

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. 18-045**

APPLICATION: Application of Susan Maloch, and Andrew and Alyssa Horne, on property owned by Albert and Cheryl Marion for a conditional use to establish a dog kennel on a 3.07 acre parcel in an AR (Acreage Residential) zone located at 5028 Dumore Dr. SE, Aumsville. (T8S; R2W; Section 13B; tax lot 400).

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 **August 31, 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 drain field 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 necessary permits from the Marion County Building Inspection Division.
2. Outdoor kennel facilities included fenced enclosures shall be setback at least 20 feet from neighboring properties.

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

3. The applicants shall maintain adequate fencing to contain dogs on the property at all times.
4. The dogs shall be secured in an indoor enclosure between the hours of 9:00 p.m. and 7:00 a.m.
5. A maximum of 25 dogs over four months of age associated with the kennel may be kept on the property at any time.
6. The kennel is approved only for Susan Maloch to breed, train, and show Golden Retrievers. No retail sale or lease of dogs is approved as part of this kennel, though dogs may be sold related to the training and showing of dogs. Only dogs owned by Susan Maloch may be boarded at the facility.
7. Failure to continuously comply with the conditions of approval may result in this approval being revoked. Any revocation can be appealed to a 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 #6 below be contacted to identify restrictions or necessary permits.

8. The applicant is advised to contact Marion County Dog Control and obtain any necessary licenses they require.
9. The applicant is advised to contact Oregon Water Resources to obtain a permit to use the well on the property for a kennel.

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 **August 31, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the above address. This decision is effective **September 1, 2018** unless further consideration is requested.

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

1. The property is designated Rural Residential in the Marion County Comprehensive Plan. The purpose of the Rural Residential designation and the corresponding AR (Acreage Residential) zone is to allow acreage homesites at a density that maintains the character and environmental quality of the County's rural residential areas.
2. The subject parcel is located on the southeast corner of Edcliff Court and Dumore Drive SE. The property is Lot 8, Block 2 of Cascade Park, a legally platted subdivision; therefore, the property was legally created.
3. Properties in all directions are zoned AR, and consist of rural residential lots.
4. The applicant is requesting to establish a dog kennel on the subject property. Marion County Code (MCC) 17-110.300 defines kennel:

“Kennel” means any lot or premises on which four or more dogs and/or cats or pets over the age of four months are kept for sale, lease, breeding, boarding, shows or training. Such term does not include kennels and dog training facilities meeting the standards and criteria set forth in EFU, SA and FT zones.”

This would include training, breeding and showing of dogs. Dogs owned by Susan Maloch would be boarded at the facility in conjunction with the training, breeding and showing of dogs. No retail sale or lease of dogs is proposed, though dogs may be sold related to the training and showing of dogs. The proposal meets the definition of a kennel.

5. 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 would be required for change of occupancy.

Marion County Building Inspection Onsite Wastewater Specialist commented that septic permits may be required.

All other contacted agencies either failed to comment or stated no objection to the proposal.

6. In order to approve a dog kennel in an AR zone, MCC 17.128.040 lists the following criteria that apply to all conditional uses in the AR zone:

A. *The conditional use as described by the applicant will be in harmony with the purpose and intent of the zone.*

- B. The use will not increase traffic beyond the capacity of existing roads.*
- 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, 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.*

7. The property is not farmed and surrounding properties consists of residential homesites. The dogs would be contained behind fences and arborvitae would be planted to reduce any impact of the kennel on neighboring properties. Dogs will be housed inside enclosed structures on the property as well as be allowed outside in fenced areas. The proposal can be conditioned to limit the use of the kennel to that described by the applicant in her statement: a maximum of 25 Golden Retrievers kept on the property, behind fenced enclosures, for the primary purpose of breeding, training, and showing. Any approval should be further conditioned to apply only to the applicant to ensure the nature of the kennel operation remains as approved. Any significant changes to the kennel would require a new conditional use to modify a condition of approval or to request a new kennel operation. As conditioned the proposal meets the criterion in #6(a).

The property is served by the Aumsville Fire District and other services are available or can be provided. The applicant proposes to remove waste from the property; however, if a septic system were used, the applicant would be required to obtain any necessary septic permits for the kennel. The proposal can be conditioned to meet the criterion in #6(b) and (c).

There are no significant watersheds, groundwater, fish and wildlife habitat, soil and slope stability, or air water quality areas identified in the Marion County Comprehensive Plan for this site. The parcel is within the Sensitive Groundwater Overlay zone, an area where the aquifer may not be able to provide water on a long term basis. While no standards apply in the overlay zone for this kind of use, the applicant may have to obtain a permit from Oregon Water Resources to use the well on the property for a kennel. This can be made a condition of any approval. As conditioned, the proposal meets the criteria in #6(d).

The applicant proposes to plant arborvitae to the north, east and south surrounding the kennel's fenced area. The dogs will have access to enclosed structures as well as cement runs with a cover. While there can be noise from a dog kennel, the applicant has proposed measures to ensure the noise will minimally impact surrounding property owners. It can also be made a condition of approval that the dogs remain inside enclosed buildings during the nighttime hours of 9:00 p.m. to 7:00 a.m. As conditioned the proposal meets the criterion in #6(e).

The Marion County Comprehensive Plan identifies to potential water impoundments or mineral and aggregate sites. The proposal meets 6(f).

8. Based on the above findings it has been determined that the applicant's request has adequately addressed all the applicable criteria for locating a kennel on the property. Therefore, subject to meeting conditions of approval, the application for a kennel is **APPROVED** subject to conditions.

Joe Fennimore
Director-Planning Division

Date: August 16, 2018

If you have any questions please contact Brandon Reich 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.