

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. 25-003

APPLICATION: Application of Robert J. Vachter for an administrative review to place a secondary farm dwelling on a tract consisting of 298.12-acres in an EFU (Exclusive Farm Use) zone located at 7292 Torvend RD NE, Silverton (T6S; R1W; Section 19, Tax lots 2300, 2500, 2600; Section 20, Tax Lot 800; Section 29, Tax lots 1200, 1300, 1400; Section 30, Tax lot 600.

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 **May 7th, 2029**, 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 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 applicant shall obtain all permits, including subsurface sewage disposal, required by the Marion County Building Inspection Division.
2. The dwelling shall be continuously occupied by a person or persons who are primarily engaged in working on the farm.
3. A deed restriction shall be filed with the county clerk requiring removal of the home when the occupancy or use no longer complies with the criteria or standards under which the manufactured home was originally approved of if the parcel is sold out of common ownership.
4. The applicants shall sign and record a Farm/Forest & Agricultural Land for Dwelling Qualification Declaratory Statement. The applicants shall record the agreement with the Marion County Clerk's Office after it has been reviewed and signed by the Planning Director prior to building permits being issued.

OTHER PERMITS, FEES AND RESTRICTIONS: This approval does not remove or affect 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 restrictions or conditions thereon. The applicant is advised of the following:

5. The applicants should contact the Mt. Angel 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
6. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #7 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 **May 7th, 2025**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **May 8th, 2025**, unless appealed.

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

1. The subject tract is designated Primary Agriculture in the Marion County Comprehensive Plan and zoned Exclusive Farm Use (EFU).
2. The subject tract is comprised of eight tax lots located south of Nusom Rd NE and east of Scism Rd NE. The two eastern properties are bordered by Torvend Rd NE and the Pudding River. The entire tract is in farm use and consists of flat, open fields. There are two other homes on the tract, each lived in by the applicant and family members who operate the farm. The tax lot the proposed dwelling will be located consists of 31.00 acres and contains farm buildings. The entire eastern portion of the property is within the 100-year floodplain.
3. The parcel to be developed was described in 1964 (Vol. 582 Page 556) and has not changed its configuration since. The other parcels in the tract have been the subject of multiple property line adjustment land use cases. The subject parcel and entire tract are therefore legal for land use purposes.
4. Surrounding properties consist of large parcels involved in farm operations and smaller acreage homesites; all are zoned EFU.
5. The applicants propose a secondary farm dwelling for a family member and a farm worker to reside. Both are principally engaged in farm operations.
6. According to Marion County Soil Survey, the subject tract consists of 86.1% high value soils.
7. Various agencies were contacted with request for comments:

Marion County Building Inspection commented: "Manufactured home placement permit is required to be obtained prior to the installation and set up of a manufactured home. Additional permit(s) may be required for those systems or utilities which extend beyond 30 ft from the home."

Marion County Septic commented: "A Site evaluation is required to establish minimum requirements for an on-site septic system to serve the proposed secondary dwelling. Following the site evaluation, a construction-installation permit will be required for the installation of a system. Any proposed structures must meet a minimum of a 10ft setback to drainlines."

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

Requirements

- A. At the time of application for building permits, an Access Permit will be required to document legal access to Torvend Road.
- B. Transportation System Development Charges (TSDCs) and Parks fee will be assessed at the time of application for building permits.
- C. New utility service extensions such as electric power originating from the public right-of-way to the property may require a permit from MCPW Engineering.

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

8. The criteria for approving a secondary farm dwelling on high value farmland is contained in MCC 17.136.030 (B) (1):

A. *The primary dwelling and the proposed dwelling will each be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm uses, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator.*

The primary dwelling on the farm is occupied by the owner, the principal operator of the farm. The applicants state that the proposed secondary dwelling will be occupied by the applicant's and a hired worker, both engaged in farm work and providing security for the eastern tract, which contains their grass seed crop, cattle, and farm buildings. The criteria are met.

B. *There is no other dwelling on lands in the EFU, SA or FT zone owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm and could reasonably be used as an additional farm dwelling.*

The farm operator owns both the primary dwelling and the secondary dwelling, with all residents primarily engaged in farm operations. The secondary farm dwelling is occupied by the applicants daughter who does the bookkeeping for the farm operation. The applicants state that extensive remodeling is required to accommodate additional workers in these dwellings. Therefore, adding a temporary mobile home on a less occupied section of the property is the sensible option for ensuring security and minimizing land use. The criterion is met.

C. *The proposed dwelling will be located:*

- i. *On the same lot or parcel as the primary farm dwelling; or*
- ii. *On the same contiguous ownership as the primary dwelling, and the lot or parcel on which the proposed dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the same ownership; or*
- iii. *On a lot or parcel on which the primary farm dwelling is not located, when the secondary farm dwelling is limited to only a manufactured dwelling with a deed restriction filed with the county clerk. The deed restriction shall require the additional dwelling to be removed when the lot or parcel is conveyed to another party. Occupancy of the additional farm dwelling shall continually comply with subsection (B)(1) of this section; or*
- iv. *On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable State Building Code or similar types of farm worker housing as that existing on farm operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The county shall require all accessory farm dwellings approved under this subsection to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or*
- v. *On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size and the lot or parcel complies with the gross farm income requirements in subsection (B)(4) of this section, whichever is applicable.*

The proposed dwelling will be situated on the same contiguous tract as the primary dwelling. The applicants indicate this dwelling will be a manufactured home, which will be removed when the parcel is sold. The entire tract meets the income requirements. The criteria are met.

D. *The primary dwelling to which the proposed dwelling would be accessory satisfies the following criteria:*

- i. *On land not identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and the farm operator earned at least \$40,000 gross annual income*

from the sale of farm products, not including marijuana, in the last two years, three of the last five years, or the average of the best three of the last five years; or

- ii. *On land identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and the farm operator earned at least \$80,000 in gross annual income from the sale of farm products, not including marijuana, in the last two years, three of the last five years, or the average of the best three of the last five years;*

The subject tract consists of high value farmland. The applicant has submitted Schedule F and Loss documents for 2022 and 2023 showing income above the required \$80,000 amount for both years. The criterion is met.

- iii. *The primary dwelling is located on a commercial dairy farm as defined in this chapter; and*
 - a) *The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and*
 - b) *The Oregon Department of Agriculture has approved a permit for a confined animal feeding operation under ORS 468B.050 and 468B.200 through 468B.230; and*
 - c) *The Oregon Department of Agriculture has approved a producer license for the sale of dairy products under ORS 621.072;*

The applicant is not a commercial dairy farm and is not applying under this provision. The criterion does not apply.

- E. *In determining the gross income in subsections (B)(4)(a) and (b) of this section, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.*

Livestock were included in these figures. With the cost of purchased livestock subtracted from each year of income, the applicant produced greater than \$80,000 each year in gross income. The criterion is met.

- F. *The dwelling will be consistent with the fish and wildlife habitat policies of the Comprehensive Plan if located in a designated big game habitat area.*

The dwelling is not located in a big game habitat area. The criterion does not apply.

- G. *A deed restriction filed with the county clerk requiring removal of the home or removal, demolition or conversion to a nonresidential use if other residential structures are used, when the occupancy or use no longer complies with the criteria or standards under which the manufactured home was originally approved.*

This shall be made a condition of approval.

- H. *All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions:*

“These covenants, conditions, and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions is located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.”

This shall be made a condition of approval. The criterion is met.

- I. *In addition to the above criteria MCC 17.136.030 requires that a dwelling established in the EFU zone through this process shall comply with MCC 17.136.100(C), which reads as follows:*

Declaratory Statement. For all dwellings, and other uses deemed appropriate, the property owner shall be required to sign and allow the entering of the following declaratory statement into the chain of title of the lot(s) or parcel(s):

“The property herein described is situated in or near a farm or forest zone or area in Marion County, Oregon, where the intent is to encourage, and minimize conflicts with, farm and forest use. Specifically, residents, property owners and visitors may be subjected to common, customary and accepted farm or forest management practices conducted in accordance with federal and state laws that ordinarily and necessarily produce noise, dust, smoke and other impacts. The grantors, including their heirs, assigns and lessees do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling, structure or use in this area, and acknowledge the need to avoid activities that conflict with nearby farm and forest uses and practices, grantors will not pursue a claim for relief or course of action alleging injury from farming or forest practice for which no action is allowed under ORS 30.936 or 30.937.”

This shall be made a condition of approval. The criterion is met.

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

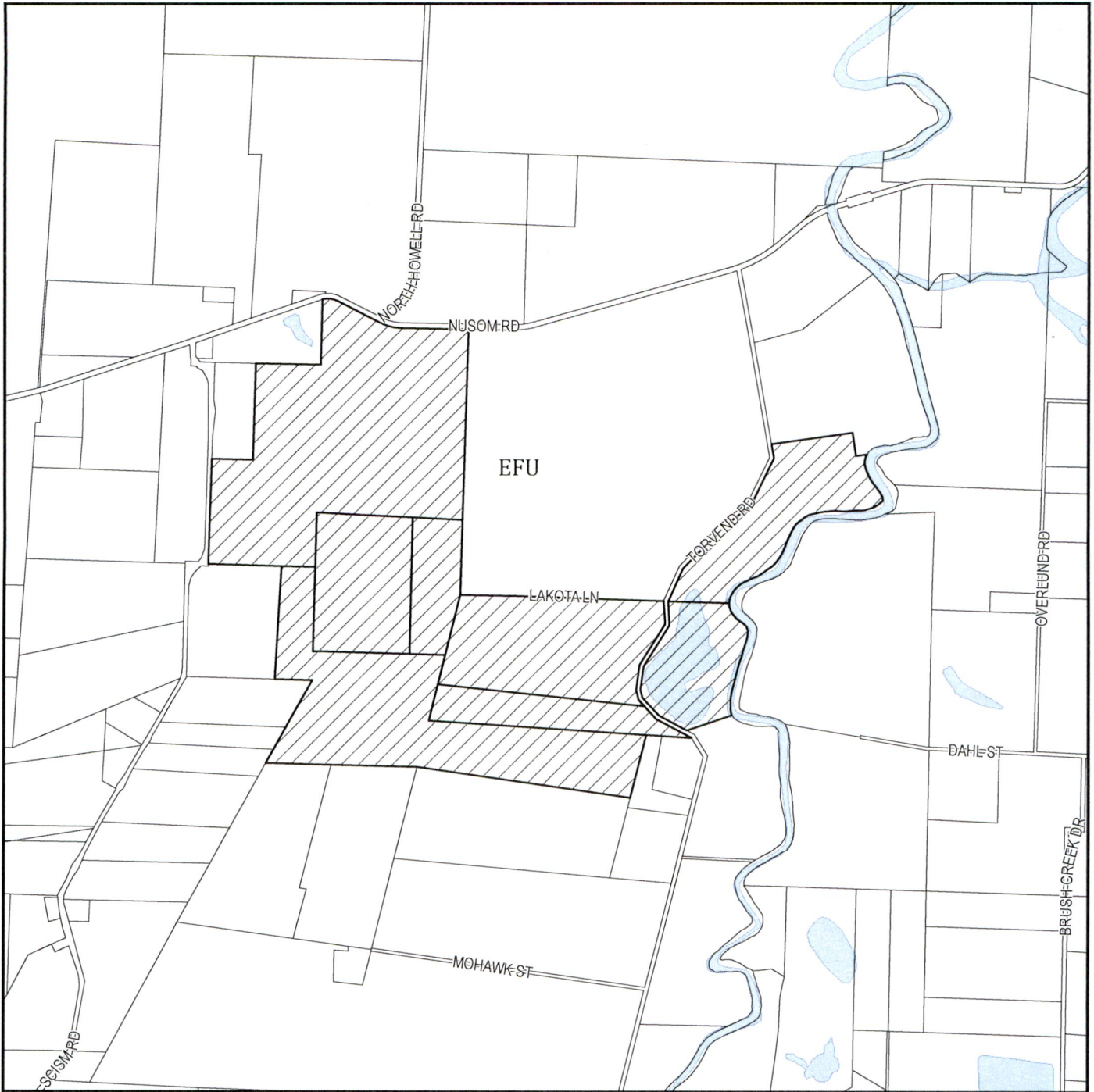
Brandon Reich

Date: April 22nd, 2025

Planning Director/Zoning Administrator

If you have any questions regarding this decision contact Gillian Peden 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.





ZONING MAP

Input Taxlot(s): 061W190002300, 061W190002500, 061W190002600, 061W200000800, 061W290001200, 061W290001300, C

Owner Name: ROBERT J VACHTER RLT 50% &
VACHTER, ROBERT J TRE & LOUISE T
VACHTER RLT 50%
Situs Address: 6781 TORVEND RD NE
City/State/Zip: SILVERTON, OR, 97381
Land Use Zone: EFU
School District: SILVER FALLS
Fire District: SILVERTON

Legend

-  Input Taxlots
-  Highways
-  Lakes & Rivers
-  Cities



scale: 1 in = 1,359 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.