

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. 18-013**

**APPLICATION:** Application of West Cherry Farms LLC for an administrative review to place a primary farm dwelling on an 44.08 acre parcel in an SA (Special Agriculture) zone located in the 5700 block of Joseph St SE, Salem (T8S; R2W; Section 09C; tax lot 300).

**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 **July 9, 2022** unless an extension is granted. The effective period may be extended for two years 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 proposal is for land use purposes only. Due to septic, well, and drainfield 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 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 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 a 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 the final occupancy the applicant must provide evidence, to the satisfaction of the Planning Director, that the dwelling is, or will be, occupied by the owner or an employee of the current farm operation.
4. Prior to application for building permits, the applicant shall obtain a formal site plan review, obtain a new access permit, and complete all required access related work to the satisfaction of Public Works Engineering.

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

5. The applicants should contact Marion County Fire District #1 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. Paula Smith is the contact person at Marion County Fire District #1, (503) 588-6513.

**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 regula-

tions, 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 July 9, 2018. If you have questions about this decision contact the Planning Division at (503) 588-5038 or visit the office. This decision is effective on July 10, 2018 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 intent of both designation and zone is to promote and protect commercial agricultural operations.
2. The subject property is located on the northwest corner of the intersection of Joseph Street SE and Juntura Way SE. The property is currently in farm production for dry ornamental cut flowers and branches and dried seed heads and, according to Assessor records, contains agricultural related structures. The parcel was described by deed (Book 273, Page 85) in 1942. The parcel is considered legally created for land use purposes.
3. Property to the east is zoned SA and in agriculture production. Properties to the west and south are zoned SA and AR (Acreage Residential) and in agriculture production with rural homesites. Property to the north is inside the city limits of Salem and developed with a law enforcement facility.
4. The applicants are proposing to place a primary farm dwelling on the property.
5. Soil Survey of Marion County Oregon indicates 100% 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 are 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.
7. Primary farm dwellings located on high-value farmland may be approved when the standards in Chapter 17.137.030(A)(1) of the Marion County Code (MCC) are satisfied. These standards include:
  - a. There is no dwelling on the subject farm operation on lands zoned EFU, SA, or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use;
  - b. 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;
  - c. The subject tract is currently employed for the farm use that produced the income required in subsection (A)(1)(b) of this section;
  - d. The proposed dwelling will be occupied by a person or persons who produced the commodities which generated the income in subsection (A)(1)(b) of this section; or
8. This is the only property owned by West Cherry Farm LLC and there is no existing dwelling on the subject property. The criterion in #7(a) is met. The applicants provided evidence that in 2017 and 2018 to date the subject property produced farm income valued at more than \$80,000 in each of those years. The criterion in #7(b) is met. The property is currently in grass seed production. As the principal farm operator, the applicants intend a farm employee would live in the dwelling once it is complete. The criterion in #7(c) and (d) are met.

9. Although the primary farm dwelling is approved, the applicants will be required to sign and record a Farm/Forest Declaratory Statement prior to placing a new dwelling on the property as a condition of approval. This acknowledges the impacts of farm and forest management practices conducted in the area.
10. Based on the above findings, it has been determined that the property meets the criteria for establishing a farm dwelling and the request, therefore, is **APPROVED**, subject to certain conditions.

Joe Fennimore  
Director-Planning Division

Date: June 22, 2018

If you have any questions regarding this decision contact Brandon Reich at (503) 588-5038.

Mortgagee, Lienholder, Vendor or Seller: ORS Chapter 215 requires that if you receive this Notice, it must promptly be forwarded to the purchaser.