



Marion County
OREGON

ADMINISTRATIVE REVIEW APPLICATION

Do not double-side or spiral bind any documents being submitted

Fee: Please check the appropriate box:

- ☐ Administrative Review - \$770
- ☐ Primary Farm Dwelling - \$1000
- ☐ Replacement Dwelling - \$450
- ☒ Lot of Record - \$1250 (staff); \$1990 (hearing)
- ☐ Secondary Farm - \$1250
- ☐ Forest Dwelling - \$1250

RECEIVED

MAY 17 2024

**Marion County
Planning**

PROPERTY OWNER(S): Glen and Marjorie Morley Trust	ADDRESS, CITY, STATE, AND ZIP: 2652 Morley Lane S. Salem, Oregon 97306
PROPERTY OWNER(S) (if more than one):	ADDRESS, CITY, STATE, AND ZIP
APPLICANT REPRESENTATIVE: Norman Bickell	ADDRESS, CITY, STATE, ZIP 2232 42nd Avenue SE #771 Salem, Oregon 97317
DAYTIME PHONE (if staff has questions about this application): 503-510-1742	E-MAIL (if any): nbickell0027@aol.com
ADDRESS OF SUBJECT PROPERTY: 2500 Block of Everett Drive S	SIZE OF SUBJECT PROPERTY: 4.66 Acres
THE PROPERTY OWNERS OF THE SUBJECT PROPERTY REQUEST TO (summarize here; provide detailed information on the attached "Applicant Statement" page): Establish a lot of record dwelling	
WILL A RAILROAD HIGHWAY CROSSING PROVIDE THE ONLY ACCESS TO THE SUBJECT PROPERTY? () YES (X) NO IF YES, WHICH RAILROAD:	

FOR OFFICE USE ONLY:

Township <u>08</u>	Range <u>3W</u>	Section <u>20B</u>	Application elements submitted:
Tax lot number(s) <u>900</u>			<input checked="" type="checkbox"/> Title transfer instrument
Zone: <u>SA/AR</u>			<input checked="" type="checkbox"/> Site plan
Zone map number: <u>56</u>			<input checked="" type="checkbox"/> Applicant statement
<input type="checkbox"/> TPA/header			<input type="checkbox"/> GeoHazard Peer Review (if applicable) <u>na</u>
Case Number: <u>AR24-012</u>			<input checked="" type="checkbox"/> Filing fee
<input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural			Application accepted by: <u>NLR</u> Set up by:
Date determined complete:			Date: <u>5-17-24</u>

THE APPLICANT(S) SHALL CERTIFY THAT:

- A. If the application is granted the applicant(s) will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.
- B. I/We hereby declare under penalties of false swearing (ORS 162.075 and 162.085) that all the above information and statements and the statements in the plot plan, attachments and exhibits transmitted herewith are true; and the applicants so acknowledge that any permit issued on the basis of this application may be revoked if it is found that any such statements are false.
- C. I/We hereby grant permission for and consent to Marion County, its officers, agents, and employees coming upon the above-described property to gather information and inspect the property whenever it is reasonably necessary for the purpose of processing this application.
- D. The applicants have read the entire contents of the application, including the policies and criteria, and understand the requirements for approving or denying the application.

PRINTED NAME AND SIGNATURE of each owner of the subject property.

Linda Morley [Signature]
Print Name Signature

Print Name Signature

Print Name Signature

Print Name Signature

DATED this 2nd day of May, 2021

Applicant Statement (required)

It is up to the applicant to fully explain your proposal and how it conforms to Marion County land use regulations. This is **your** opportunity to provide detailed information on the “who, what, where, when and why” that is specific to your proposal.

There are specific criteria and regulations for each zone; these are available from the Planning Division. We strongly encourage you to obtain a copy of this information, review it, and then prepare your “applicant’s statement”.

These are a few items you should consider including (where applicable):

- Describe the property as it exists now and after implementation of the proposal: topography, existing structures and their use, new or alteration of structures, etc.
- Describe surrounding properties: type of land use, scale of development, etc. and any impact your proposed use might have on these properties such as dust, noise, fumes or odors, traffic, etc. And, if so, what measures will you take to mitigate these impacts?

See attached applicant statement

(use additional paper if needed)

APPLICANT STATEMENT

Linda Morley is making application for the estate of the Glen Morley RT and Morley and the Marjorie D Morley trust on a 4.66 acre (Assessors acreage) parcel that is zoned SA (Special Agriculture) and AR (Acreage Residential). It is located in the 2500 block of Everett Drive S (T8S; R3W; S20B; TL 900). This property is currently undeveloped and has a timber deferral. At this time the applicants are making application for a lot of record dwelling on the subject parcel.

17.137.030 (D) Lot-of-record Dwellings. A single family dwelling subject to the following standards and criteria:

1. *The lot or parcel on which the dwelling will be sited was lawfully created and acquired and owned continuously by the present owner:*
 - a. *Since prior to January 1, 1985; or*
 - b. *by devise or intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.*
 - c. *“Owner,” as the term is used in this subsection only, includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, step-parent, step-child, grandparent, or grandchild of the owner or business entity owned by any one or a combination of these family members.*

Response: The property was purchased from John C, Davis on July 18, 1973 in a deed recorded in Vol. 757 Page 592 and has remained in family ownership since that date (deed attached) the application will comply with “a” above. Because the parcel was conveyed prior to September 1 1977 Marion County recognizes it as being legally created. Both Glen and Margie Morley have passed away with Glen’s date of death being May 17, 2019 and Margie’s date of death being August 18, 2023 (see attached death certificates). Their daughter Linda Morley is the trustee for the estate and as such will meet both “b” and “c” above. Therefore, the Lot-of-record standards listed in 1 above are met.

2. *The tract on which the dwelling will be sited does not include a dwelling.*

Response: The subject parcel is a single ownership of the Morley family and does not have any contiguous ownership within the SA Zone. In meetings with the Marion County planning staff and an interpretation from the Marion County Planning Director it was determined that the Morley ownership of an adjacent parcel would not qualify as a contiguous ownership because it is within the AR zone. From this determination by staff it was able to find that this ownership would not affect the criteria listed in 2 above.

3. *The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993 and no dwelling exists on another lot or parcel that was part of that tract.*

Response: As noted in the response to #2 above, the findings above staff determined that the subject parcel would comply with 3 above.

4. *When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed.*

Response: Marion County approved Partitioning Plat 2001 that allowed the Morley family to divide the land they owned along Everett Drive into three lots within the AR zone. As was noted in #2 and #3 above, the subject parcel is not part of a tract so the criteria listed in #4 would not apply to this property.

5. *the request is not prohibited by, and complies with, the Comprehensive Plan and other provisions of this title, including but not limited to floodplain, greenway, and big game habitat area restrictions.*

Response: The property is zoned SA and the SA zone implements the provisions of the Comprehensive Plan. Elements in the Plan such as floodplain, greenway and big game habitat areas are not identified on the subject parcel. In complying with the provisions of the SA zone the application will also comply with the Comprehensive Plan.

6. *The proposed dwelling will not;*

a. Exceed the facilities and service capabilities of the area.

b. Create conditions or circumstances contrary to the purpose of the special agriculture zone.

Response: The proposed dwelling will rely on an individual septic system for the proposed dwelling and this system will be reviewed and approved by Marion County before it is allowed on the property. An exempt well will have to be established and according to State Water Resources no water right will be needed for the well. Although the proposed well is being located within a Ground Water Limited Overlay, domestic wells are not regulated within the area. The property is identified as being within the Salem Fire Protection District and serviced by station #7. All other rural services are available to the site.

The placement of a dwelling on the subject parcel is reflective of the current development pattern of the area which is smaller acreage parcels many containing dwellings both within the SA and AR (Acreage Residential) zones that surround the area. Dwellings are located on the south and North side of the subject parcel and an AR zone to the west with potential single family dwellings. A dwelling is located on the north side of Everett Drive. Although the SA zone primarily is for the preservation of land for farming and forest practices the zone allows for the placement of dwellings through a farm dwelling, lot-of-record dwelling or a non-farm dwelling review and approval. The applicants are exercising the lot-of-record provisions of the SA zone on the subject parcel.

7. *A lot-of-record dwelling approval may be transferred one tie only by a person who has qualified under this section to any other person after the effective date of the land use decision.*

Response: The applicants are aware of this provision and will comply with the condition.

8. *The county assessor shall be notified that the county intends to allow the dwelling.*

Response: This is a standard condition that the county will follow with any approval given for a lot-of-record or a non-farm dwelling. The condition listed in 8 above will be met.

9. *The lot or parcel on which the dwelling will be sited is not high-value farmland as defined in MCC 17.137.130(D); or*

Response: The subject parcel is predominantly listed as high-value soils as listed in 17.137.130 D and the criteria listed in 9 above does not apply.

10. *The lot or parcel on which the dwelling will be sited is high-value farmland as defined in 17.137.130(D) (2) or (D) (3) and:*

Response: The lot is predominantly a Class III Jory high-value soil and is not listed in (D) (2) or (D) (3) so the remainder of the standards and criteria listed in 10 above would not apply.

11. *The lot or parcel on which the dwelling is to be sited is high-value farmland as defined in MCC 17.137.130(D) (1) and:*

a. The hearings officer determines that:

i. The lot or parcel cannot practicably be managed for farm use , by itself or in conjunction with other land due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For purposes of this section, , this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot or parcel cannot be practicably managed for farm use. Examples of extraordinary circumstances inherent in the land or its physical setting include very steep slopes, deep ravines rivers streams, roads, railroad or utility lines or other similar natural or physical barrier by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite that proximity of a natural barrier or since placement of a physical barrier shall be presumed manageable for farm use; and

Response: As noted previously, the subject parcel is only 4.66 acres in size and is planted in trees that qualify for timber deferral. The lot is almost a square and is bordered on its west side by an AR zone with three platted lots. The parcel to the east is vacant parcel that is 1.99 acres in size and appears to be used for pasture for an adjacent house in the AR zone. To the north across Everett Drive is dwelling with pasture for livestock. To the south are properties containing dwellings within an AR zone. The major factor in making this parcel commercially viable as a farm parcel is the area surrounding the property is located within a Ground Water Limited Area (SGO) so there is no possibility of clearing the property and establishing a farm crop that is dependent upon irrigation. The only possible farm use of the parcel is for a hobby farm once the land has been cleared of trees; all of which will entail a major expense that cannot be returned from farm use of the parcel. Once cleared it would be possible to raise grass or grain crops but again the shape and the slopes of the parcel are not conducive to this type of farm operation. With the approval of a lot-of-record dwelling on the parcel will allow for a dwelling that can do hobby farming or maintain the planted timber where the profit margins are not critical. It should be noted that the parcel is directly north of a large area of AR zoned lands containing dwellings.. This again is a limitation to farming activities on the subject parcel. Any attempt to try to bring this parcel into a farmed parcel will create undue hardship to the owner in the amount of time and expense of converting this parcel from its timber use to something that could be considered

farmable. Based upon the above discussion the applicants' proposed homesite development will comply with the criterion listed in "i" above.

- ii. *the use will not force significant change in or significantly increase the cost of farm or forest practices on surrounding lands devoted to farm or forest use; and*

Response: There are no commercial farming practices adjacent to the subject parcel. The best that could be said is that the parcels adjacent are hobby farms that will not be impacted by a dwelling on the subject parcel that complies with the required setbacks. The parcel to the east is only 1.99 acres and is owned by an adjacent dwelling lot within the AR zone which will limit its viability as a farm parcel. As noted previously, the surrounding parcels to the west and south are within the AR zone and either contain dwellings or are approved to contain dwellings. With these factors the proposed dwelling is reflective of the development pattern of the area and will not force a significant change or increase the farm or forest practices on surrounding lands in farm or forest use and will comply with ii above.

- iii *The dwelling will not materially alter the stability of the overall land use pattern in the area. To address this standard, the following information shall be provided;*

- (A) *Identify a study area for cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm operations or practices that distinguish it from other, adjacent agricultural areas, and why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area;*
- (B) *Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.) and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of-record dwellings that could be approved under subsection (D) of this section and MCC17.137.050 (A), including identification of predominant soil classifications and parcels created prior to January 1, 1993. The findings shall describe the existing land use pattern of the study area including the distribution and*

arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under this provision;

- (C) *Determine whether approval of the proposed non-farm/lot-of-record dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase, lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.*

Response: To start this process of review of "iii" (A)-(C) Marion County staff was approached and asked to produce a study area that encompasses an area of 2000 acres with the subject parcel located as close to the center as possible. A map was produced with all of the properties identified with their tax lot numbers as well as the zoning and soils. Using this map and with a review of the county GIS mapping services along with the Assessor's Office records the following conclusions were made:

Within the study area there were 191 separate or partial parcels identified. Each parcel was then examined to see if it had an existing dwelling (or had been approved for a dwelling by Marion County), which parcels were vacant, the deed records of the current owners from the Assessors records, the soils for each parcel to determine Class IV through VIII soils, any contiguous parcels with a dwelling or other vacant parcels and any parcels that were in public ownership and not eligible for dwellings. The first screen removed any parcels that were AR (Acreage Residential) zoned that were inadvertently listed in the study area (2 parcel). A parcel that is listed is out of the study area (3). Parcels in public ownership (2). The number of dwellings that currently exist within the study area or were approved for a dwelling through a land use review (114). Through this review it was determined that there were 70 vacant parcels but of those 70 41 were contiguous to a home in the same name and were removed from consideration.

This left 29 vacant parcels that required further consideration under the provisions of a non-farm or lot-of-record dwelling. The first screen in this process was the predominant soils for each of the vacant parcels as well as the date of transfer to determine if they could qualify for a non-farm dwelling or a lot-of-record dwelling. From this screen it is possible to eliminate 25 parcels that were both high value soils as well as having a date of transfer into a different name later than the January 1, 1985. This left a total of 4 parcels that were still under consideration for a non-farm dwelling or lot of record dwelling (due to the date of transfer for each of the parcels only 3 of these could qualify for a lot-of-record dwelling). These 4 parcels would allow for at the most 4

dwellings. The final estimate of the number of dwellings that could qualify for a non-farm dwelling or for a lot of record dwelling is 4. This number of dwellings is not significant within a 2,000 acre study area and is more reflective of the current development pattern of the area. To allow the placement of a dwelling on the subject parcel will not hinder the existing farm pattern within the study area. The study area is already highly developed with dwellings and with the limitation of all of the land within the area being within a Ground Water Limited Area there are very few farm parcels that can continue to operate with a diversity of farm types. Only farms that can produce crops that do not require irrigation such as large grass seed or grain operations are viable for the area. Hand noted work sheets are attached to this report.

b. The county shall provide notice of the application for a dwelling allowed under this subsection to the Oregon Department of Agriculture.

Response: The standard listed in "b" will be done as part of the notification process followed by Marion County. The applicant has supplied a response to each of the criteria and the 2,000 acre study that indicated the placement of a lot-of-record dwelling on the subject property is appropriate and will comply with all of the SA zone standards.