

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. 18-007

APPLICATION: Application of AGR, on property owned by Neils and Irma Jensen, to establish a gypsum processing facility as a commercial activity in conjunction with farm use on a 5 acre parcel in an EFU (Exclusive Farm Use) zone located at 12451 Duckflat Road SE, Jefferson. (T9S; R2W; Section 21; tax lot 700).

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

EXPIRATION DATE: This permit is valid only when exercised by **March 2, 2020**. 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.

WARNING: A decision approving the proposal is for land use purposes only. Due to septic, well, and drainfield replacement areas, these parcels 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 applicant shall obtain 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:

2. The development shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval of the Planning Director.
3. Failure to continuously comply with the conditions of approval as presented in the findings may result in this approval being revoked. Any revocation could be appealed to the county hearings officer for a public hearing.

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

4. The applicants should contact the Turner 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. Contact the Turner Fire District at (503) 743-2190.

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 **March 2, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **March 3, 2018** 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 Primary Agriculture in the Marion County Comprehensive Plan. The major purpose of this designation and the corresponding EFU (Exclusive Farm Use) zone is to promote the continuation of commercial agricultural and forestry operations.
2. The property is located on the west side of Duck Flat Road approximately 1,880 feet north of Pearson Road. The property contains a 325' by 140' structure built to house a composting facility permitted by Conditional Use #CU08-22. The parcel is considered a legal parcel for land use purposes.
3. Surrounding properties in all directions are zoned EFU and in farm use.
4. The applicant is proposing to establish a gypsum wallboard recycling business as a commercial activity in conjunction with farm use.
5. Public Works Land Development and Engineering Permits (LDEP) commented on engineering advisories that are not part of the land use decision and available for review in the planning file.

Marion County Building Inspection commented that a building permit is required for a change in use or occupancy.

Marion County On-Site Sewage requested contact to discuss the septic system on the property.

6. In order to approve a commercial activity in conjunction with farm use, the applicant must demonstrate compliance with the specific criteria listed in Chapter 17.136.060(D) of the Marion County Code (MCC). These include:
 - (a) *The commercial activity must be primarily a customer or supplier of farm uses.*
 - (b) *The commercial activity must enhance the farming enterprises of the local agricultural community to which the land hosting that commercial activity relates.*
 - (c) *The agricultural and commercial activities must occur together in the local community to satisfy the statute.*
 - (d) *The products and services provided must be essential to the practice of agriculture.*
7. The applicants are proposing to operate a gypsum wallboard recycling business to supply fertilizer and animal bedding to local farmers, with gypsum sales to concrete manufacturers as an incidental part of the business. The requirement that the commercial activity must be "primarily a customer or supplier of farm uses" is interpreted by Marion County as a minimum of 75% of sales must be made to commercial farm operators. The local community is interpreted as the state of Oregon. Fertilizer and livestock bedding material are integral to farming practices in the area. The commercial activity meets the criteria for operating in conjunction with farm use.
8. In addition to the specific criteria above, the proposal must also satisfy the conditional use criteria in Marion County Code (MCC) 17.136.060(A). Those requirements are:
 - (a) *The use will not force a significant change in, or significantly increase the cost of, accepted farm 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 upon which a non-farm or non-forest dwelling has been approved and established, in exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.

- (b) Adequate fire protection and other rural services are, or will be, available when the use is established.*
- (c) The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.*
- (d) Any noise associated with the use will not have a significant adverse impact on nearby land uses.*
- (e) 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.*

9. Since the use has been determined to be in conjunction with farm use, it is not expected to have a negative impact on nearby lands devoted to farm use. The proposal meets #8(a). The Turner Fire District serves the parcel and all other needed services are currently available to the site. The proposal satisfies the criterion in #8(b). The property is not within a wildlife habitat area or geologically hazardous area. There is no evidence of significant odors or noxious matter emitted from the premises that would affect air or water quality. The operations would occur entirely within an existing structure on the property, which is anticipated to contain noise and dust generated by the activity. The activity is also licensed and permitted by the Oregon Department of Environmental Quality. The resulting product would be transported from the facility to customers using tractor trailer trucks. The proposal meets #8(c) and (d). There are no potential water impoundments, identified wetlands, or significant mineral and aggregate sites identified by the Comprehensive Plan in the area. The criterion in #8(e) is met.
10. Based on the above findings it has been determined that the applicant's request meets all applicable criteria to establish a gypsum wallboard recycling business as a commercial activity in conjunction with farm use and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Planning Director

Date: February 15, 2018

If you have any questions regarding this decision contact Lisa Milliman at (503) 588-5038

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.