

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  
CONDITIONAL USE CASE NO. 20-013**

**APPLICATION:** Application of Leesa Walch for a conditional use to place a temporary dwelling for medical hardship purposes on a .62 acre parcel in an FT (Farm Timber) zone located at 19788 Winters Hill Rd., Silverton. (T7S; R1E; Section 35B; tax lot 0900).

**DECISION:** The Planning Director for Marion County has **APPROVED** the above-described Conditional Use application subject to certain conditions.

**EXPIRATION DATE:** This conditional use permit is valid only when exercised by **June 5, 2022.** The effective period may be extended for an additional year subject to approval of an extension (form available from the Planning Division). **Additional extensions may not be granted if the regulations under which this decision was granted have changed since the original approval.**

**RENEWAL:** **This permit may be renewed for successive one year periods if the applicant submits to the Planning Division, on an annual basis, a new Primary Care Provider Certificate which indicates that the hardship situation continues. The Planning Division will mail renewal forms to the property owner approximately two months prior to permit expiration.**

**CONDITIONS:** Once the approved use is established the following conditions must be continually satisfied:

1. The applicants are advised that this permit is granted for a period of one year and must be renewed for successive one year periods upon submittal of a Primary Care Provider Certificate verifying that the hardship conditions continue. In addition, for shared septic systems every five years the Marion County Building Inspection Division requires a septic evaluation prior to renewal of hardship conditional uses.
2. The applicant is advised that the Manufactured Dwelling Removal/RV Disconnect Agreement, which specifies that placement of the manufactured dwelling or RV, is temporary and that it will be removed /disconnected after the hardship ceases.
3. Prior to issuance of a building permit, the applicant shall sign and submit a Farm/Forest Declaratory Statement (enclosed) 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.
4. The applicant shall obtain approval for all required permits from the Marion County Building Inspection Division.

**ADDITIONAL CONDITIONS:** Once the approved use is established the following conditions must be continually satisfied:

5. The proposed manufactured home/RV shall use a licensed pumping truck to pump RV out, or RV must be taken off site to dump sewage. RV may not use existing onsite septic without an authorization inspection..
6. A setback of 20 feet shall be maintained between the manufactured home/RV and all property lines.
7. The manufactured home/RV shall be located as shown on the applicant's site plan.
8. The applicants are advised that this permit is granted for a period of one year **and must be renewed for successive one year periods** upon submittal of a Physician's Certificate verifying that the hardship conditions continue

to exist. In addition, every five years the Marion County Building Inspection Division requires a septic evaluation for shared systems prior to renewal of hardship conditional uses.

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

9. The applicants should contact the Silverton Fire District #1 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.

**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 condition or deny the application. Anyone who disagrees with the Director's decision may request that the application be considered by a Marion County hearings officer after a public hearing. The applicant may also request reconsideration (one time only and a fee of \$200) 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. Requests for reconsideration, or consideration by a hearings officer, 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 **June 5, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective, **June 6, 2020** unless further consideration is requested.

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

1. The subject property is designated Farm Timber in the Marion County Comprehensive Plan. The major purpose of this designation and the corresponding FT zone is to provide areas for continued practice of commercial agriculture and forestry operations. A temporary manufactured home/RV under hardship conditions may be approved as a conditional use provided the need is justified and the residence will not have a detrimental impact upon the existing or potential farming and timber activity in the area.
2. The property is located at the intersection of Winters Hill Rd. and Highway 214. The property contains an existing dwelling designated as the primary dwelling, accessory structures, a well and septic system. The subject property has legally existed since 1962, with a dwelling lawfully placed in 1935. As such, the property is considered a lawful parcel.
3. Surrounding properties consist of parcels zoned FT, Farm Timber of similar and smaller size. These parcels are in various types of farm/timber use.
4. Soil Survey of Marion County Oregon indicates 39.9% of the subject property is composed of high-value farm soils, and the remaining 60.1% is non high-value farm soils.
5. A signed Primary Care Provider Certificate has been submitted for Leesa Walch indicating they have medical conditions that preclude them from maintaining a complete separate and detached dwelling apart from their family.
6. Marion County Building Inspection Onsite Wastewater Specialist commented that septic authorization inspection is required if applicant wishes to tie into existing system.

Marion County Building Inspection commented that a building permit is required for construction or placement of a manufactured home.

All other commenting agencies stated no objection to the proposal.

7. In order to approve a manufactured home/RV under hardship in a FT zone, the applicant must demonstrate compliance with the specific criteria listed in MCC 17.139.040. These include:
- (a) *For the purposes of this subsection "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.*
  - (b) *A doctor of medicine or licensed psychologist shall sign a statement indicating the physical or mental condition that prevents the person(s) with the hardship from providing the basic self-care needed to live on a separate lot. The statement shall also attest that the physician or licensed psychologist is convinced the person(s) with the hardship must be provided the care so frequently or in such a manner that the caretaker must reside on the same premises.*
  - (c) *Those providing the needed assistance shall be related by blood, marriage or legal guardianship and reside in another residence on the property. If evidence is presented that there is no family member able to provide the needed care the caretaker may be someone else provided the property is located in a zone other than the EFU, SA, FT or TC zones. In the EFU, SA, FT and TC zones, occupancy of the hardship mobile home or recreational vehicle is limited to the term of the hardship suffered by the existing resident or a relative as defined in ORS 215.283.*
  - (d) *Those providing the care must show that they will be available and have the skills to provide the primary care required by the doctor or psychologist.*
  - (e) *One of the residences shall be removed from the property within 90 days of the date the person(s) with the hardship or the care provider no longer reside on the property. In the case of a recreational vehicle it shall be rendered uninhabitable by disconnection from services. An agreement to comply with this requirement shall be signed by the property owner and the care providers. Oregon Department of Environmental Quality removal requirements also apply.*
  - (f) *The manufactured home or recreational vehicle shall to the extent permitted by the nature of the property and existing development:*
    - 1) *Be located as near as possible to other residences on the property;*
    - 2) *On EFU, SA, FT and TC zoned property, be located on the portion of the property that is least suitable for farm or forest use, if it is not feasible to locate it near an existing residence;*
    - 3) *Not require new driveway access to the street;*
    - 4) *Be connected to the existing wastewater disposal system if feasible. The disposal system shall be approved by the county sanitarian.*
  - (g) *The use is intended to be temporary, shall be subject to review every year, and shall continue to meet the above criteria in order to qualify for renewal.*

A Medical Care Provider Certificate was submitted with the application that establishes Leesa Walch circumstances constitute a medical hardship. She requires assistance and is not able to fully perform day-to-day duties in caring for herself. Chelsea Down will live in the hardship dwelling and provide the care that, Leesa Walch, requires. The evidence also indicates the proposed manufactured home/RV would be relatively temporary in nature. The requirement that a Manufactured Dwelling/RV Removal or Disconnect Agreement be filed by the applicant ensures that the manufactured home/RV will be removed from the property/ RV removed or disconnected and no longer used for residential purposes when the hardship ceases. The proposal satisfies the criteria #6(a), (b), (c), (d), (e), and (f), the criterion in #6(g) can be made a condition of any approval.

8. The FT zone, in MCC 17.139.050(A), contains general criteria that apply to all conditional use proposals. Those requirements are:
- (a) *The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on surrounding lands devoted to farm or forest use. Land devoted to farm or forest use does not include farm or forest use on lots or parcels in exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.*
  - (b) *The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.*
  - (c) *Adequate fire protection and other rural services are or will be available when the use is established.*
  - (d) *The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, and air and water quality.*
  - (e) *Any noise associated with the use will not have a significant adverse impact on nearby land uses.*
  - (f) *The use will not have a significant adverse impact on potential water impoundments identified in the comprehensive plan, and not create significant conflicts with operations included in the comprehensive plan inventory of significant mineral and aggregate sites.*

The proposal will allow the placement of a temporary manufactured home or RV on the property. There is no evidence to indicate that the temporary dwelling will have any adverse effects on surrounding properties in farm use. There is no evidence to indicate that the temporary dwelling will significantly increase traffic on area roads. Fire protection is provided by the Silverton Fire District and the Marion County Sheriff provides policing. Other rural services, such as; well and septic, are available on the property. Due to the temporary and residential nature of the use, the placement of a manufactured home or RV will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality, create a significant amount of noise, impact potential water impoundments or conflict with mineral and aggregate sites. For these reasons, the proposal satisfies the criteria #8(a), (b), (c), (d) and (e).

9. Based on the above findings, it has been determined that the applicants' request meets all applicable criteria for placing a temporary manufactured home/RV for medical hardship purposes and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore  
Planning Director

Date: May 21, 2020

If you have any questions regarding this decision contact Lindsey King at (503) 566-4162

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.