

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. 20-023**

APPLICATION: Application of the Dorothy R. Hammer Living Trust for an administrative review to determine if the 10 year development period has elapsed for implementing Measure 49 authorization on the 268 acres within the EFU (Exclusive Farm Use) zone located in the 7000 block of Anderson Rd SE, Aumsville, (T8S; R1W; Section 37; tax lot 1000)

DECISION: The Planning Director for Marion County has determined Based on the above discussion the 10 year time limit has not lapsed for Measure 49 Home Site Authorization approved under State Order Numbers H129997, E129499, E129845, E130037, and E130071.

WARNING: A decision approving the proposed division or use is for land use purposes only. Due to septic, well, and drain field replacement areas, these parcels may not be able to support a dwelling. To be sure the subject property can accommodate the proposed use the applicant needs to check with the Building Inspection Division, (503) 588-5147.

This decision does not include approval of a building permit.

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 any agencies mentioned in Finding #5 below 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 to 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 4:00 p.m. on **October 1, 2020**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 2, 2020** unless appealed.

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

1. The subject properties are designated Primary Agriculture in the Marion County Comprehensive Plan and zoned EFU (Exclusive Farm Use).
2. The subject property is located on the east side of Anderson Rd SE approximately $\frac{3}{4}$ of a mile south of the intersection of Anderson Road and Highway 214. The parcel is currently vacant land in farm use. The subject parcels received Final Order and Home Site Authorization under ORS 195.352 (Measure 37/49). The Measure 49 (M49) claim was for multiple parcels, E129499, E129845, E130037, E130071, and H129997 (all Anderson Road).
3. Surrounding property in every direction is zoned EFU and in commercial farm use. Soil Conservation Service Soil Survey of Marion County indentifies soils on the properties as 82.9% high-value farmland soils.
4. Friends of Marion County gave comments which are located in the file. All other contacted agencies failed to comment or stated no objection to the proposal.

5. The applicants have requested to verify that the 10 year time period for development has not elapsed for a Home Site Authorization approved under State Order Numbers H129997, E129499, E129845, E130037, and E130071 on Anderson Road SE, Sublimity. The M49 orders contain the following term:

“If the claimant transferred his ownership interest in the Measure 37 claim property prior to the date of this order, this order is rendered invalid and authorizes no home site approvals. Provided this order is valid when issued, a home site approval authorized under this order runs with the property and transfers with the property. A home site approval will not expire, except that if a claimant who received this home site authorization later conveys the property to a party other than the claimant’s spouse or the trustee of a revocable trust in which the claimant is the settlor, the subsequent owner of the property must establish the authorized lots, parcels and dwellings within 10 years of the conveyance. A lot or parcel lawfully created based on this home site authorization will remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law. A dwelling lawfully created based on a home site approval is a permitted use.”

6. The applicant outlined the ownership history of the properties of properties involved related to the Measure 37/49 approvals. At the time the claims were filed the properties were in a Trust and Clara Frank had a ½ interest in the trust and Dottie Hammer and Lorraine Weible (daughter of Clara) each had a ¼ interest in the trust. With the passing of Clara Frank, the daughters each were each conveyed an equal share of her interest.
7. Staff asked Marion County Legal Counsel to review the information and provide input. Legal Counsel determined that the since Dottie and Lorraine each had an interest in the property when the claim was filed, and have had continuous interest since then, the claim has not expired. It will expire 10 years for the date that both Lorraine Weible and Dottie Hammer no longer have an interest in the property.
8. Based on the above discussion the 10 year time limit has not lapsed for Measure 49 Home Site Authorization approved under State Order Numbers H129997, E129499, E129845, E130037, and E130071.

Gilman Fennimore
Director-Planning Division

Date: September 16, 2020

If you have any questions please contact Lindsey King at (503) 588-5038.