

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. 25-004**

APPLICATION: Application of Dean A McKay Living Trust for an administrative review to place a primary farm dwelling on a 1.50-acre parcel in an EFU (Exclusive Farm Use) zone located in the 6200 block of St. Paul Hwy NE, St. Paul (T4S; R2W; Section 21; Tax lot 800).

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 1st, 2027**, 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, as required by the Marion County Building Inspection Division.
2. The applicants shall sign and submit a Farm/Forest Declaratory Statement.
3. The applicants shall sign and submit a Use of Agriculture Land for Dwelling Qualification OAR 660-033-0135 Declaratory Statement.
4. The applicants shall record a new perimeter description deed combining parcels 800 (tax account 512138) and 900 (tax account 512139) into one parcel prior to recording the declaratory statements.
5. Based on the proposed access, the address of the proposed farm dwelling will be: **6402 St Paul Highway NE Saint Paul, OR 97137**. This is subject to change if the location of the driveway changes.

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. It is recommended that the agencies mentioned in Finding #5 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

6. The applicants should contact the St. Paul 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 Marion County Land Development and Engineering (503-584-7714) for additional Engineering 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 \$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 **May 1st, 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 2nd, 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 correspondingly zoned EFU (Exclusive Farming Use). The purpose of the EFU zone is to provide areas for continued practice of commercial agriculture. These areas are generally well suited for large-scale farming. The EFU zone is also intended to allow other uses that are compatible with agricultural activities, to protect forests, scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water and land resources of the county.
2. The subject property is located approximately two miles east of the city of St. Paul along St. Paul Highway NE and another 1,200 feet south of the highway. The nearest intersection is at the corner of Highway 219 (French Prairie RD NE) and the St. Paul Highway NE. The parcel is a triangular shaped 3.52-acres and appears to be completely utilized for agricultural purposes. Tax accessor data does not indicate that there are any structures nor dwellings on the property.

The subject 3.52-acre parcel is comprised of two tax lots: TL800 and TL900. TL900 (tax account 512139) was created by Lot Line Adjustment 87-032 (Case LLA87-032) as a 2.02-acre parcel and has remained in its current configuration since. Lot Line Adjustment 87-033 (Case LLA87-033) was intended to combine parcel 1000 and parcel 900 but was never implemented. Planning staff concludes that parcel 900 is separate lot consisting of 2.02 acres and is legal for land use purposes.

The property referred to as tax account 512138 or parcel 042W210000800, referred to here as TL800, is described by a 1983 deed (Reel 306, Page 1314) as parcel of land that is comprised of both TL800 and TL900, an area of approximately 3.5 acres. According to Marion County Tax Accessor data, TL800 is 1.5 acres and TL900 is 2.02 acres. Planning staff were not able to locate deeds prior to 1977 that describe the land in its current configuration. The Planning Director made the determination that TL800 and TL900 are legal for land use purposes; but as a condition of approval for the Primary Farm Dwelling, the applicants shall record a new perimeter description deed before building permits are issued.

3. All adjacent parcels are in agricultural use. There are a few nearby farms that also include dwellings.
4. The applicants are proposing to place a primary farm dwelling on the subject property located on the portion described as parcel 800 (tax account 512138).
5. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Building Inspection commented:

Permit(s) are required to be obtained prior to development of a dwelling and/or utilities installation on private property. No concerns with proposed home location.

Marion County Septic commented:

A Site Evaluation is required to determine minimum requirements of a system. Following an approved site evaluation, a construction installation permit is required to install the onsite wastewater system.

Marion County Land Development and Permits (LDEP) commented:

ENGINEERING REQUIREMENTS

- A. At the time of application for building permits, an Access Permit will be required to document legal access off the public R/W. Improvements to the St Paul Hwy access approach such as addition of gravel and culvert replacement may be required based upon inspection results.
- 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 St Paul Hwy public right-of-way require a permit from MCPW Engineering.

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

- 6. Chapter 17.136.030(A) of the Marion County Code (MCC) allows for the construction of a single-family dwelling in conjunction with farm use with filing of the Declaratory Statement(s) in MCC 17.136.100(C). The dwelling will be considered customarily provided in conjunction with farm use when the following criteria are met.

- (1). It is located on high-value farmland as defined in MCC 17.136.140(D) and satisfies the following standards:*

The subject parcel (Tax lot 800 & 900) are made up of 98.7% high value soils. The criteria under 17.136.030(A)(1) are therefore the correct criteria to apply.

a. There is no dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use;

The are no dwellings on the subject parcels. However, there are two additional properties held under the same ownership. These two properties do not currently contain dwellings and appear to be in farm use.

According to Tax Accessor Data:

The ownership listed as: DEAN A MCKAY LT & MCKAY, DEAN A TRE, consists of four properties in Marion County:

Tax Account: 512138 (TL 800): No dwellings. Subject parcel.

Tax Account: 512139 (TL 900): No dwellings. Subject parcel.

Tax Account: 519929 (Parcel 042W210000800). No dwellings.

Tax Account: 519928 (Parcel 063W24A001500). No dwellings.

According to the Marion County Planning Director, the criterion is met.

b. The farm operator earned on the subject tract in the last two years, three of the last five years, or the average of the best three of the last five years at least \$80,000 in gross annual income from the sale of farm products, not including marijuana. In determining gross annual income from the sale of farm products, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented, shall be counted;

The applicant states that he is the owner and operator of Advanced Ornamentals Inc., a nursery business that has used the subject parcels to grow nursery stock. The subject parcels have been in use for at least two years in the production of nursery stock. The property has been in the ownership of the Dean A. McKay Living Trust since at least 2014. Similarly, the property has been in the McKay family since at least 1983.

The applicant presented their 2022 and 2023 Schedule F tax forms, claiming that the income came from nursery stock from the subject parcels (referred to as “4 Corners – 03”). These forms confirm that the applicant did earn on the subject tracts over \$80,000 of gross income from the sale of nursery stock grown and/or harvested on the subject parcels. The 2022 gross income was reported as \$1,846,202 and the 2023 gross income was reported as \$1,524,328. Sales receipt ledgers provided indicated that the subject parcels were responsible for \$130,122 of the income in 2022 and \$82,596 in 2023. The applicant also acknowledged that surrounding parcels are also used for nursery stock, grass seed, and other agricultural products.

The financial documents provided by the applicant, along with his written statements show that the applicant is the farm operator who has earned on the subject parcel in the last two years at least \$80,000 annually from the sale of farm products grown on the subject parcel. The criterion is met.

c. The subject tract is currently employed for the farm use that produced the income required in subsection (A)(1)(b) of this section;

The applicant attests that he will continue to farm the subject parcels. The nursery stock was grown or harvested on the subject parcel and will continue to be used for similar activities. The subject tract is therefore currently employed for the farm use that produced the income required by the previous criterion. This criterion is met.

d. The proposed dwelling will be occupied by a person or persons who produced the commodities which generated the income in subsection (A)(1)(b) of this section; or

The applicant proposes a dwelling for his family to be able to live in and manage nursery operations more effectively. The dwelling is specifically related to the agricultural production generating the income on this property and will be occupied by his family member, Sarah McKay, who will continue to produce the nursery stock which generates income on this farm. The criterion is met.

A declaratory statement shall be recorded per MCC 17.136.030(A)(6).

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

It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.

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.

A declaratory statement (*Use of Agriculture Land for Dwelling Qualification*) attaching these CCRs to the deed will be a condition of approval. The criterion is met.

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

Brandon Reich
Planning Director/Zoning Administrator

Date: April 16th, 2025

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.



ZONING MAP

Input Taxlot(s): 042W210000800

Owner Name: DEAN A MCKAY LT & MCKAY, DEAN A TRE

Situs Address: (No Situs Address)

City/State/Zip:

Land Use Zone: EFU

School District: ST PAUL

Fire District: ST PAUL

Legend



Input Taxlots



Lakes & Rivers



Highways



Cities



scale: 1 in = 444 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.