

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 the county notify property owners within a certain distance from this property. The proposal and address 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. 19-009**

**APPLICATION:** Application of Larry and Lynne Moore for an adjustment to reduce the required special 100 foot dwelling setback from the adjacent property in farm use from the north property line to 50 feet on a 8.7 acre parcel in an AR (Acreage Residential) zone located at 1027 Meadows Lane SE, Salem (T9S; R3W; Section 15B; tax lot 200).

**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 14, 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 required by the Marion County Building Inspection Division.
2. The dwelling shall maintain a minimum 50 foot setback from the north property line.

**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 **November 14, 2019**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **November 15, 2019** unless appealed.

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

1. The property is designated Rural Residential in the Marion County Comprehensive Plan and zoned AR (Acreage Residential).
2. The subject parcel is located on the north side of Meadows Lane approximately one half mile west of Interstate 5. The parcel contains an existing dwelling, accessory structures, well and septic system. The parcel was the subject of Partition P19-10 and is therefore considered a legal lot for land use purposes.

3. Properties to the east, west, and south are zoned AR (Acreage Residential) and developed with residential uses. Properties to the north are zoned SA (Special Agriculture) and developed with farm dwellings and agricultural uses.
4. The applicants request to reduce the required special 100 foot dwelling setback from the adjacent property in farm use from the north property line to 50 feet.
5. Marion County Building Inspection commented that a building permit is required for new construction or placement of a manufactured home.

All other commenting agencies stated no objection to the proposal.

6. 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.*

7. The subject parcel is bordered to the north by a parcel that is zoned SA and appears to be in agricultural use for pasturing livestock. The subject parcel and the neighboring parcel to the north are both in a Sensitive Groundwater Overlay zone (SGO). For this reason, intensive farm use on the neighboring parcel is unlikely to be possible as irrigation is not allowed. For this reason, a 50 foot setback from the common property line to the north is considered to be adequate in this case to avoid any significant adverse impact on the agricultural use of the adjacent property. In addition, the applicant states that adherence to the special 100 foot dwelling setback on the subject parcel would place the dwelling on highly saturated soil. For this reason, it appears that the proposed dwelling placement is in the only location on the property that would allow for placement of the applicant's dwelling. There is no indication the proposal would create health and safety issues in the vicinity. The requirement for recording a farm/forest declaratory statement in Condition 9 of P19-10 remains valid as a notice to current and future property owners that agricultural activities are common in the immediate vicinity of the subject property. Based on available information the proposal can comply with the criteria listed in #6(A) and (B).

The degree of adjustment requested appears to be the minimum necessary to allow for placement of a dwelling on the least saturated portion of the property. The development meets the intent of the setback provision. The proposal can meet #6(C) and (D).

8. 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: October 30, 2019

If you have any questions regarding this decision contact Seth Thompson 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.