

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
MODIFIED ADMINISTRATIVE REVIEW CASE NO. 25-001**

APPLICATION: Application of Matt and Julia Knudsen for an administrative review to replace a dwelling on a 13.01-acre parcel in an EFU (Exclusive Farm Use) zone located at 4615 60th Ave NE, Salem (T7S; R2W: Section 4C; Tax lot 200).

DECISION: The Planning Director for Marion County has **APPROVED** a **MODIFIED** application for an administrative review and determined that the residence was legally established and can be replaced.

EXPIRATION DATE: This decision is valid only when exercised by **February 28th, 2029** (four years) unless an extension is granted. The effective period may be extended for two years 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, including subsurface sewage disposal, required by the Marion County Building Inspection Division.
2. Prior to the issuance of any building permit for a new dwelling, the applicants shall sign and submit a *Farm-Forest and Replacement Residence* Declaratory Statement to the Planning Division. This Statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
3. The development shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval of the Planning Director.

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 #4 & #5 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

3. Applicants should contact the Marion County Fire District No 1. and 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.
4. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in finding #6 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 the Marion County Hearings Officer. The applicant may also request reconsideration (one time only and a \$250.00 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 **February 28th, 2025**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **February 29th, 2025**, unless appealed.

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

1. The subject property is designated Primary Agriculture in the Marion County Comprehensive Plan and zoned EFU (Exclusive Farm Use). The intent of both designation and zone is to promote and protect commercial agricultural operations.
2. The subject parcel is located on the west side of 60th Ave NE approximately a ¼ mile north of the intersection with Ibox St. This 13.01-acre parcel contains a pasture for sheep, two farm buildings, an old garage, and a wooded area to the western side of the property. The applicants reside on the neighboring one-acre parcel. This tract of land was the subject of land use cases MJP79-098, CU91-084, and CU98-054, all of which were denied land uses.

Initially, it was thought that the adjacent tax lots constituted a single legal property. However, it has been clarified that the subject tract comprises two distinct legal lots. According to the current deed description (Reel 3490 Page 127), the parcels are described as “Parcel 1” and “Parcel 2”. The description for “Parcel 1” corresponds with a deed dated October 23, 2002 (Reel 2016 Page 161) and another from December 12th, 1962. Similarly, “Parcel 2” is described in a deed from October 23rd, 2002 (Reel 2016 Page 160), and again a deed from July 29th, 1964 (Reel 589 Page 396). Given that both parcels have been separately deeded and described since 1964, it can be determined that these properties are two legal properties. The subject parcel is legal for land use purposes.

3. Surrounding properties consist of a mix of small and large EFU (Exclusive Farm Use) zoned lots, with the larger lots showing evidence of agricultural operations. Most adjacent lots contain homesites that predate land use planning. Furthermore, the West Fork of the Little Pudding River runs through the adjacent properties to the north and west. The wooded area toward the western property line is the riparian buffer to said river.
4. The Marion County Soils Analysis tool indicates that the subject parcel is 100% high value soils.
5. The applicant is proposing to replace a dwelling that previously existed on the property of 4615 60th Ave.
6. Several agencies were contacted about the proposal and given the opportunity to comment.

Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

Engineering Requirements:

- A. At the time of application for building permits an Access Permit will be required. Direct access from Butteville Road is to be derived via a tentative shared access easement across the subject property being created by partition case #24-004, with the name Fisherman Lane NE. No direct separate secondary vehicular access point to Butteville Road will be allowed.
- B. Transportation System Development Charges (TSDCs) and Parks fee will be assessed at the time of application for building permits.
- C. Utility service extensions such as electric power originating from within the public right-of-way require permits from MCPW Engineering.

Marion County Building Inspection commented:

“No Building Inspection concerns with proposal. Permit(s) are required to be obtained prior to development and/or utilities installation on private property.”

Marion County Septic commented:

“A Site Evaluation will be required to establish minimum requirements for the system. If connection to a pre-existing system serving the original dwelling is proposed, an authorization with a full existing system evaluation report is required.”

Marion County Fire District No. 1 commented the following requirements:

1. **Fire apparatus road distance from buildings and turnarounds:** Access roads shall be within 150' of all portions of the exterior wall of the building as measured by and approve route around the exterior of the building. An approved turnaround is required if the fire apparatus access road, is greater than 150'. 2022 Oregon Fire Code 503.1.1.
2. **Fire Apparatus Access Road Width and Vertical Clearance:** Fire apparatus access roads shall have an unobstructed driving surface width of not less than 20 feet; 26 feet adjacent to fire hydrants 2022 Oregon Fire Code (OFC) Appendix D 103.1 and an unobstructed vertical clearance of not less than 13 feet 6 inches. 2022 Oregon Fire Code (OFC) Section 503.2.1 and Appendix D103.1
3. **Premise identification:** Buildings shall have address numbers or approved identification placed in a position that is plainly legible and visible from the access road fronting the property. Numbers shall contrast with their background and shall be a minimum of 4 inches height with a minimum stroke width of ½ inch (2022 OFC 505.1)
4. **Gates:** Gates securing fire apparatus roads shall comply with all the following: (2022 OFC D103.5)
 - a. Minimum unobstructed width shall be 16 feet
 - b. Gates shall be set back a minimum of 30 feet from the intersecting roadway.
 - c. Gates shall be of the swinging type or sliding type
 - d. Manual operation shall be capable by one person.
 - e. Electric gates shall be equipped with a means for the operation of fire department personnel.
 - f. Locking devices shall be approved.

All other agencies either failed to comment or stated no objection to the proposal.

7. The replacement dwelling criteria are listed in Section 17.136.030(D) of the Marion County Code (MCC). The criteria are:

D. Dwelling Alteration and Replacement. Alteration, restoration, or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.136.100(C), other than as permitted in MCC 17.136.020(D), when:

1. *The dwelling to be altered, restored or replaced has or formerly had:*
 - a. *Intact exterior walls and roof structure;*
 - b. *Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;*
 - c. *Interior wiring for interior lights; and*
 - d. *A heating system; and*

The applicant provided aerial images of the previously existing home that showed an intact roof and exterior walls. Images also provided the location of the previous septic system and water lines for the previous house, indicating the home had utilities needing running water. The applicants indicated the location of the previous electrical lines, which connected from the house to the detached garage. The applicants have maintained the existing garage in preparation for the replacement homesite. Furthermore, they have provided evidence of maintaining the path connecting the house to the garage. The landscaping and upkeep of the previous footprint indicates the effort to restore the property.

Photographic evidence of a septic system clean out was provided, proving a sanitary system is present. There is evidence provided of interior wiring for lights or a heating system, and the electrical connections are still present from the power pole to the garage. The criterion is met.

2. *In addition to the provisions of subsection (D)(1) of this section, the dwelling to be replaced meets one of the following conditions:*

- a. *If the dwelling was removed, destroyed or demolished:*
 - i. *The dwelling's tax lot does not have a lien for delinquent ad valorem taxes; and*
 - ii. *Any removal, destruction, or demolition occurred on or after January 1, 1973.*
- b. *If the dwelling is currently in such a state of disrepair that the dwelling is unsafe for occupancy or constitutes an attractive nuisance, the dwelling's tax lot does not have a lien for delinquent ad valorem taxes; or*
- c. *A dwelling not described in subsection (D)(2)(a) or (b) of this section was assessed as a dwelling for the purposes of ad valorem taxation:*
 - i. *For the previous five property tax years; or*
 - ii. *From the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010;*

The subject dwelling to be replaced has somewhat been removed from the property. The septic system, garage and electrical connections are still present on the property. The aerial images provided by the applicant show a dwelling on the property in 1981 and 1982. Further, a neighbor who has lived on 60th Ave since 1996 stated that there was once a single-family residence on the subject parcel. This evidence indicates that any removal, destruction, or demolition of the dwelling occurred after January 1, 1973. The Marion County Tax Office provided no comment about the taxes on the property or dwelling, and the dwelling is currently listed by the Tax Assessors office as a 1970 built residence. The criterion is met.

- 3. *The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:*
 - a. *Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or*
 - b. *If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and*
 - c. *If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location;*

The dwelling to be replaced has somewhat been removed from the property. The criterion is met.

- 4. *The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted;*

This will be made a condition of approval.

- 5. *As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, Chapter 462, Section 2 and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling;*

The entire area of the parcel is zoned EFU, therefore the criterion does not apply.

- 6. *A replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling;*

This shall be made a condition of approval.

- 7. *The replacement dwelling must be sited on the same lot or parcel consistent with the following:*

- a. Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and
- b. If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.

The applicant states that they intend to site the replacement dwelling approximately 100 feet west of its previous location due to the maturity of the trees at the previous location and the need to replace the septic system. This location is still clustered within 500 feet of the other nearby structures and is bordered by the southern property line. The criterion is met.

8. Based on the above findings, it has been determined that the existing dwelling was legally established and may be altered, restored and/or replaced.
9. At the time of replacement, the applicant will be required to sign and record a *Farm/Forest and Replacement Residence* Declaratory Statement as a condition of approval. This acknowledges that farm and forest practices conducted in the area may have an adverse impact on a residence, and that this dwelling is a replacement for the previous dwelling and is a condition of approval.
10. Based on the above findings, it has been determined that the proposal complies, or can be conditioned to comply, with the criteria in the Marion County Code and is, therefore, **APPROVED**, subject to conditions.

Brandon Reich
Planning Director/Zoning Administrator

Date: February 13th, 2025

If you have any questions regarding this decision contact Gillian Peden at (503) 566-4165.

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.



ZONING MAP

Input Taxlot(s): 072W04C000200

Owner Name: KNUDSEN, MATT W & KNUDSEN, JULIA
K

Situs Address: 4615 60TH AVE NE
City/State/Zip: SALEM, OR, 97305
Land Use Zone: EFU
School District: SALEM-KEIZER
Fire District: MARION COUNTY NO.1

Legend

-  Input Taxlots
-  Lakes & Rivers
-  Highways
-  Cities



scale: 1 in = 464 ft

DISCLAIMER: This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.