)(11)(A)(III) SHALL BE PROVIDED.

MCC17.137.030(D)(1)(A)(III) THE DWELLING WILL NOT MATERIALLY ALTER THE STABILITY OF THE OVERALL LAND USE PATTERN IN THE AREA. TO ADDRESS THIS STANDARD, THE FOLLOWING INFORMATION SHALL BE PROVIDED:

- A. IDENTIFY A STUDY AREA FOR THE CUMULATIVE IMPACTS ANALYSIS. THE STUDY AREA SHALL INCLUDE AT LEAST 2000 ACRES OR A SMALLER AREA NOT LESS THAN 1000 ACRES, IF THE SMALLER AREA IS DISTINCT AGRICULTURAL AREA BASED ON TOPOGRAPHY, SOIL TYPES, LAND USE PATTERN, OR THE TYPE OF FARM OPERATIONS OR PRACTICES THAT DISTINGUISH IT FROM OTHER, ADJACENT AGRICULTURAL AREAS. FINDINGS SHALL DESCRIBE THE STUDY AREA, IT BOUNDARIES, THE LOCATION OF THE SUBJECT PARCEL WITHIN THIS AREA, AND WHY THE SELECTED AREA IS REPRESENTATIVE OF THE LAND USE PATTERN SURROUNDING THE SUBJECT PARCEL AND IS ADEQUATE TO CONDUCT THE ANALYSIS REQUIRED BY THIS STANDARD. LANDS ZONED FOR RURAL RESIDENTIAL OR OTHER URBAN OR NON-RESOURCE USES SHALL NOT INCLUDE IN THE STUDY AREA:
- B. IDENTIFY WITHIN THE STUDY AREA THE BROAD TYPES OF FARM USES (IRRIGATED OR NO IRRIGATED CROPS, PASTURE OR GRAZING LANDS) THE NUMBER, LOCATION AND TYPE OF EXISTING DWELLINGS (FARM, NON-FARM, HARDSHIP ETC.) AND THE DWELLING DEVELOPMENT TRENDS SINCE 1993. DETERMINE THE POTENTIAL NUMBER OF NON-FARM/LOT-OF-RECORDS DWELLING THAT COULD BE APPROVED UNDER SUBSECTION (D) OF THIS SECTION AND **MCC 17.137.050(A)**, INCLUDING IDENTIFICATION OF PREDOMINANT SOIL CLASSIFICATIONS AND PARCELS CREATED PRIOR **JANUARY 1, 1993**. THE FINDINGS SHALL DESCRIBE THE EXISTING LAND USE PATTERN OF THE STUDY AREA INCLUDING THE DISTRIBUTION AND ARRANGEMENT OF EXISTING USES AND THE LAND USE PATTERN THAT COULD RESULT FROM APPROVAL OF THE POSSIBLE NON-FARM DWELLINGS UNDER THIS PROVISION.
- C. DETERMINE WHETHER APPROVAL OF THE PROPOSED NON-FARM DWELLING TOGETHER WITH EXISTING NON-FARM DWELLINGS WILL MATERIALLY ALTER THE STABILITY OF THE LAND USE PATTERN IN THE AREA. THE STABILITY OF THE LAND USE PATTERN WILL BE MATERIALLY ALTERED IF THE CUMULATIVE EFFECT OF EXISTING AND POTENTIAL NON-FARM DWELLINGS WILL MAKE IT MORE DIFFICULT FOR THE EXISTING TYPES OF FARMS IN THE AREA TO CONTINUE OPERATION DUE TO DIMINISHED OPPORTUNITIES TO EXPAND, PURCHASE, LEASE FARMLAND, ACQUIRE WATER RIGHTS OR DIMINISH THE NUMBER OF TRACTS OR ACREAGE IN FARM USE IN A MANNER THAT WILL DESTABILIZE THE OVERALL CHARACTER OF THE STUDY AREA.

Reponses:

1. A soils review is included and has determined this parcel to be predominantly composed of Class IV soils. Attached is the Soil Assessment provided by Andy Gallagher from Red Hill Soils, along with a Soil Assessment Completeness Review from the Department of Land Conservation and Development (DLCD). The soils on the subject parcel are 51% non-high value soil Class IV and 49% of class II and III soils. **(See Exhibit I) Please see attached Addendum to the original report. Andy did not break them out as individual parcels in the original report.**
2. The Subject property currently does not contain a dwelling and was created by a Bargain and Sale deed on December 28, 1979, and recorded in Marion County on December 31, 1979. There have been no adjustments to the boundary of the subject property in any way that would enable the parcel to meet the criteria for a non-farm dwelling. **(see Exhibit (B))**

Marion County Planning Staff assisted the applicants in delineating a study area and identifying the necessary criteria to assess whether approval of this non-farm dwelling would significantly impact the stability of the area's land use pattern. The defined study area covers over 2,000 acres surrounding the subject property, with a corresponding map provided (**see Exhibit E**). In accordance with code requirements, rural residential lands are excluded from the study area. Due to the proximity of this region to Salem's urban growth boundary, three substantial AR-zoned areas fall within the 2,000-acre perimeter but are omitted from consideration.

The study area consists of contiguous eligible lands zoned SA and EFU, as stipulated by regulatory criteria. Specifically, EFU-zoned properties extend east out State Street, while SA-zoned lands stretch south to Macleay Rd SE, north to Fruitland Rd, and west to Cordon Rd SE.

Within the study area, there are 320 parcels zoned EFU or SA. Significant portions designated as AR, AR3, P, and P-LU have been excluded based on zoning restrictions.

There is a total of 320 parcels zoned EFU or SA in the study area. Details for each of these parcels are included as (**see Exhibit J**). To include 126 parcels zoned EFU, and 194 parcels zoned SA. As noted above, portions of land located in the vicinity of the subject property have been excluded from the study area due to AR and other zonings. The sizes of these parcels in the area range from .02 acres to 150.27 acres. That said, like the subject property, approximately 73% of the parcels in the study area (249) are 10 acres or less in size. 34 of the parcels in the study area are between 10 and 20 acres while 33 parcels are between 20 and 40 acres. Only 4 parcels are 40 acres or more, with only 2 of these parcels being larger than the 80 acres minimum parcel size for newly created parcels in SA or EFU zones. In the study area there were 193 parcels with dwelling pre-January 1, 1993, 53 parcels with dwelling after January 1, 1993, these would include new established dwellings, replacement dwellings, hardship established dwellings along with a non-farm dwelling. Leaving 75 parcels with no dwellings, out of those parcels there are 66 parcels not developable. Of these 66 parcels 24 are defined Rural Restrictive, 29 are rated high value soil with Irrigation, along with 13 that are contiguous with identical ownership. Leaving 9 parcels remaining, out of these 9 parcels 4 are Measure 49 approved which could have dwellings in the future. Leaving only 5 parcels total including the application two parcels, which if proposed non-farm dwelling is approved will leave parcel 3200 contiguous property not eligible for a future dwelling. So, it is found that there are 3 remaining parcels within the subject area that could establish a dwelling depending on their ability to meet Marion County's criteria to place a dwelling.

The applicable criteria require the applicant to identify the broad types of farms used within the study area. However, due to the number of smaller hobby farms

within the study area it's hard to determine all the uses within the study area. The larger / commercial farm operations are to the east and south of the subject property. To the south where a large parcel is located, we see grass seed and grains, with some cattle, and nurse type operations. To the east where most of the irrigated crops are grown within the study area, we have grass sod, nursery type crops, hazel nut orchards along with a few cattle farms. Being that larger tracts simply do not exist within the study area, most of the smaller hobby farms are developed with homesites and have been for many years. While the AR zoned parcels inside the study area to the north have influence on the SA and EFU zoned lands within the study area, it cannot be ignored, and in many ways are representative of the land use pattern that has developed over the last 30 years.

In addition to above, of the total parcels in the study area, 246 are developed with at least one dwelling and some have 2 dwellings and one property has 3 dwellings. That is approximately 77% of the parcels in the study area that contain at least one dwelling. After a review of the Marion County records most of these parcels were developed with dwellings prior to January 1, 1993. This means that over 60% of the parcels in the study area have had some type of residential structure on the properties for at least the past 30 years. While there has been some additional residential development since January 1, 1993 through today, residential uses have been established, and have predominated, in the study area for decades. In this case, the proposed non-farm dwelling would be consistent with and continue the development pattern that has been established on the majority of parcels in the study area, even prior to 1993.

The proposed non-farm dwelling will not make it more difficult for the one existing farm to the east of subject property to continue and would not materially alter the land use stability of the area. Based on these facts, the criterion in MCC 17,137.60 (B)(3) is met.

MC 17.137.070

The following regulations shall apply to non-farm Dwellings.

a. Special Setback.

1. Dwelling. A special dwelling setback of 200 feet from any abutting parcel in farm use or timber production is required.
2. Accessory Buildings. A special setback of 100 feet is required for buildings accessory to a dwelling from any abutting parcel in farm use or timber production.
3. Adjustments. The special setbacks in subsection (a)(1) and (2) of this section may be reduced if it is determined, concurrently with any land use application or as provided in

Chapter 17.116 MCC, that a lesser setback will meet the following review criteria for alternative sites.

- a. The site will have the least impact on nearby or adjoining forest or agricultural lands.
 - b. The site ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.
 - c. The amount of agricultural and forestland used to site access roads, service corridors, the dwelling and structures is minimized
 - d. The risk associated with wildfires is minimized.
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- b. **Fire Hazard Reduction.** As a condition of approval for any non-farm dwelling located closer than 200 feet to timber, the owner shall be required to provide continuing fire hazard management in accordance with Chapter 3 of "Fire Safety Consideration for Development in Forested Area," 1978 and any revisions thereto.
 - c. Prior to issuance of any residential building permit for an approved non-farm dwelling under MCC 17.137.050(A), evidence shall be provided that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm or forest use: and that the additional tax or penalty has been imposed, if any is applicable, as provided by ORS 308A.113 or 308A.724 or 321.359(l)(A) and 321.716. A parcel that has been disqualified under this section shall not requalify for special assessment unless, when combined with another contiguous parcel, it constitutes a qualifying parcel.

Proposed Findings: As noted previously, the subject parcel is 3.94 acres (parcel 3300) in size. The longest dimension (east line) of the property is approximately 555.70 feet, with the southern boundary only 309.42 feet. Setbacks of 200 feet would leave very little area on the subject property that would be eligible for building on a parcel that is already limited by its topography. There is an area on the southern portion of the subject property that could accommodate a dwelling, but it falls within the 200-foot setback criteria from the eastern and southern boundary lines. As such the Applicants are proposing a reduced setback for the dwelling, as contemplated by MCC 17.137.070(A)(3) The location of the proposed homesite will have the least impact on farming activity to the east.

The Applicants are proposing to locate any new dwelling no closer than 120 feet from the Easterly property Line, 100 feet from the south boundary line, (which is a .5 acre grass field kept mowed by owner of parcel 3400), along with 70 feet from the western high-water mark of Willa Lake. **(see Site Plan)** There does not appear to be any potential conflict or impact that would be created by the establishment of a new non-farm dwelling if these proposed setbacks were approved.

The access road (driveway) to subject property will be directly off State Street onto parcel 3200 and will have no impact on farming activity to the east.

The approval of a non-farm dwelling on the subject property will have no impact on fire hazard management on or around the neighboring property, since there are no

timber/forest land adjacent to subject property. There for the risks associated with wildfires are minimized.

Conclusion:

The Applicants, based on their submissions and the complete record, have met all criteria for placing a non-farm dwelling and obtaining approval for a reduced setback from farm use. They request the Marion County Planning Department approve this conditional use with the stated conditions.