

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. 20-020**

**APPLICATION:** Application of Harrison Elgin III to place a lot-of-record dwelling on a 3.64 acre parcel in a SA (Special Agriculture) zone located at 6300 Block of Inwood Lane, Salem (T8S; R3W; Section 19A; tax lot 1200).

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

**EXPIRATION DATE:** This decision is valid only when exercised by **August 28, 2024** (four years) unless an extension is granted. The effective period may be extended up to five times for two years 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 drain field 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 check with 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 the new dwelling, the applicants shall sign and submit a Declaratory/Farm-Forest Statement (enclosed) 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 the new dwelling, the applicant shall sign and submit a Sensitive Groundwater Overlay Zone Declaratory Statement (enclosed) to the Planning Division for each resulting parcel. This statement shall be recorded by the applicant with the Marion County Clerk's Office after it has been reviewed and signed by the Planning Director.
4. Prior to issuance of any building permit for the new dwelling, the applicant shall sign and submit a Geologically Hazardous Areas Overlay Zone Declaratory Statement (enclosed) to the Planning Division. This statement shall be recorded by the applicant with the Marion County Clerk's Office after it has been reviewed and signed by the Planning Director.
5. This lot-of-record dwelling approval may be transferred **one time only** by a person who has qualified under this section to any other person after the effective date of the land-use decision.

**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 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

6. The applicants should contact the Salem Suburban 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.

**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 **August 28, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **August 29, 2020** unless appealed.

**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 zoned SA (Special Agriculture). The property is also located in a Sensitive Groundwater Overlay (SGO-5) zone and a Geologically Hazardous Areas Overlay Zone. The intent of both designation and zone is to promote and protect commercial agricultural operations.
2. The subject property is located on the west side of Inwood LN S approximately 1,000 feet north of its intersection with Newberry S. The property is vacant and consists entirely of a woodlot. The property is described in its existing configuration by deed recorded August 5<sup>th</sup> 1961 (Volume 670, Page 595) and considered a legal parcel for land use purposes.
3. Surrounding properties in all directions are zoned SA and consist of properties in farm use or woodlot lots with homes.
4. The applicants are proposing to place a dwelling on the subject property under the lot-of-record dwelling provisions.
5. Soil Survey of Marion County Oregon indicates 98.8% of the subject property is high-value farm soils.
6. Public Works Land Development and Engineering Permits commented on requirements that are not part of the land use decision and available for review in the planning file.

Marion County Building Inspection commented that permits will be required.

Marion County Building Inspection Onsite Wastewater Specialist commented that septic permits are required.

Marion County Tax Office provided information regarding taxes on the subject properties.

Salem Suburban Fire District commented regarding building and access that is not a part of the land use decision, and is available in the planning file.

7. Section 17.137.030(d) of the Marion County Code (MCC) allows a lot of record dwelling subject to meeting specific standards and criteria. These include:
  - (a) *The lot or parcel on which the dwelling will be sited was lawfully created and acquired and owned continuously by the present owner:*
    - (1) *Since prior to January 1, 1985; or*
    - (2) *By devise or intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.*
    - (3) *“Owner”, as the term is used in this section only, includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.*
  - (b) *The tract on which the dwelling will be sited does not include a dwelling.*
  - (c) *The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, and no dwelling exists on another lot or parcel that was part of that tract.*

- (d) *When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed.*
- (e) *The request is not prohibited by, and complies with, the Comprehensive Plan and other provisions of this ordinance, including but not limited to floodplain, greenway, and big game habitat area restrictions.*
- (f) *The proposed dwelling will not:*
  - (1) *Exceed the facilities and service capabilities of the area.*
  - (2) *Create conditions or circumstances contrary to the purpose of the Special Agriculture zone.*
- (g) *A lot-of-record dwelling approval may be transferred by a person who has qualified under this section to any other person after the effective date of the land-use decision.*
- (h) *The County Assessor shall be notified that the county intends to allow the dwelling.*
- (i) *The lot or parcel on which the dwelling will be sited is not high-value farmland as defined in Section 137.130 (d);*

8. The subject parcel currently is described by deed in its original configuration and has remained in the Harrison Family ownership since 1961. The parcel is considered a legal parcel for land use purposes. The subject property does not contain a dwelling and has been held under the same ownership separate from all other contiguous properties since prior to November 4, 1993. The criteria in #7(a) (b) (c) and (d) are met.

The subject property is not located in a floodplain, greenway or big game habitat area. The property is located within an identified geologically hazardous area. However, there are portions of the property that are in the lower hazard rating (3 points on a 9 point scale) and no additional requirements would apply if a home were built in that portion of the property other than the recording of a Declaratory Statement notifying the property owner of the presence of geologic hazards at the building site. As previously stated, the property is also located in a SGO zone. In order to place a new dwelling on an existing lot in this overlay zone the property owner is required to file Declaratory Statements to notify the applicants and subsequent owners that there may be long term groundwater supply problems and that the County is not responsible for deepening or replacing wells, and the property is a geologically hazardous area. The proposal meets #7(e) subject to conditions.

The applicant indicates that a well and septic system will be installed on the property. The property is in the Salem Suburban Fire District and law enforcement will be provided by Marion County. All other services are, or can be made available to the property. The proposal can meet the criteria in #7(f) (1).

The purpose statement in the SA zone recognizes that properties in this zone will be developed for various sized farm units as well as acreage home sites. The subject property is surrounded by land in agricultural use and small acreage home sites. The proposed dwelling, located on a 3.64 acre parcel, conforms with these existing uses. There is no evidence to indicate that the proposed dwelling will have any adverse effects on surrounding properties in a farm or timber use. In addition, MCC 17.137.100(c) requires that a Declaratory Statement be recorded with the property deed because the subject property is in a resource zone. This serves to notify the applicant and subsequent owners that there are farm or timber operations in the area. The proposal meets #7(f)(2).

- 9. The County Assessor will be notified that the Planning Director intends to allow the dwelling as required in #7(h). The requirement in #7(g) will be made a condition of any approval.
- 10. Under the provisions for approving a lot of record dwelling outlined in #7 above, the type of soils on the property determines which standards apply. In this proposal, the Soil Survey of Marion County indicates that 98.8% of the property is composed of Class III Nekia soils which are defined as High-Value farmland in MCC 17.137.130(d). Based on soil types, the standard does not apply.
- 11. Based on the above findings, the proposal to place a dwelling on the property meets all applicable criteria and special use requirements. This request is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore  
Director-Planning Division

Date: August 13, 2020

If you have any questions regarding this decision contact Lindsey King 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.