

**NOTICE OF DECISION  
ADJUSTMENT CASE NO. 19-006**

**APPLICATION:** Application of Linda and Garry Williams to reduce the required 20 foot front yard setback from 20 feet to nine feet for a dwelling in an AR (Acreage Residential) zone located at 11006 Winstanley Drive SE, Lyons (T9S; R2E; Section 15AB; 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 **September 5, 2021** unless an extension is granted. The effective period may be extended one time 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. The dwelling shall maintain a minimum nine foot setback from Winstanley Dr. SE.

**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:

3. The applicants should contact the Jefferson 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 **September 5, 2019**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **September 6, 2019** 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 in the southeast corner of Taylor Park Road SE and Winstanley Drive SE. The 1.14 acre parcel is currently undeveloped, according to Assessor records. The property was created as Lot 1 of Winwood Hills Subdivision in 1972 and is considered a legal parcel for land use purposes.
3. Surrounding properties to the north, west, and south are in rural residential uses and in an AR zone. Property to the east and surrounding the AR zoned properties are zoned Timber Conservation and in timber production.
4. The applicants are proposing to reduce the required 20 foot front yard setback for a dwelling to 9 feet.
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 (LDEP) requested that the following requirements be included in the land use decision:
  - A. Access Permit #555-19-000101-PW was issued for the new dwelling. Access work will need to be completed prior to final building inspection.
  - B. Utility work in the Taylor Park public right-of-way requires permits from MCPW Engineering.
7. In order to approve the adjustment, the criteria found in MCC 17.116.020 must be satisfied. These include:
  - (A) *The proposed development will not have a significant adverse impact upon adjacent existing or planned uses and development; and*
  - (B) *The adjustment will not have a significant adverse effect upon the health or safety of persons working or residing in the vicinity; and*
  - (C) *The adjustment is the minimum necessary to achieve the purpose of the adjustment and is the minimum necessary to permit development of the property for the proposed use; and*
  - (D) *The intent and purpose of the specific provision to be adjusted is clearly inapplicable under the circumstances; or, the proposed development maintains the intent and purpose of the provision to be adjusted.*
8. There is no evidence that the adjustment will have any significant adverse impact on other property in the area, and it appears that the proposed dwelling placement is in the only location on the property that is suited for development. The proposed adjustment would occur in the narrow part of the parcel between Taylor Park Road SE and Winstanley Drive SE. The applicants want to place a manufactured home 9 feet from the Winstanley Drive SE right-of-way. Winstanley Drive SE is a short cul de sac that serves six other lots. There is no indication the proposal would create health and safety issues in the vicinity. Based on available information the proposal can comply with the criteria listed in #7(A) and (B).

The degree of adjustment requested appears to be the minimum necessary to allow placement of a dwelling on the property away from slope hazards, road rights-of-way, and land managed for timber. The property is a narrow 1.14 acre lot, and the location of the proposed dwelling, well, and sewage disposal system with replacement drain field area significantly limits the area on the property where the dwelling can be placed. The development meets the intent of the setback provision that provides for open space and a safe access onto the roadway. The proposal can meet #7(C) and (D).

9. Based on the above findings, it has been determined that the proposed adjustment satisfies all applicable criteria and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore  
Director-Planning Division

Date: August 21, 2019

If you have any questions regarding this decision contact Lisa Milliman 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.