

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
ADJUSTMENT CASE NO. 24-004**

APPLICATION: Application of Cory and Teri Shell for an adjustment to reduce the required 10-foot side yard setback to 8 feet along the northern property line and an adjustment to the guest house standards, allowing a guest house to be located in a structure larger than 600 square feet on a 1.73-acre parcel in an AR (Acreage Residential) zone located at 9493 Clover Ln SE, Turner (T9S; R2W; Section 6A; Tax lot 1500).

DECISION: The Planning Director for Marion County has **APPROVED** the above-described Adjustment subject to certain conditions.

EXPIRATION DATE: This decision is valid only when exercised by **November 7th, 2026** (two years) unless an extension is granted. The effective period may be extended for one year subject to approval of an extension. Request for an extension must be submitted to the Planning Division prior to the expiration of the approval (form available from the Planning Division).

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 contact the Building Inspection Division, (503) 588-5147.

This decision does not include approval of a building permit.

CONDITIONS:

1. The applicants shall obtain all permits required by the Marion County Building Inspection Division.
2. Prior to issuance of any permits, the applicant shall submit a site plan for review and approval by the Planning Director.
3. The proposed additional living space shall have a separate entrance from the shop building and shall not be attached to the existing building space by an internal door.
4. The structure shall not be located closer than 8 feet of the northern property line.
5. The additional living space addition shall not be greater than 600 square feet.

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. The applicant is advised of the following:

6. The applicants should contact the Turner 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.
7. The applicants should contact AGENCY (503-588-5147) for additional requirements and Advisories, listed in Finding #5 below, that may be required.

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 7th, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective on **November 8th, 2024**, unless appealed.

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

1. The subject property is in a rural residential designated zone in the Marion County Comprehensive Plan. The major purpose of this designation and the corresponding Acreage Residential (AR) zone is to provide land that is suitable for the development of acreage homesites
2. The property is located at 9493 Clover Lane SE, which is approximately one quarter of a mile west of the intersection of Cloverdale Drive SE and Parrish Gap Road SE about two miles southwest of the City of Turner. The subject property contains a dwelling, a residential accessory structure and several other accessory buildings. The parcel was created in its current configuration by a property line adjustment in 2017 by case PLA17-017 and the resulting parcels were recorded on Plat PP 2018-004. The parcel is legal for land use purposes.
3. Surrounding properties primarily consist of acreage home sites in the Acreage Residential zoning with evidence of ongoing home and accessory building development. To the south of Cloverdale Drive SE, the predominant zoning is Special Agriculture with a mix of farming activity and large acreage residential.
4. The applicants are requesting an adjustment to the required property line setback of 10 feet for the side yard (MCC 17.168.060 (B)(2)) to eight feet. The reason for the request is to accommodate the construction of an addition onto the north side of the existing shop building to create additional living space with separate access from outside the shop building.
5. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Building commented:

“Permit(s) are required to be obtained prior to development and/or utilities installation on private property.”

The Marion County Tax Assessor provided information about the taxes on the property.

All other commenting agencies stated no objection to the proposal or failed to provide comments.

6. In order to approve the adjustment, the criteria found in Chapter 17.116.020(A) of the Marion County Code (MCC) must be satisfied. These include:
 1. *The proposed development will not have a significant adverse impact upon adjacent existing or planned uses and development; and*

The applicants are proposing to build an addition onto the existing residential accessory building. This will result in an increase in the size of the building; however, the addition will need to encroach into the required 10-foot property line setback by two feet. The area around the applicant's property is already developed and further development is limited by land use zoning and proximity to the existing county road. The criterion is met.
 2. *The adjustment will not have a significant adverse affect upon the health or safety of persons working or residing in the vicinity; and*

This proposal will not affect the health or safety of the residents; living space additions in residential zones are in line with the zone code and is not expected to have any adverse effects. The criterion is met.

3. *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*

The applicants want to expand the existing shop building and state that the two foot adjustment (from ten-foot setback to 8-foot setback) is the minimum needed to accomplish their building goals. The criterion is met.

4. *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.*

The purpose of the adjustment is to allow the applicants to build closer to the property line while attempting to keep as much distance from the neighboring property line as possible while allowing for adequate access to all sides of the property. This adjustment still maintains reasonable setbacks which maintains the intent of the zone. The criterion is met.

7. In order to allow an existing building over 600 square feet to be used as a guest facility the following criteria shall apply.

1. *MCC 17.126.020(A)(9)(b) states "the total combined maximum floor area for a guest facility shall not exceed 600 square feet, including all levels and basement floor areas".*

2. *Where property-specific circumstances prevent a detached placement, a property owner may apply for an attached structure where the combined maximum area exceeds 600 sq. ft., through the adjustment process described in MCC 17.116.*

- (1) *The proposed development will not have a significant adverse impact upon adjacent existing or planned uses and development; and*

The applicants are proposing to add additional living space on their property by adding on to the shop building without significantly altering the shop and its intended use. The property does not qualify for an accessory dwelling unit (ADU) as the property is under the required acreage. The land around the property is currently developed. The criterion is met.

- (2) *The adjustment will not have a significant adverse effect upon the health or safety of persons working or residing in the vicinity; and*

Living space additions in residential zones are in line with the zone code and are not expected to have any adverse effects on the health or safety of the residents in the vicinity. The criterion is met.

- (3) *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*

The application allows the homeowners to achieve their goal of adding additional living space while maintaining the current use of their buildings and property while ensuring they follow current land use and building procedures. The criterion is met.

- (4) *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.*

This proposal maintains the intent to allow additional living space to be granted and is concurrent with the provision being adjusted. The criterion is met.

3. *In addition to satisfying the adjustment criteria, the guest facility must have separate outdoor entrances and no interior doorways connecting the guest a facility with the accessory structure.*

The applicants have stated that the additional living space being proposed to be added to the existing shop building will have a separate entrance from the outside of the building and this will be a condition of approval, in addition there will be no internal connections between the two. The criterion is met.

4. *The adjustment cannot be used to adjust the maximum size of the guest facility beyond 600 sq. ft.*

The applicants are stating that they intend to add additional living space to a existing building of over 600 square feet; this application grants the applicants the ability to accomplish this and grants an adjustment to MCC 17.126.020(A)(9)(b) to allow the additional living space to be added to the larger building but limits the additional living space to no more than 600 square feet. The criterion is met.

8. Based on the above discussion, it has been determined that the request satisfies all applicable criteria and is, therefore, **APPROVED**.

Brandon Reich
Planning Director

Date: October 22, 2024

If you have any questions regarding this decision contact George Brandt at (503) 566-3981.

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.