

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. 20-015**

**APPLICATION:** Application of Selkirk Holdings, LLC, for an administrative review to place a secondary farm dwelling on a 45.33 acre parcel in an EFU (Exclusive Farm Use) zone located at 9526-9530 Mt. Angel Hwy. NE, Mt. Angel. (T6S; R1W; Section 15; tax lot 00800).

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

**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 **June 16, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **June 17, 2020** 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. The major purpose of this designation and the corresponding Exclusive Farm Use (EFU) zone is to promote the continuation of commercial agricultural operations.
2. The subject property is located at 9526-9530 Mt. Angel Highway, and is comprised of approximately 45.33 acres. The property was previously approved for an accessory farm dwelling pursuant to FD80-024 and FD81-30, and is considered a legal property for land use purposes. No information is provided regarding the occupants of the existing home.
3. Surrounding properties in all directions are in a mix of farm and rural residential uses and in an EFU zone.
4. The applicant is proposing to locate a secondary farm dwelling to be occupied by a farm worker.
5. Soil Survey of Marion County Oregon indicates 92.2% 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. At the time of application for building permits Transportation System Development and parks charges will be assessed for the secondary farm dwelling; secondary farm dwellings are not exempt from this.
- B. Electrical and other dry utility work involving trenching or boring within the public right-of-way requires utility permits from PW Engineering.

- C. The proposed dwelling shall share access with the existing access to Mt. Angel Hwy serving the primary dwelling and/or the farm access to Hook Road. No new access will be allowed. Marion County Building Inspection commented that a building permit would be required for placement of a manufactured home.

Marion County Building Inspection Onsite Wastewater Specialist commented that site evaluation would be required.

7. Secondary farm dwellings customarily provided in conjunction with farm use may be approved when the standards in Chapter 17.136.030(C) of the Marion County Code (MCC) are satisfied. The applicable standards include:

- A. *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 applicant does not provide any information regarding the current occupant of the primary dwelling on the property. The applicant states that the secondary farm dwelling is proposed to be occupied by a person who “plays a vital role in the daily operations and security of my property”. There is insufficient evidence that the primary farm dwelling is 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 is or will be required by the farm operator. This criterion is not met.

- B. *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 does not provide any information regarding the current occupant of the primary dwelling on the subject property. There is insufficient evidence that 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. This criterion is not met.

- 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 primary farm dwelling is located on the subject property where the secondary farm dwelling is proposed to be located. This criterion is met.

- D. *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 applicants provided a statement from a certified public accountant that states “for those plants that can not be purchased through their vendors, the company will grow, farm, and distribute that product at their Oregon location. Based on the company’s current accounting information revenues from the growing of tropical foliage in the fiscal years 2018 and 2019 averaged approximately \$500,000 per year in this type of product sales”. This 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.*

The property is located outside any identified floodplain. There are no fish and wildlife habitat polices that affect 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 a manufactured home for the secondary farm dwelling. This criterion can be made a condition of any approval.

8. Based on the above findings, it has been determined that the proposed secondary farm dwelling does not satisfy all applicable decision criteria and is **DENIED**.

Joe Fennimore

Date: June 1, 2020

Director-Planning Division

If you have any questions regarding this decision contact Alyssa Schrems 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.