

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. 22-007

APPLICATION: Application of Francis Beitel as a member of Ed Beitel Farms LLC, for an administrative review to place a Secondary Farm dwelling on a 593.7-acre parcel in an EFU (Exclusive Farm Use) zone located at 18488 Peters Lane SE, Stayton (T9S; R1E; Section 10; tax lot 100).

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 **April 22, 2026**, 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 secondary farm dwellings shall be manufactured homes. 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 dwellings, the applicants shall sign a Marion County Secondary Farm Dwelling Removal Agreement for the each of the secondary farm dwellings. The applicants shall record the Statement with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
3. The secondary dwellings shall be continuously occupied by a person working on the farm, as described in this decision.
4. The farm operator 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:

5. 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.
6. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories listed in Finding #6 below, that may be required.

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) 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. 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 **April 22, 2022**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 23, 2022**, 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 Siegmund Road SE and the northeast portion of the parcel is located at the intersection of Siegmund Road SE and Fern Ridge Road SE. Additionally, the property was the subject of a Property Line Adjustment from 2010 (PLA10-008), which was approved. This property is legal for the purposes of land use.
3. Surrounding properties in all directions are in farm use and in an EFU zone.
4. The applicants are proposing to place a secondary farm dwelling on Tax Lot 100 and using the existing manufactured home on Tax Lot 400 as a home for farm workers. The home on Tax Lot 100 will become the primary farm dwelling once it is built, with the existing manufactured home on Tax Lot 400 becoming the secondary farm dwelling.
5. Soil Survey of Marion County Oregon indicates the subject property is composed entirely of high-value farm soils.
6. Marion County Building Inspection commented that there are no Building Inspection concerns. Permits are required for any future development on private property.

Marion County Septic Division made the following comments: A septic site evaluation is required for the proposed dwelling. If any change in use or expansion of the existing dwelling is needed, please apply for a Septic authorization.

Marion County Land Development, Engineering, and Permits made the following comments:

ENGINEERING REQUIREMENTS

- A. An Access Permit will be required at the time of application for building permits. The access to be reviewed will be the existing private drive connection with Siegmund Road.
- B. The subject property is within the unincorporated area of Marion County and will be assessed Transportation & Parks System Development Charges (SDCs) upon application for building permits per Marion County Ordinances.
- C. Utility work in the public right-of-way requires permits from MCPW Engineering.

All other contacted agencies either failed to comment or stated no objection to the proposal.

7. For the purposes of this land use application and application of the Marion County Code, the farm operator is synonymous with the owner of the subject parcel. In this case, the farm operator and applicant are Francis Beitel. For context, in 2009, Ed Beitel Farms, LLC (owned by Ed Beitel and Christie Beitel, husband and wife, and parents to Francis Beitel) purchased from Tokasa Farm LLC two parcels, which are Tax Lots 100 and 400. Prior to the purchase of Tax Lots 100 and 400, Ed Beitel Farms, LLC allowed Francis Beitel to purchase a 25% ownership interest in the LLC. After the purchase of Tax Lots 100 and 400 concluded in 2010, Ed Beitel Farms, LLC changed its name to Crooked Canyon Farms, LLC, which is the current owner of Tax Lots 100 and 400. Therefore, this establishes Francis Beitel's ownership of Tax Lots 100 and 400, allowing for a land use action under his name to occur.

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

1. *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 has stated that, once built, the newly built home on Tax Lot 100 will become the Primary Farm Dwelling. As the farm manager, he will live in the newly built home while the existing manufactured home will be used as a Secondary Farm Dwelling and be occupied by person or persons engaged in farm use of the land. This criterion is met.

2. *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 has stated that the only dwelling on-site is the existing manufactured home, which is located on Tax Lot 400 and is being used to house an employee for the farm. Once the newly built home is placed on Tax Lot 100, the existing home will be used to house farm workers employed on-site. This criterion is met.

- 3(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 secondary dwelling is proposed to be located on a different lot or parcel from the primary farm dwelling. Specifically, the applicant has stated that the newly built home on Tax Lot 100 will become the primary farm dwelling while the existing manufactured home on Tax Lot 400 will become the secondary farm dwelling used to house farm workers for on-site. As a condition of approval, the applicant shall be required to file a declaratory statement with the Marion County Clerk's Office acknowledging that the secondary farm dwelling must be removed if the parcel is conveyed to another party. This criterion is met.

4. *The primary dwelling to which the proposed dwelling would be accessory satisfies the following criteria:*

- b. 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 subject parcels are considered high-value farmland. The applicant has stated that the gross farming sales from this business has generated over \$350,000.00 in each of the last two years. According to a letter submitted by the applicant's Certified Public Accountant, the applicant had a total of \$344,360 and \$346,558 in farm income from 2020 and 2021, respectively. The source of this information comes from the applicant's Schedule F tax forms. The 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.

Both subject parcels are within the designated peripheral big game habitat area. To qualify for a secondary farm dwelling in the peripheral big game habitat area, the proposed home site was subjected to a Big Game Habitat Analysis. Per the Marion County Comprehensive Plan Goal, Fish and Wildlife Habitat, Policy number five, there may be a dwelling density of one dwelling unit per 40 acres in peripheral habitat or 16 dwellings per 640 acres. The Big Game Habitat Analysis resulted in seven dwellings per 640 acres, well below the maximum of 16 dwellings per 640 acres. Therefore, the criterion is met.

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 applicant is proposing to build a new home on Tax Lot 100, which will become the primary farm dwelling. The existing manufactured home exists on Tax Lot 400, which will become the secondary farm dwelling after the new manufactured home is placed. This criterion will be 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.

Brandon Reich
Planning Director/Zoning Administrator

Date: April 7, 2022

If you have any questions regarding this decision contact Jared Bradford at (503) 566-4173.

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.