

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. 20-004**

**APPLICATION:** Application of the Switzer's Trust for an adjustment to reduce the required 10 foot side yard setback to 3 feet on a 1.50 acre property in an AR (Acreage Residential) zone located at 6235 Howser Ln SE, Salem. (T8S, R02W, Section 4A, Tax lot 4400).

**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 **June 19, 2022** 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 drain field 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, including subsurface sewage disposal, required by the Marion County Building Inspection Division.
2. The patio cover shall maintain a minimum 3 foot setback from the eastern property line.

**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. It is recommended that the agencies mentioned in Finding #6 be contacted to identify restrictions or necessary permits

**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 **June 19, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **June 20, 2020** unless appealed.

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

1. The subject property is designated Rural Residential in the Marion County Comprehensive Plan and zoned Acreage Residential.

2. The subject property is located directly east of the intersection of Howser Ln SE and 62<sup>nd</sup> Ave SE. The parcel is currently developed with a single family home that was built in 1997. According to assessor records, the property also contains two general purpose buildings and a well. The property is recorded on partition plat 97-36 and is therefore considered a legal parcel for land use purposes.
3. Surrounding properties in all directions are in residential uses and in an AR zone. Property further to the west are zoned SA (Special Agriculture) and are in farm use with some containing dwellings.
4. The applicants are proposing to reduce the required 10 foot side yard setback to three feet for a patio cover.
5. Marion County Building Inspection commented that a building permit will be required for new construction.

Various other agencies were contacted about the proposal and given an opportunity to comment. All contacted agencies provided comments, failed to comment or 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. There is no evidence that the adjustment will have any significant adverse impact on other property in the area, and it appears that the proposed dwelling addition is in the only location on the property that is suited for the addition. The proposed adjustment would occur in the rear part of the parcel between the subject parcel and the neighboring parcel to the east. 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 a patio cover that fully covers the patio. The property is a 1.5 acre lot, and the location of rear patio and property line significantly limits the area on the property where the addition can be placed. The development meets the intent of the setback provision that provides for open space and a safe access onto the roadway, this addition will not interfere with roadway access. The proposal meets #6(C) and (D).

9. 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: June 4, 2020

If you have any questions regarding this decision contact Austin Barnes 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.