



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

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JUL 25 2024

Marion County
Planning

PROPERTY OWNER(S): Sharon K Vaughn	ADDRESS, CITY, STATE, AND ZIP: 501 N. Main St. Newberg, Or 97132
PROPERTY OWNER(S) (if more than one):	ADDRESS, CITY, STATE, AND ZIP
APPLICANT REPRESENTATIVE: Norman Bickell	ADDRESS, CITY, STATE, ZIP 2232 42nd Ave. SE 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: 14370 Wilco Hwy. NE	SIZE OF SUBJECT PROPERTY: 25.53
THE PROPERTY OWNERS OF THE SUBJECT PROPERTY REQUEST TO (summarize here; provide detailed information on the attached "Applicant Statement" page): Place a lot of record dwelling on the subject parcel.	
WILL A RAILROAD HIGHWAY CROSSING PROVIDE THE ONLY ACCESS TO THE SUBJECT PROPERTY? () YES (<input checked="" type="checkbox"/>) NO IF YES, WHICH RAILROAD:	

FOR OFFICE USE ONLY:			
Township 58	Range 1W	Section 21	Application elements submitted:
Tax lot number(s) 1100			<input checked="" type="checkbox"/> Title transfer instrument
Zone: EFU			<input checked="" type="checkbox"/> Site plan
Zone map number: 15			<input checked="" type="checkbox"/> Applicant statement
<input type="checkbox"/> TPA/header			<input type="checkbox"/> GeoHazard Peer Review (if applicable) N/A
Case Number: AR24-019			<input checked="" type="checkbox"/> Filing fee
<input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural			Application accepted by: JSS Set up by: GB
Date determined complete:			Date:

APPLICANT STATEMENT

Sharon Vaughn (Capri) owns a 25.53 acre parcel located at 14370 Wilco Highway that is zoned EFU (Exclusive Farm Use) and is within an identified FEMA (Federal Emergency Management Agency) 100 Year floodplain Zone A (T5S; R1W; S21; TL1100). The property is currently vacant but at one time had a dwelling with a well, electricity and has access directly onto the Wilco Highway. The property is along the Pudding River, has a pond and has an identified wetland where an old meander of the river crossed the property. Assessors records submitted with the application indicate that Raulin Capri had a security interest in the property in 1980 (Raulin was Sharon Capri's father). Early aerial photographs show that in the 1960's an attempt was made to farm the property. Due to the flooding the whole north side of the property is wet for a large part of the year and is unfarmable most of the year. While not on an official agency map it is obvious that the area is wet with wetland grasses and this further limits its farmability. Aerial photos taken in 1976 and 1977 show the existing dwelling located just to the south of the eastern side of the pond and that the farming activity had ceased. The applicant has stated that this was because of the high-water during the winter months made it impossible for the farming activities to survive. At the direction of the Planning Division the applicant is only making application for the Lot of Record dwelling at this time. When a dwelling is approved the applicant or her successors can apply for a floodplain permit. The following will address the criteria for both a lot of record dwelling.

17.136.030 (E) 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 by the applicants' father in 1975 and at that time it had a dwelling occupied by the original owners' brother. A floodplain permit was approved for

Raulin and Carolyn Capri (the applicants father and mother) in 1980 (see attached approval for FP80-9) for a dwelling but it was never exercised. This is further evidence that Marion County recognized the parcel as being a legal lot. Upon the passing of the applicants' father it was transferred to the applicant. The evidence in the record established that the subject parcel was a legal lot and that 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: As noted previously, the subject parcel did have a dwelling but it is no longer on the property. Therefore, the applicants' complies with 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: The subject parcel is the only parcel that the applicant owns and she does not own any adjacent parcels. 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: As noted previously, the subject parcel is the only parcel owned by the applicant and she has not contiguous ownership land. The application will comply with 4 above.

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 EFU and the EFU zone implements the provisions of the Comprehensive Plan. Elements in the Plan such as greenway and big game habitat areas are not identified on the subject parcel. The subject parcel is identified as being within the 100 year floodplain of the Pudding River and the elements of the ordinance will be addressed at a later date. In complying with the provisions of the EFU zone the application will also comply with the Comprehensive Plan. The application will comply with the provisions of the criterion listed in 5 above with the application meeting the provisions of the floodplain that will be addressed later in this report.

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. The property is identified as being within the Woodburn Fire Protection District so fire protection is available to the proposed dwelling. All other rural services are available to the site.

The criterion listed in "b" above lists the proposed dwelling will not create "Conditions of circumstances contrary to the purpose of the special agriculture zone". This is an error in the code and it should have listed the EFU zone. The placement of a dwelling on the subject will be screened from the adjacent parcels by a distance of at least 200 feet as well as the Pudding River to the east and north. Additional screening will be provided by a pond and wetland to the west and the property is bordered by the Wilco Highway on the south. Dwellings are located on the east side of the subject parcel on the east side of the Pudding River. Although the EFU 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 EFU zone on the subject parcel.

7. *A lot-of-record dwelling approval may be transferred one time 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 I – III 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 25.53 acres in size and not in any farm or forest use. The lot is bordered on the east and north by the Pudding River and on the south the Wilco Hwy. There is a large configuration of farm parcels to the northwest and west that belongs to Woodburn Organic Farms LLC that is in a mixture of farm uses with blueberries being the predominant use. The major factor in making this parcel not a commercially viable as a farm parcel is the impact of being within the 100 floodplain of the Pudding River, a large pond formed by an old stream meander as well a wetlands. The parcel varies greatly from its elevation along the highway to the north with many changes in elevation making it hard to commercially farm the parcel. As it has been fallow for many years it has become a nuisance and has been under enforcement by the county for the large number of homeless persons camping on the parcel. It has been largely overgrown with blackberries and is covered by trees that have grown along the river. Once cleared and graded to eliminate the swales and hummocks it would be possible to establish a hobby farm on those areas where there is not seasonal flooding. 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 natural trees where the profit margins are not critical. 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 a commercial farming operation to the north and west of the subject parcel. The proposed dwelling will have access directly onto the Wilco Hwy and is more than 500 feet to both the parcel to the west and to the Wilco Hwy. The dwelling will be more than 200 feet from the parcel to the east. To the north is the Pudding River and a farm parcel to the NW but both are over 700 feet from the proposed dwelling site. With these factors the proposed dwelling being so far from adjacent parcels it 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 108 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. Within the study area there were 69 dwellings and they were removed from further study. Through this review it was determined that there were 39 vacant parcels but of those 29 were contiguous to a home in the same name and were removed from consideration, 1 was out of study area and 3 were in public ownership. One of the parcels listed was the subject parcel so for this review this left 6 that were subject to further review.

These 6 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 4 lot of record 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 2 parcel that were still under consideration for a non-farm dwelling or lot of record. These parcels would allow for at the most 2 dwellings. One of these would be the subject parcel. Due to the soils the final estimate of the number of dwellings that could qualify for a non-farm dwelling is zero and or for a lot of record dwelling is 2 including the subject parcel. 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. As was noted previously, this parcel has been an enforcement problem for both the county and the applicant. A dwelling should eliminate this ongoing problem. This area is a mixture of larger farm parcels, smaller hobby farms.

and parcels that could be described as just rural homesites. 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 EFU zone standards. Planning Division staff recommended that the applicant not make application for a Floodplain permit until it is decided that the exact location of the dwelling is finalized and it would have to be done prior to obtaining a building permit.