

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. 18-021**

APPLICATION: Application of HZLNT LLC, for an administrative review to locate a secondary farm dwelling on a 76 acre parcel in an EFU (Exclusive Farm Use) zone located at 12373 Dominic Rd NE, Mt Angel (T5S; R1W; Section 33; tax lots 2300 and 2400) and (T6S; R1W; Section 04, tax lot 101).

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 **November 22, 2020** unless an extension is granted. The effective period may be extended for two years 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 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 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 secondary farm dwelling, the applicants shall sign a Marion County Secondary Farm Dwelling Removal Agreement (enclosed) for the secondary farm dwelling. The applicants shall record the Statement 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 secondary farm dwelling, the applicants shall sign and submit a Marion County Declaratory/Farm-Forest Statement (enclosed) to the Planning Division. This Statement shall be recorded by the applicants with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
4. The secondary dwelling shall be continuously occupied by persons working on the farm, as described in this decision.
5. The farm operators shall continue to play the predominant role in management and farm use of the farm.

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:

6. The applicants should contact the Mt. Angel 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 hearing 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 **November 22, 2018.** If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **November 23, 2018** 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 and zoned EFU (EXCLUSIVE FARM USE). The intent of both designation and zone is to promote and protect commercial agricultural operations.
2. The subject property is located on the northeast corner of Dominic Rd NE and Baron Rd NE. The 10 acre parcel identified as tax lot 2300 contains an existing farm related dwelling, farm structures, well and septic system. The 31 acre parcel identified as tax lot 2400 contains an existing farm related dwelling, farm structures, well and septic system. The 34.77 acre parcel identified as tax lot 101 is undeveloped. The property was subject of previous land use cases and is considered a legal parcel for land use purposes.
3. Surrounding properties in all directions are in farm use and in an EFU zone.
4. The applicants are proposing to locate a secondary farm dwelling to be occupied by a farm worker and family.
5. Soil Survey of Marion County Oregon indicates 76% 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 Tax provided tax information concerning the parcel.

Marion County Building Inspection commented that permits will be required.

Marion County Building Inspection Onsite Wastewater Specialist commented that septic permits are 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 states that both of the existing dwellings on the subject property are occupied by employees of the farm. The secondary farm dwelling will also be occupied by an employee of the farm. This criterion is 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 subject properties are the only properties in Marion County that are in the same ownership. All associated dwellings are occupied by workers employed by the farm operation. This criterion is 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 associated with the hazelnut farm is located on the same parcel as the primary farm dwelling. Conditions of approval will require the temporary dwelling to be occupied by a farm worker and to be a manufactured dwelling that will be removed if either parcel is sold. This criterion is met subject to conditions.

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 signed statement from their accountant who stated that the hazelnut farm grosses in excess of \$80,000 annually. 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.*

There are no fish and wildlife habitat policies 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 dwelling satisfies all applicable criteria and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Director-Planning Division

Date: November 7, 2018

If you have any questions regarding this decision contact Patty Dorr 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.