

**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  
ADJUSTMENT CASE NO. 22-008**

**APPLICATION:** Application of Paul Vasend for an adjustment of the special setbacks for a dwelling from 300 feet to 485 feet on a 5.45 acre-property in a Timber Conservation (TC) zone located at 28195 North Fork Road, Lyons. (T9S, R3E, Section 18B, Tax Lot 100).

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

**EXPIRATION DATE:** This decision is valid only when exercised by **June 9, 2024**. The effective period may be extended for an additional year subject to approval of an extension (form available from the Planning Division). **Additional extensions may not be granted if the regulations under which this decision was granted have changed since the original approval.**

**WARNING:** A decision approving the proposed use is for land use purposes only. Due to septic, well, and drain field replacement areas, this parcel may not be able to support the proposed use. To ensure 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 applicant shall obtain approval for all required permits from the Marion County Building Inspection Division.
2. The proposed dwelling shall be set back no more than 485 feet from the beginning of the driveway. No special setback is required to the east property line. All other setbacks as detailed in AR22-005 still apply.
3. Prior to issuance of the building permit, all conditions of approval in AR22-005 must be met.

**OTHER PERMITS, FEES, AND RESTRICTIONS:** This approval does not remove or affect covenants or restrictions imposed on the subject property by deed or another 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 the Findings and Conclusions section below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

4. The applicants should contact the Stayton 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 condition or deny the application. Anyone who disagrees with the Director's decision may request that the application be considered by a Marion County hearings officer after a public hearing. The applicant may also request reconsideration (one time only and a fee of \$200) based on 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. Requests for reconsideration, or consideration by a hearings officer, 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 9, 2022**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **June 10, 2022**, unless further consideration is requested.

**FINDINGS AND CONCLUSIONS:** Findings and conclusions on which the decision was based are noted below.

1. The subject property is designated Forest Lands in the Marion County Comprehensive Plan and zoned Timber Conservation (TC). The purpose of the TC zone is to conserve forest lands by maintaining the forest land base and to protect the forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use of forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.
2. The property is located on the north side of North Fork Road SE, at the intersection of North Fork Road SE and Dogwood Lane SE. The property was previously the subject of Administrative Review 22-005 (AR22-005), Administrative Review 15-025 (AR15-025) and Conditional Use 97-071 (CU97-071). The property is considered legal for the purposes of land use due to the previously approved cases.
3. Properties to the north, south, and west are zoned TC and consist of parcels in timber production. Properties to the east are zoned AR and consist of small rural parcels developed with homesites.
4. The following table depicts the soil composition on the property and its capacity to produce wood fiber.

Soil Name	Total Acres	CU.FT/AC/YR	Total CU.FT./YR
Horeb gravelly silt loam, gravelly substratum 0-15% slopes (HSC)	0.15	195	29.25
McCully clay loam, 2-30% slopes (MUE)	5.30	171	906.30
Total	5.45		935.55

5. The applicant is requesting to place the dwelling, approved pursuant to AR22-005, 485 feet from the entrance of the driveway, where a dwelling in the forest area is required to be within 300 feet of the driveway entrance.
6. All contacted agencies either failed to comment or had no objection to the proposal.
7. According to Marion County Code (MCC) 17.116.020, to approve an adjustment to the special setback standards, the adjustment application need only address the criteria found under MCC 17.138.060(A)(3). These include:

*(a) The site will have the least impact on nearby or adjoining forest or agricultural lands.*

The applicant states that adjusting the location of the dwelling from within 300 feet of the driveway entrance to within 485 feet of the driveway entrance would have the least impact on nearby forest or agricultural land as it is being clustered near the other residential land in the area. The applicant states that they will be maintaining fire suppression breaks in order to protect surrounding forest land from fire risk. Based on these facts, this criterion is met.

*(b) The site ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.*

The applicant states that adverse impacts to surrounding forest operations will be decreased as they intent to create a pond to provide a water source for firefighting purposes and they also propose fire breaks. The applicant is also clustering the proposed development with other lands that are currently in residential use, which will decrease the impact on adjoining forestry operations. Based on these facts, the criterion is met.

*(c) The amount of agricultural and forestlands used to site access roads, service corridors, the dwelling, and structures is minimized.*

According to the site plan submitted by the applicant, the development as well as access and utilities will be clustered near the southeast corner of the property. The applicant states that they cannot be any closer to North Fork Road as the slope of the property is too steep to safely develop and would exceed the “Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads”. Based on these facts, this criteria is met.

*(d) The risks associated with wildfire are minimized.*

The applicant states that they will construct fire breaks, a pond to store surface water, and a driveway that will meet standards imposed by the Stayton Fire District. The applicant supplied correspondence to support that the Stayton Fire District has no concerns with the plan at this time. Based on these facts, as well as conditions of approval contained in AR22-005, this criterion is met.

8. Based on the above findings, it has been determined that the applicants’ request meets all applicable criteria for adjustment of the special forest setbacks and is, therefore, **APPROVED**, subject to conditions.

Brandon Reich  
Planning Director/Zoning Administrator

Date: May 25, 2022

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.