

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. 23-028**

APPLICATION: Application of RIPE, LLC., for an administrative review to place a secondary farm dwelling on a 220.93-acre parcel in an EFU (Exclusive Farm Use) zone located at 7262 St. Paul Highway NE, St. Paul (T4S; R2W; Section 22; Tax lot 300).

DECISION: **PLEASE READ ALL CONDITIONS.** The Planning Director for Marion County has **APPROVED** the above-described application subject to certain conditions. **PLEASE READ ALL CONDITIONS BELOW.**

EXPIRATION DATE: This decision is valid only when exercised by **November 3, 2027** (four years), unless an extension is granted. The effective period may be extended subject to approval of an extension. Request for an extension must be submitted to the Planning Division prior to expiration of the approval (form available from the Planning Division).

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, including subsurface sewage, from the Marion County Building Division.
2. Prior to the issuance of any permits, the applicants shall sign and record a Secondary Farm Dwelling Removal Agreement (enclosed).
3. The occupants of the primary dwelling and all secondary dwellings shall continue to be principally engaged in the farm operation.
4. Evidence of the farm operation being registered with the Oregon Occupational Safety and Health Division (OSHA), as part of the Department of Consumer and Business Services, shall be provided.
5. The attached multi-unit residential structure shall continuously meet any applicable Oregon OSHA regulations.

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.

6. The applicants should contact the St. Paul Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations. 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) 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. 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 Road NE, Salem, by 5:00 p.m. on **November 3, 2023**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **November 4, 2023**, 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 Primary Agriculture in the Marion County Comprehensive Plan and correspondingly zoned EFU (Exclusive Farm Use). The primary intent of both this designation and zone is to promote and protect commercial agricultural operations.
2. The subject property is located south of St. Paul Hwy NE, approximately 1.15 miles east of its intersection with French Prairie Rd NE. The subject property, tax lot 300, is part of a larger farm operation. The majority of the subject parcel is farmed. The area not farmed is along the western boundary, where Champoeg Creek runs and identified wetland is located.

The parcel has two existing dwellings. The first is a 1988 site built dwelling as referenced in AR98-010. The other is a secondary farm dwelling allowed per Administrative Review 17-015. This secondary dwelling is a seasonal farm-labor style duplex.

3. The subject parcel has existed in its current configuration since it was created via an approved land use case in 1998 (Partition 98-007). Therefore, per the definitions in Marion County Code 17.110.427 and 17.110.680, the subject parcel is considered legal for land use purposes.
4. Surrounding properties in all directions are large tracts of commercially farmed EFU parcels.
5. Soil Survey of Marion County indicates that approximately 95.3% of the soils on the subject property are classified as high value.
6. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Land Development Engineering and Permits (LDEP) commented:

ENGINEERING REQUIREMENTS

- A. An Access Permit will be required at the time of application for building permits to inspect paving work apparently done without a permit and to document in PW Eng records the legal access point to the public road for the proposed secondary farm dwelling. Note that remedial access work may be required such as installation of a water bar or trench drain on the paved access to divert stormwater runoff along the roadside as a matter of traffic safety to minimize the potential for wintertime public road icing.
- B. Transportation System Development Charges will be assessed at the time of application for building permits.
- C. Utility service extension work in the public R/W requires permits from MCPW Engineering.

Marion County Building Division commented: "No Building Inspection concerns with application. Permits are required to be obtained prior to construction of the duplex and utilities installation on private property."

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

7. The applicants are proposing to place a multi-unit residential structure on the subject parcel for seasonal farm workers to live in.
8. Secondary farm dwellings customarily provided in conjunction with farm use may be approved when the criteria in MCC 17.136.030(B) are satisfied. The criteria 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.*

Per a phone conversation between the applicant representative, Angelo Spada, and Associate Planner Nicole Inman on 10/13/2023 at 2:17 pm all current farm dwellings on the farm operation are lived in by either the farm operator or farm employees, and the proposed multi-unit residential structure will be lived in by farm workers. The 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.*

Per the applicant representative all dwellings associated with the farm operation are lived in by either the farm owners or farm employees. The criterion is met.

3. *The proposed dwelling will be located:*

 - a. *On the same lot or parcel as the primary farm dwelling; or*
 - b. *On the same contiguous ownership as the primary dwelling, and the lot or parcel on which the proposed dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the same ownership; or*
 - 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; or*
 - d. *On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable State Building Code or similar types of farm worker housing as that existing on farm operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The county shall require all accessory farm dwellings approved under this subsection to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or*
 - e. *On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size and the lot or parcel complies with the gross farm income requirements in subsection (B)(4) of this section, whichever is applicable.*

The proposed secondary farm dwelling will be a farm-labor duplex as described in (3)(d). The criterion is met.

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

- a. *On land not 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 \$40,000 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; or*
- 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;*
- c. *The primary dwelling is located on a commercial dairy farm as defined in this chapter; and*
 - i. *The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and*
 - ii. *The Oregon Department of Agriculture has approved a permit for a confined animal feeding operation under ORS 468B.050 and 468B.200 through 468B.230; and*
 - iii. *The Oregon Department of Agriculture has approved a producer license for the sale of dairy products under ORS 621.072;*
- d. *In determining the gross income in subsections (B)(4)(a) and (b) of this section, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.*

The primary dwelling to which the proposed dwelling would be accessory is located on land identified as high-value farmland based on the available soils data. It is not located on a commercial dairy. Therefore, (4)(b) must be met, while (4)(a) and (4)(c) do not apply.

The applicants submitted information provided by their CPA. Per the CPA the subject property has grossed at least \$80,000 in annual income from the sale of farm products for the last three years. The criterion is met.

5. *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.*

The dwelling will not be located within a designated big game habitat area. This section does not apply.

6. *A deed restriction filed with the county clerk requiring removal of the 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.*

This requirement shall be made a condition of approval. The criterion is met.

9. Based on the above findings, it has been determined that the criteria to establish a secondary farm dwelling in the EFU zone have been met, and therefore this application is **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: October 19, 2023

If you have any questions regarding this decision contact Nicole Inman 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.