

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. 14-014**

APPLICATION: Application of Myron and Diane Kuenzi for an administrative review to establish a primary farm dwelling on an 89 acre parcel in an EFU (Exclusive Farm Use) zone located in the 6900 block of State St., Salem. (T7S; R2W; [Section 34; tax lot 300] and [Section 34B; tax lot 100]).

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 **June 20, 2016** 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: The following conditions must be met before a building permit can be obtained or the approved use established:

1. The applicants shall obtain all permits, including subsurface sewage disposal, required by the Marion County Building Inspection Division.
2. Prior to issuance of any building permit for a new dwelling, the applicants shall sign and submit a Declaratory/Farm-Forest 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.
3. Prior to the final occupancy the applicant must provide evidence, to the satisfaction of the Planning Director, that the dwelling is, or will be, occupied by the owner or an employee of the farm.

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:

4. The applicants should contact Marion County 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. Contact Paula Smith at MCFD#1 at (503) 588-6513 for more information.

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 4:00 p.m. on **June 20, 2014**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or visit the office. This decision is effective on **June 21, 2014** 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 property is located on the east and west side of 70th Av SE at its southern intersection with State St. The property was created in its current configuration by Property Line Adjustment Case #14-007.
3. Surrounding uses to the north, west and east consist of properties in farm use in an EFU zone. Surrounding uses to the south and southwest consist of acreage residential homesites in an AR (Acreage Residential) zone and SA (Special Agriculture) zone.
4. The applicants are proposing to place a primary farm dwelling on the property.
5. Soil Survey of Marion County Oregon indicates 99% of the subject property is high-value farm soils.
6. Public Works Land Development and Engineering Permits commented on requirements that are not part of the land use decision and available for review in the planning file.
Marion County Building Inspection commented that permits will be required.
7. Primary farm dwellings not located on high-value farmland may be approved when the standards in Chapter 17.136.030(A)(3) of the Marion County Code (MCC) are satisfied. These standards include:
 - A. *There is no other 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;*
 - B. *The parcel on which the dwelling will be located is at least 160 acres;*
 - C. *The subject tract is currently employed for farm use, as defined in ORS 215.203;*
 - D. *The dwelling will be occupied by a person or person who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing, or caring for livestock, at a commercial scale.*
8. This is the only property owned solely by Myron and Diane Kuenzi; there are no existing dwellings on the subject property or other property owned by Myron and Diane Kuenzi. The criterion in #7(a) is met. The applicants provided evidence that in 2012 and 2013 the subject property produced farm income valued at more than \$80,000 in each of those years. The criterion in #7(b) is met. The property is currently being used to grow nursery trees and grass seed. As the principal farm operator, the applicants intend to live in the dwelling once it is complete. The criterion in #7(c)(d) is met.
9. Although the primary farm dwelling is approved, the applicants will be required to sign and record a Farm/Forest Declaratory Statement prior to placing a new dwelling on the property as a condition of approval. This acknowledges the impacts of farm and forest management practices conducted in the area.
10. Based on the above findings, it has been determined that the property meets the criteria for establishing a farm dwelling and the request, therefore, is **APPROVED**, subject to certain conditions.

Warren Jackson
Director-Planning Division

Date: June 5, 2014

If you have any questions regarding this decision contact Patty Dorr at (503) 588-5038.