

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. 25-005**

APPLICATION: Application of Lara and Micah Tiffin for an administrative review to replace a dwelling on a 20.97-acre parcel in an SA (Special Agriculture) zone located at 7815 Alexander LN SE, Salem (T8S; R3W; Section 27C; Tax lot 2100).

DECISION: The Planning Director for Marion County has determined that **the residence was legally established and can be replaced.**

EXPIRATION DATE: This decision is valid only when exercised by **May 1st, 2029**, 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 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. If replaced, the existing dwelling must be removed, demolished, or converted to an allowable non-residential use within three months of occupancy of the replacement dwelling.
3. Prior to issuance of any building permit for a new dwelling, the applicants shall sign and submit a 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 (Declaratory Statement enclosed).
4. Prior to issuance of any building permit for a new dwelling, the applicants shall sign and submit a Declaratory/Farm-Forest 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 (Declaratory Statement enclosed).
5. The applicants shall sign and submit a Sensitive Ground Water Overlay Statement acknowledging that the overlay zone has been applied to areas designated by the Oregon Water Resources Commission as having groundwater availability concerns. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director (Declaratory Statement enclosed).

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

6. The applicants should contact the Salem Suburban 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 #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 **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 Special Agriculture in the Marion County Comprehensive Plan and correspondingly zoned SA (Special Agriculture). The SA (special agriculture) zone is applied in areas characterized by small farm operations or areas with a mixture of good and poor farm soils where the existing land use pattern is a mixture of large and small farm units and some acreage homesites. This zone allows the flexibility in management needed to obtain maximum resource production from these lands. It emphasizes farm use, but forest use is allowed and protected from conflicts. The SA 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 one quarter of a mile south of the intersection of Hylo Road SE and Alexander Lane SE and contains an 1890 dwelling and several accessory buildings. The access to the property is from the non-county portion of Alexander LN SE.

Staff research indicates that the subject property is comprised of three parcels of the *1891 Sunnyside Fruit Farms* #6 subdivision: lots 7, 8, and 10. Lot 7 is separated from lots 8 and 10 by Alexander LN SE. These lots were recorded on survey S02-089 from 1891. Marion County Tax Assessor information indicates that the dwelling on lot 8 was built in 1890. At some point, lots 8 and 10 were joined as one tax lot (561411). Tax lot 7 is currently a separate tax lot (561410). The dwelling appears to have been established completely on lot 8 and is therefore considered a legally established dwelling and the property is legal for land use purposes.

3. Surrounding land uses consist mainly of small acreage agricultural and residential properties with single family dwellings and related accessory buildings in the similar Special Agriculture (SA) zone. Lot sizes vary between 1.5-acres and 12 acres. Further to the south the predominate zone is Exclusive Farm Use (EFU) and appears to be engaged in large scale agriculture.
4. The Soil Survey of Marion County Oregon tool indicates that approximately 70% of the subject property soils are high value soils. The majority of the non-high values soils are in lot 7 (81% non-high value).
5. The applicant is proposing to replace the existing dilapidated dwelling with a new dwelling in a location west of the existing site, further away from the roadway.
6. Various agencies were contacted about the proposal and given an 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 to document legal access off the public R/W.
- B. Transportation System Development Charges (TSDCs) and Parks fee will be assessed at the time of application for building permits.
- C. Any new utility service extensions such as electric power originating from within either the Phoenix Avenue and/or Alexander Lane public rights-of-ways to the property require permits from MCPW Engineering.
- D. Alexander Lane is a non-county maintained Local Access Road. Maintenance of same is left to the discretion of adjacent road users.

Marion County Building Inspection commented:

Permit(s) are required to be obtained prior to the development of a dwelling and utilities installation on private property.

Marion County Assessor's Office had no comments.

The Salem Fire Department commented:

Fire department access and water supply will be required per the Oregon Fire Code.

All other commenting agencies either stated no objection to the proposal or did not comment.

7. The replacement dwelling criteria are being applied directly from state law, ORS 215.291, it reads as follows:

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;*

The evidence provided regarding the existence of a dwelling on the subject property is as follows:

The dwelling in question is listed by the Marion County Tax Assessor as built in 1890. Deed research by staff determined that the parcel of land the dwelling is situated on was created by the *Sunnyside Fruit Farms Number 6* plat in 1891 and is shown on survey S02-089. The property consists of three lots of said plat: Lots 7, 8, & 10. The dwelling to be replaced is currently on lot #8; lot 10 is adjoining to the south. Lot 7 is located on the east side of Alexander LN SE. At some point in time, lots 8 and 10 were combined into one tax lot but remain two separate parcels of land. Lot 7 remains a separate tax account under the same ownership. Therefore, the dwelling is considered legally established, and the three parcels are legal for land use purposes.

According to the applicant, and supported by photographs and commercially available satellite imagery, the dwelling to be replaced has an intact roof and exterior walls. The applicant submitted images showing that there are portions of the existing dwelling that are collapsing and rotting from years of neglect. The applicant states that there is internal plumbing for toilet and bathing facilities inside the dwelling but are no longer in use. The applicant states that there is existing wiring for interior lighting and wall plugs. The applicant also provided photographic evidence of a power meter base outside of the house on the south end of the home and evidence of electrical power lines entering the home. The lot also has a power utility pole on the southeast side of the roadway.

which provided power to the dwelling. Currently available county and commercial satellite and street view imagery supports this assertion. The applicant states that the heating system was an oil heating system that had a tank outside of the building (imagery provided). The applicant further states that there was a full kitchen used for cooking and preparation of food. The applicant included a water right for both domestic and agricultural use to show that there is a potable water supply available.

Altogether, these pieces of evidence support the conclusion that there is a legitimate dwelling on the property that meets the definition of a dwelling per Marion County code. Given that the dwelling existed prior to implementation of Marion County's comprehensive plan, the dwelling was therefore legally established. The criteria are met.

2. *An application under this section must be filed within three years following the date that the dwelling last possessed all the features listed above.*

The dwelling the applicant is proposing to replace is still standing on the property and was not demolished or removed. The applicant states that the dwelling is currently in a state of disrepair which is unsafe for occupants and does not have a lien for delinquent ad valorem taxes. The criteria are met

3. *Construction of a replacement dwelling approved under this section must commence no later than four years after the approval of the application under this section becomes final.*

This shall be a condition of approval.

4. *The dwelling to be replaced shall meet one of the following conditions;*

- a. *If the value of the dwelling to be replaced was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction, or demolition and since the later of:*
 - i. *Five years before the date of the destruction*
 - ii. *The date that the dwelling was erected upon or fixed to the land became subject to property tax assessment; or*
- b. *The value of dwelling to be replaced has not been eliminated due to destruction or demolition, and the dwelling was assessed as a dwelling for the purposes of ad valorem taxation since the later of:*
 - i. *Five years before the date of the application; or*
 - ii. *The date that the dwelling was erected upon or affixed to the land and became subject to property tax assessment.*

The dwelling to be replaced is still standing on the property and has not been demolished. The Marion County Tax Assessor's office provided no comments about the property, but tax assessor records indicate that dwelling is still on the tax roll. The criteria do not apply.

5. *For replacement of a lawfully established dwelling under this section:*

- a. *The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055.*
- b. *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.*

The applicant states that the intention is to demolish and remove the current dwelling after a replacement dwelling is approved. The applicants shall be required to sign a Replacement Dwelling Declaratory Statement prior to being issued building permits. The criteria are met.

- c. *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 ORS 215.291 and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

The applicant's property is completely in the SA zone and plans to establish a replacement dwelling in a new location within approximately 200 feet of the existing dwelling. The proposal is to replace only one dwelling and the applicant understands the required condition of approval. However, the criterion does not apply

d. 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.

e. The replacement dwelling must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if the dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or if no statewide map of wildfire risk has been adopted.

The applicant understands that the replacement dwelling must comply with the requirements within the building, plumbing, sanitation, and other codes needed for the placement of a new dwelling. These shall be conditions of approval. The criteria are met.

8. At the time of replacement, the applicant will be required to sign and record a Farm/Forest 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.
9. 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: April 16th, 2025

If you have any questions regarding this decision please 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): 083W27C002100

Owner Name: TIFFIN, MICAH J & TIFFIN, LARA CHANDLER

Situs Address: 7815 ALEXANDER LN SE

City/State/Zip: SALEM, OR, 97306

Land Use Zone: SA

School District: SALEM-KEIZER

Fire District: SALEM SUBURBAN

Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



scale: 1 in = 496 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.