

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.

**NOTICE OF DECISION
ADMINISTRATIVE REVIEW CASE NO. 10-19**

APPLICATION: Application of Joanne Anderson for an administrative review to replace four of the existing manufactured homes on a 6 acre parcel in an EFU (Exclusive Farm Use) zone located at 9494-9604 Broadacres Rd NE, Hubbard. (T4S; R1W; Section 31; tax lot 500).

DECISION: Notice is hereby given that the Planning Director for Marion County has determined that the existing residences are a legally established dwelling that can be altered, restored, or replaced.

EXPIRATION DATE: This decision is valid only when exercised by JULY 13, 2014 (four years from the effective date of the decision) unless an extension is granted. The effective period of this application 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. (Extension form available from the Planning Division).

WARNING: A decision approving the proposed uses is for land use purposes only. Due to septic, well and drainfield replacement areas, this parcel may not be able to support the proposed activities. To be sure the subject property can accommodate the proposed use the applicant needs to check with 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 for each of the dwelling at the time of replacement.
2. If replaced, each existing dwellings must be removed, demolished, or converted to an allowable non-residential use within three months of occupancy of the replacement dwelling.
3. **Within three months of occupancy of each replacement dwelling, the existing mobile home must be removed. In lieu of removal, the applicant may:**
 - (a) File a declaratory statement restricting use of the replaced dwelling for residential purposes; and
 - (b) Submit a site plan showing location of all structures on the property and identifying which structure is the replaced dwelling.

4. Prior to issuance of any building permit, 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. When each dwelling is replaced, the applicants shall sign and submit a Replacement Residence Declaratory Statement to the Planning Division for the dwelling, prior to issuance of permits. 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 Woodburn 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. Paula Smith at (503) 588-6513 is the contact person.
7. The applicant is advised that the engineering requirements, listed as A through D in the comments received from LDEP in item #6 of the Findings and Conclusions section below, shall be met to their satisfaction.

APPEAL PROCEDURE: The Marion County Zoning Code provides that Administrative Review 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. Any interested person who disagrees with the Director's decision may appeal the decision to the Marion County Hearings Officer. The applicant may also request a reconsideration (one time only and a fee of \$200.00) 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 (Appeal Form available from the Planning Division) and be received in the Marion County Planning Division, 555 Court St. NE, 2nd Floor, Salem, by 4:00 p.m. on JULY 13, 2010. Please note an appeal directly to the Land Use Board of Appeals is not allowed under ORS 197.830. If you have any question about this application or the decision please call 588-5038 or visit the County Planning Office at the above address. This decision is effective JULY 14, 2010 unless appealed.

FINDINGS AND CONCLUSIONS: The findings and conclusions on which the Director based his decision are noted below.

1. The subject property is designated Primary Agriculture in the Marion County Comprehensive Plan and is zoned EFU (EXCLUSIVE FARM USE). The intent of both this designation and zone is to promote and protect commercial agricultural operations.

2. The subject property is located on the south side of Broadacres Road, approximately 300 feet east of the intersection with Butteville Road. The property contains six manufactured homes and three site built dwellings, accessory structures, well and septic system. Deed research shows the parcel described in the same configuration dating to 936, and the property is considered legal for land use purposes.
3. Properties to in all directions are zoned EFU and are predominantly in farm production.
4. According to the Soil Survey of Marion County Oregon 100% of the subject property is composed of high-value farm soils.
5. The applicants are proposing to replace four existing manufactured dwellings with new dwellings.
6. Marion County Public Works provided a list of requirements for development at the site and indicated the following comments are informational only regarding County requirements lettered A through D, which the applicant must address if the proposal is approved. They are not part of the land use decision-making process.
 - A. In accordance with Marion County Driveway Ordinance #651, a driveway "Access Permit" for access to the public right-of-way will be required upon application for a building permit for a new dwelling. Driveways must meet sight distance, design, spacing, and safety standards. An Access Permit is required even if a driveway connection already exists.
 - B. There are currently a total of seven (7) accesses to the subject property. Three (3) accesses had been approved under Access Permit #D07-256 for 9494 Broadacres Road NE. Additionally, an Access Review had been performed thereafter for 9515 - 9604 Broadacres Road NE that resulted in a reduction from seven (7) accesses down to four (4) for that address range. No additional accesses to Broadacres Road NE will be allowed.
 - C. It is the responsibility of the Applicant to preserve and protect the current Pavement Condition Index (or PCI) rating and the structural integrity of adjacent county roads to the satisfaction of Marion County Public Works during transport of materials. Failure to preserve and protect the road may result in the applicant being responsible for replacing or reconstructing the damaged road at his/her own expense.
 - D. The subject property is within the unincorporated area of Marion County and will be assessed Transportation System Development & Parks Charges (SDCs) upon application for building permits, per Marion County Ordinances #00-10R and #98-40R, respectively. Should the replacement dwellings be determined to be replacing existing established uses, then no SDCs will be charged if the proposed dwellings are placed within one (1) year from the last verifiable date of occupation of the previous dwellings.

Marion County Building Inspection commented that building permits and septic record reviews would be required.

7. Chapter 17.136.030(D) MCC allows the alteration, restoration, or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.136.100(C), other than as permitted in MCC 17.136.020(D), when the dwelling:

- (a) Has intact exterior walls and roof structure;
- (b) Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
- (c) Has interior wiring for interior lights;
- (d) Has a heating system; and
- (e) In the case of replacement, the replaced dwelling is removed, demolished or converted to an allowable non-residential use within three months of the occupancy of the replacement dwelling.
- (f) For the case in which the applicant has requested a deferred replacement permit, the dwelling to be replaced shall be removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The 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 consideration. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.
- (g) If the dwelling to be replaced is located on a portion of the lot or parcel not zoned EFU, SA or FT the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling.

8. The manufactured homes on the property are as follows:

9414 Broadacres:	2007 Homebuilders NW double-wide
9524 Broadacres:	1957 Melody single-wide
9544 Broadacres:	1969 Moduline single-wide
9584 Broadacres:	1973 Commodore single-wide
9594 Broadacres:	1974 Guerdon double-wide
9604 Broadacres:	1978 Liberty single-wide

In addition to these manufactured homes, there are three site-built dwellings on the property addressed at 9494, 9570 and 9574 Broadacres, all built between 1920 and 1950. 9414 Broadacres was a site built dwelling that was destroyed by fire and replaced in 2010 with a

manufactured home. The manufactured homes at 9524, 9544, 9584, and 9594 Broadacres are proposed to be replaced with this application.

Aerial photography from 1976 and 1978 shows the same number of dwellings in the same configuration as present day. The manufactured home at 9604 Broadacres, the 1978 manufactured home, appears to have been a replacement for an earlier manufactured home, and does not require an administrative review to replace.

Based on this research, it appears that all of the manufactured homes and site built homes were legally placed on the property, and can be replaced.

9. Based on a site inspection, the existing dwellings have intact exterior walls and roof structures. It also appears the residences contain the necessary kitchen and bathroom facilities. In addition, the dwellings have indoor electricity and a heating system. The proposal meets the standards outlined in 7(a), (b), (c), and (d) above.
10. The requirement identified in 7(e) can be made a condition of any approval. The applicant did not request a deferred replacement; therefore, the criterion in 7(f) is not applicable.
11. Based on the above discussion, Planning Division staff concludes that all existing dwellings were legally established and may be altered, restored and/or replaced.
12. Although the replacement dwelling is approved, the applicants will be required to sign and record a Farm/Forest Declaratory Statement as a condition of approval. This acknowledges the impacts of farm and forest management practices conducted in the area.

Sterling Anderson
Director-Planning Division

Date: 6/26/10

If you have any questions please contact Jennifer Brown at 588-5038.

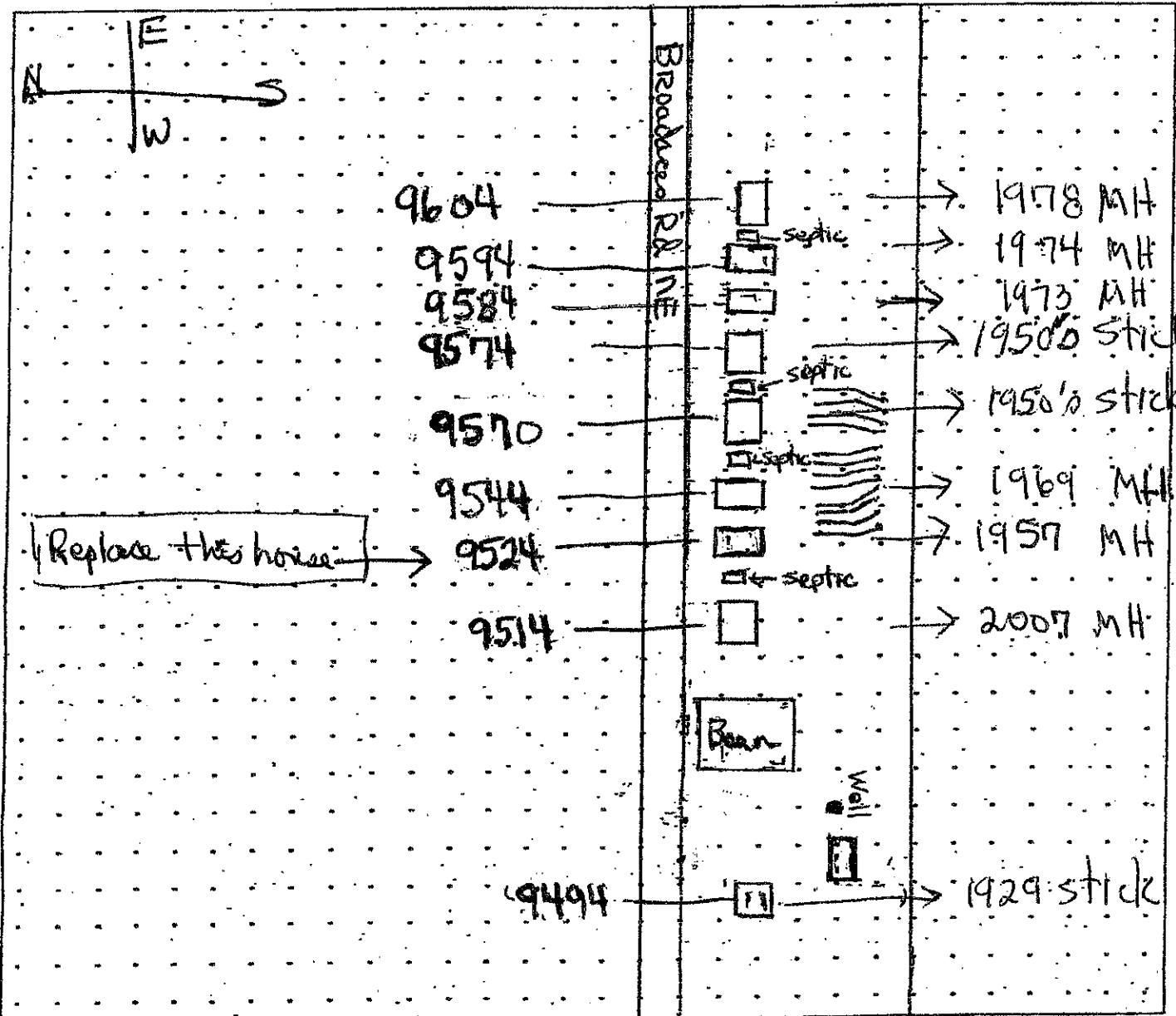


Subdivision: _____
 Assessor Map # (T-R-Sec-TL): 041W31 00500
 Zoning Designation: E CU

Total # Acres: 6
 Planning Map: 00300

SITE PLAN MUST SHOW ALL PROPERTY LINES AND DIMENSIONS

- Drawn to Scale: 1 square = 40 ft
- Feet Not Drawn to Scale: Total Acres _____



I certify that the above information is accurate to the best of my knowledge. I AM THE Owner or Authorized Agent

My telephone number: 503-680-0262 NAME (please print): Joanne Anderson
 Applicant's Signature: [Signature] Date: _____
 Applicant's Mailing Address: 9494 Broadacres Rd NE City: Hubbard Zip: 97032

FOR OFFICE USE ONLY

PLANNING: _____ Date: _____
 PUBLIC WORKS: _____ Date: _____
 BUILDING INSPECTION: Acceptable for Planning requirements only _____ Date: _____

