



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: April 24, 2024

Department: Public Works

Title: Public hearing for Mass Gathering 24-001/Whitewind Production LLC

Management Update/Work Session Date: None Audio/Visual aids []

Time Required: 10 min Contact: Brandon Reich Phone: 503-566-4175

Requested Action: Hold a public hearing to consider Mass Gathering Permit 24-001/Whitewind Production LLC. The board may: 1. Close the public hearing and approve the request. 2. Close the public hearing and modify the request. 3. Close the public hearing and deny the request.

Issue, Description & Background: Whitewind Woodland LLC. has operated a yearly small mass gathering renaissance faire on the subject property since 2015. The previous events were small gatherings and in 2023, the applicant anticipated attendance to increase from 3000 to 4000, requiring approval for a large gathering. As part of this large gathering approval, the applicant received an approved Conditional Use Permit for the mass gathering in January 2023. In April 2023, the board held a hearing and approved events to be held two weekends in July in each of 2023, 2024, 2025 and 2026. In August, concerns were raised by persons traveling through the area that traffic related to the event was causing unsafe road conditions. The applicant has revised the traffic plan, has had it reviewed by ODOT and Marion County, and will present the revised plan for consideration.

Financial Impacts: None

Impacts to Department & External Agencies: None

List of attachments: Staff Report

Presenter: Brandon Reich

Department Head Signature: for Brandon Reich

MARION COUNTY PLANNING DIRECTOR’S OUTDOOR MASS GATHERING REPORT

Application of Whitewind Productions LLC)
)

Case No. MG 24-001

APPLICATION

Application of Whitewind Woodland LLC to hold a large mass gathering on July 20, 21, 27, and 28, 2024 on an 80.55 acre parcel in an EFU (Exclusive Farm Use) zone located at 6518 Cascade Highway NE, Silverton. (T6S; R1W; Section 25; tax lot 900).

BACKGROUND

The Marion County Planning Division has reviewed the above-referenced application and offers the following comments:

1. The property is located on the south side of Cascade Highway on the southwest corner of Cascade Highway and Valley View Road. The property contains a dwelling and accessory buildings.
2. Surrounding properties consist of properties in farm use and timbered property in an EFU zone.
3. The applicant is requesting to hold a Renaissance Era Faire as a large mass gathering. In 2023, the board held a hearing and approved events to be held two weekends in July in each of 2023, 2024, 2025 and 2026. However, concerns were raised by persons traveling through the area that traffic related to the event was causing unsafe road conditions. Section 9.25.070 of the Marion County Code allows Planning Director to refer a mass gathering permit to the board when there have been citizen concerns raised about a past event.
4. According to information submitted with the application: a) sound amplification will be used; b) alcohol will be available; and c) fireworks will not be used or shown.

AGENCY COMMENTS

Comments received from various governmental agencies are summarized below. The full comments can be reviewed in the planning file.

5. Comments from Marion County Environmental Health, Marion County Public Works, Oregon Department of Transportation, Silverton Fire Department, Marion County Sheriff, and Marion County Risk are included below in the sections that address the criteria their comments pertain to.

All other contacted agencies either failed to respond or stated no objection to the proposal at the time this report was prepared.

MARION COUNTY ORDINANCE 1230 FINDINGS

6. Marion County Ordinance No. 1230, Section 3 contains the definition of a large outdoor mass gathering:

“Large gathering” means an assembly of persons whose actual number is, or reasonably can be anticipated to be:

- 1. More than 3,000 persons at any time; or*

2. *More than 750 persons at any time on each of three calendar days during an assembly that continues or can reasonably be expected to continue for more than 120 hours;*

and is held primarily in open spaces and not in any permanent structure within Marion County. Included within the calculation of hours is any time in excess of 48 hours necessary to set up the event or any time in excess of 48 hours necessary to clean up afterward.

The applicant indicates this event will take place July 20, 21, 27 and 28, 2024. Daily hours are 10 am to 6 pm and overnight camping will be allowed. The estimated attendance is up to 5,000 people per day. Based on this information, the proposed event meets the definition of a “large gathering.”

7. MCC 9.25.070 through 9.25.200 contains the following criteria for reviewing an outdoor mass gathering application:

MCC 9.25.070:

(C) *If the application is for a large gathering, the applicant must obtain a conditional use permit for a temporary use in accordance with Marion County Zoning Ordinance chapters 119 and 126 before the large gathering permit application will be approved. The procedure to obtain a conditional use permit will be independent of the procedure to obtain an outdoor mass gathering permit under this ordinance, except that the Board may, at its discretion, elect to consider applications for both permits at one public hearing. If the Board does not elect to consider applications for both permits at one hearing, the application for the outdoor mass gathering for a large gathering shall not be processed until the conditional use permit has been obtained.*

The applicant applied and received approval for a conditional use permit for the large mass gathering (CU22-045) MCC 9.25.070(C) is met.

(D) *The Board, in its discretion, may approve a subsequent small gathering that is within three months of a prior small gathering on the same property. If a second small gathering is approved, no third small gathering shall be allowed to occur within six months of the first small gathering.*

No previous gatherings have been held on this property or are proposed within three months of the proposed dates. MCC 9.25.070(D) is not applicable.

(E) *Each public official receiving notice of the application who wishes to comment on the application shall submit such comment in writing to the Board no later than the date and time for the hearing. The comment may include recommendations related to the official functions of the officer as to granting the permit and any recommended conditions that should be imposed. The Board may consider and impose any reasonable condition the Board deems necessary including any suggested condition submitted by a public official who received notice of the outdoor mass gathering application or any suggested condition submitted by a member of the public.*

The application was sent to various governmental agencies and public officials. Recommendations that have been included as conditions of approval are listed at the end of this report. MCC 9.25.070(E) is satisfied.

(F) *The Board may deny an application or impose reasonable conditions if evidence is provided to the Board indicating that an organizer has previously violated any provision of this ordinance.*

The organizer and property owners are not known to have previously violated MCC 9.25. MCC 9.25.070 (F) is satisfied.

(G) The Board may impose a permit condition requiring compliance with all or portions of the Marion County Noise Ordinance as set forth in Section 9.25.150 (C).

Noise and recommended conditions are discussed with section MCC 9.25.150 below.

MCC 9.25.080: Insurance

- (A) After consultation with the Marion County Risk Manager, the Board may require an organizer to obtain a commercial general liability policy in an amount commensurate with the risk and in compliance with standards established by the Marion County Risk Manager.*
- (B) The Marion County Risk Manager shall establish standards for commercial general liability policies required for outdoor mass gatherings that include: minimum coverage amounts, policy type, minimum financial ratings for carriers, required additional coverage, requirements for naming additional insured parties, policy duration and any other requirement that the Marion County Risk Manager deems necessary.*
- (C) The Organizer shall furnish the Public Works Director with an insurance certificate and a copy of the insurance policy complying with the insurance requirements imposed by the Board pursuant to subsection (A) of this section at least seven days before the first day of the outdoor mass gathering.*
- (D) Any permits for an outdoor mass gathering may be voided by the Public Works Director if the Organizer fails to comply with subsection (C) of this section.*
- (E) Any insurance premiums that must be paid to meet the requirements of this section are the responsibility of the Organizer.*

Marion County Risk commented that the applicant will be required to provide proof of adequate insurance prior to the event. The applicant has shown a consistent history of adequate insurance for each event since first approved in 2015. As conditioned, MCC 9.25.080 is satisfied.

MCC 9.25.090: Fire Protection Plan.

- (1) No permit shall be granted under this ordinance unless the Organizer has a fire protection plan approved by the Fire Protection District Officer for the type, size, number and location of fire protection devices and equipment available at, in or near any location, including outdoor sites, building, tents, stadium or enclosure, wherein or whereupon more than 10 persons may be expected to congregate at any time during the course of an outdoor mass gathering.*
- (2) If the site for which the permit is applied for is located outside a fire prevention district, the Organizer must show approval from the office of the State Fire Marshal or a fire prevention district that would respond in the event of an emergency.*

The Silverton Fire District reviewed the applicant's Fire Protection Plan and approved it to be implemented by the applicant. The applicant and all other vendors must comply with the Technical Advisory No. 11-09 (Statewide Guidelines for Fairs, Trade Shows, Carnivals or Common Venue Events). MCC 9.25.090 can be satisfied through conditions of approval.

MCC 9.25.100: State Health Rule Compliance and Medical Service.

The County Environmental Health Division shall have responsibility for approving plans relating to water supply, sewerage facilities, refuse storage and disposal, food and sanitary service, and emergency

medical facilities in compliance with this ordinance and rules governing outdoor mass gatherings, adopted by the Oregon Department of Human Services. Each outdoor mass gathering shall have no less than one first aid station staffed by two adult individuals trained in first aid techniques.

The County Environmental Health Division requires temporary restaurant licenses that must be obtained at least one week prior to the event. The applicant indicates that sanitary and disposal facilities as well as a staffed first aid booth will be provided. Marion County Environmental Health reviewed the applicant's Health Rule and Medical Service Plan and approved it to be implemented by the applicant. MCC 9.25.100 can be satisfied through conditions of approval.

MCC 9.25.110: Public Safety.

- (A) *Prior to or on the date of application submittal, the Organizer must submit plans for public safety at the outdoor mass gathering to the Sheriff for approval demonstrating the following:*
1. *Adequate parking control and crowd protection policing must have been contracted for or otherwise provided by the Organizer. There shall be provided one parking control person for each 250 persons expected or reasonably expected to be in attendance at any time during the event. Further, there shall be provided one crowd control person for each 100 persons, expected or reasonably expected to be in attendance at any time during the event. The Sheriff may approve plans that provide for a lesser number of parking control or crowd protection personnel than set forth above, if in the Sheriff's discretion, adequate safety and security can be maintained under the circumstances. The Organizer shall submit the names of the proposed parking control personnel to the Sheriff.*
 2. *The Organizer shall submit the names and necessary background information, on forms provided by the Sheriff, for all crowd control personnel to be used during the outdoor mass gathering for investigation by the Sheriff as to fitness. Crowd control personnel must meet the following minimum standards in order to be approved as suitable by the Sheriff:*
 - a. *Be 21 years of age or older;*
 - b. *Be in good physical health;*
 - c. *Never have been convicted of a felony and must not have been convicted of a misdemeanor involving moral turpitude in the last five years; and*
 - d. *Either have received reasonable minimum training in law enforcement, security or relevant on-the-job experience.*
- (B) *All of the policing personnel must wear an appropriate identifying uniform and must be on duty during the entire outdoor mass gathering unless a relief schedule has been planned and approved. A relief schedule will only be approved by the Sheriff when sufficient policing strength on duty has been maintained.*
- (C) *It shall be the duty of the policing personnel to report any violations of the law to the Sheriff, the Sheriff's deputies or representatives and to take whatever action as can be reasonably expected of them to enforce the law.*

The applicant submitted a Safety Plan, which was reviewed and approved by the Marion County Sheriff's Office. The applicant shall continuously comply with the requirements in MCC 9.25.110 above. MCC 9.25.110 can be satisfied through the conditions of approval mentioned above.

MCC 9.25.120: Parking and Traffic Control.

Prior to or on the date of application the Organizer shall provide the Public Works Director with a parking and traffic control plan acceptable to the Public Works Director. The plan shall include a scale

drawing showing the parking facilities within or adjacent to the location for which the permit is requested. Ingress and egress shall be shown on the plan and provide for safe movement of any vehicle at any time to or from the parking area. The Public Works Director may require that flaggers, traffic control devices or dust control measures be used during the outdoor mass gathering to ensure the safe and efficient flow of vehicles. If flaggers, traffic control devices or dust control measures are required, the plan must include details showing their expected use and placement. The use of flaggers, traffic control devices or dust control measures must comply with standards established by the Marion County Department of Public Works.

The Oregon Department of Transportation and Public Works Department traffic section reviewed the information for the event and provided suggested conditions of approval. Based on comments received MCC 9.25.120 would be satisfied.

MCC 9.25.130: Permit Posting

Any permit issued as provided in this ordinance shall be kept posted in a conspicuous place upon the premises of the assembly. No permit shall be transferable or assignable without the consent of the Board. No rebate or refund of money paid for a permit shall be made.

This can be made a condition of any approval.

MCC 9.25.140: Inspection of Premises *Inspection of Premises.*

- (A) *No application shall be granted under this ordinance unless the Organizer agrees and consents, in writing as part of the application for the permit, to allow law enforcement, public health and fire control officers to come upon the premises for which the permit has been granted for the purpose of inspection and enforcement of the terms and conditions of the permit issued pursuant to this ordinance, and any other applicable laws or ordinances.*
- (B) *If any inspections described above reveal deficiencies in compliance with State or local law, the inspectors may return as often as needed until the deficiencies are cured. If the deficiencies are not cured or cannot be cured, the county Sheriff may terminate the outdoor mass gathering or extended outdoor mass gathering as provided in Section 17(3).*

In their statement, the applicants consent to allow inspections as outlined above. MCC 9.25.140 is satisfied.

MCC 9.25.150: Restricted Hours of Operation.

- (A) *When sound amplification is used, no outdoor mass gathering shall be conducted within 1,000 feet of any neighboring residence between the hours of 11:00 p.m. and 9:00 a.m.*
- (B) *If written consent from neighboring property owners and residents are submitted with the application, the Board may modify these hours in the permit.*
- (C) *The Board, in its discretion, may require that an outdoor mass gathering comply with all or portions of the Marion County Noise Ordinance if the Board determines that doing so is necessary to preserve the comfort and repose of neighboring residents.*

The applicant states sound amplification will be used during the day at noon and 4:00 p.m. during the jousting show. As conditioned, the event is not expected to violate the County Noise Ordinance. MCC 9.25.150 is satisfied.

MCC 9.25.160: Organizer Responsible for Preserving Order

It is the intention of this ordinance to put the burden of preserving order upon the organizer of the outdoor mass gathering, and if any outdoor mass gathering in the County is not being operated in accordance with the rules and regulations prescribed in this ordinance and as set forth in state law, the organizer shall be subject to revocation of the permit, and the organizer or other individual responsible subject to such other sanction as the law and this ordinance provide.

The applicant states that there will be a site safety managed by a group called “The Queen’s Guard”. This group has previously managed the site safety at the renaissance faire. MCC 9.25.160 can be satisfied.

MCC 9.25.170: Enforcement.

- (A) *The Organizer shall keep a reasonable count of persons and vehicles entering and leaving the outdoor mass gathering.*
- (B) *If at any time during the outdoor mass gathering held under a valid permit, the number of persons or vehicles attending the outdoor mass gathering exceeds by 10 percent or more the number of persons or vehicles estimated in the permit application, the Sheriff, or any Sheriff’s deputy, has the authority to require the Organizer to limit further admissions until a sufficient number of individuals or vehicles have left the site to bring the actual attendance down to the number estimated by the Organizer.*
- (C) *For any outdoor mass gathering held under a valid permit, the County Sheriff has the authority to order the crowd to disperse and leave the outdoor mass gathering site if the Organizer cannot maintain order and compliance with all applicable state and local laws or refuses to maintain order and compliance with state and local laws or refuses or is unable to adhere to the terms and conditions of the permit.*
- (D) *In addition to state law provisions in ORS Chapter 433, including ORS 433.770(1), Marion County Legal Counsel may maintain an action in any court of general jurisdiction to prevent, restrain, or enjoin any violation of ORS 433.745.*
- (E) *If the organizer fails to remove all debris or residue from the event site or adjacent property within 72 hours after termination time of the event, or fails to remove all temporary structures within three weeks after the termination time of the event, any county code enforcement officer may issue citations to any organizer of the event. The county code enforcement officers may also issue citations to any persons who have left behind debris at the site or on adjacent property.*
- (F) *In addition to any other remedies provided, if the outdoor mass gathering site is not restored to its previous condition, or better, the County may arrange for clean up of the site, and then file an action for damages against the organizer and the landowner or successor landowner.*
- (G) *If any organizer violates any provisions of this ordinance, the Board may immediately revoke any permit for an outdoor mass gathering and may seek any legal remedy available.*

MCC 9.25.170 can be satisfied through conditions of approval.

MCC 9.25.180: Intoxicating Liquor Prohibited

- (A) *Except as provided in subsection (B) of this section, no Organizer, landowner or any person having charge or control thereof at any time when an outdoor mass gathering is being conducted shall permit any person to bring into such outdoor mass gathering or upon the premises thereof, any intoxicating liquor, or permit intoxicating liquor to be consumed on the premises, and no person during such time shall take or carry onto such premises or drink thereon intoxicating liquor.*
- (B) *Subsection (A) of this section shall not apply to the sale and consumption of intoxicating liquor from a facility located on the premises of an outdoor mass gathering section if the express*

approval of the Oregon Liquor Control Commission has been obtained in the form of a temporary license or letter of authority.

The applicant indicates that intoxicating liquor will only be available at the event from a licensed vendor. As conditioned, MCC 9.25.1180 is satisfied.

MCC 9.25.190: Use or Possession of Illegal Drugs Prohibited

No firm, person, society, association or corporation conducting an outdoor mass gathering, nor any person having charge or control thereof at any time when an outdoor mass gathering is being conducted shall permit any person to bring into the outdoor mass gathering, or upon the premises thereof, any illegal drugs, nor permit illegal drugs to be used on the premises.

MCC 9.25.190 can be satisfied through conditions of approval.

MCC 9.25.200: Compliance Required

The terms and conditions of this ordinance constitute minimum health, sanitation and safety provisions; and failure to comply with the terms and conditions of this ordinance or state law shall constitute a public nuisance and shall be subject to all civil and equitable remedies as such.

MCC 9.25.200 can be satisfied through conditions of approval.

APPEAL PROCEDURE

8. MCC 9.25.210 contains the following procedure for appealing the Marion County Board of Commissioners' decision:

MCC 9.25.210: Review of Board's Action.

All decisions of the Board concerning the issuance of a permit for an outdoor mass gathering shall be subject to review by the Circuit Court of the State of Oregon in Marion County only by writ of review under the provisions of ORS 34.010 to 34.100. Decisions of the Board concerning the issuance of a conditional use permit under Marion County Zoning Ordinance chapters 119 and 126 are subject to review as land use decisions.

VIOLATIONS

9. MCC 9.25.220 outlines procedures for violations of this ordinance:

MCC 9.25.220: Public Nuisance and Violations.

- (A) *Except as provided in subsection (B) of this section, violation of any provision of this ordinance or the erection or construction of a permanent physical alteration to the real property that is the site of the outdoor mass gathering shall constitute a Class A violation as provided in ORS Chapter 153.*
- (B) *Any violation of MCC 9.25(040)(A) is punishable upon conviction by a fine of not more than \$10,000.00 as provided for in ORS 433.990 (2005).*
- (C) *Enforcement shall be accomplished through Chapter 125 MCC.*

CONCLUSION

10. Based on the above findings, the Planning Director recommends **APPROVAL** of this application.

RECOMMENDED CONDITIONS OF APPROVAL

11. If the Board of Commissioners chooses to approve this application, the Planning Director recommends including the following conditions of approval:
- A. Oregon Department of Transportation: The applicant shall designate persons to be near Highway 213 to notify event attendees not to park along the highway.
 - B. Marion County Health Department: Temporary restaurant licenses shall be submitted to Marion County Health Department no less than one week prior to the first day of the event or have a mobile food unit licensed in Marion County. In addition, refrigerators and freezers provided for food vendors must have thermometers and must be able to maintain 41° F or colder in order to be used at the event. Any bagged ice provided must be from a commercial source or from a public water system.
 - C. Insurance: The Organizer shall furnish the Public Works Director with an insurance certificate and an endorsement naming Marion County as an additional insured at least seven days before the first day of the outdoor mass gathering.
 - D. Silverton Fire District: The applicant shall schedule an onsite inspection prior to the event and meet the district's requirements. The applicant shall provide first aid personnel at the event.
 - E. Permit Posting: Any permit issued as provided in this ordinance shall be kept posted in a conspicuous place upon the premises of the assembly.
 - F. Noise Restricted Hours of Operation: Sound amplification shall **NOT** be used between the hours of 10:00 pm to 9:00 am. Quiet periods shall be enforced by on-site personnel.
 - G. Responsible for Order: The organizer shall be subject to revocation of the permit, if the outdoor mass gathering is not being operated in accordance with the rules and regulations prescribed in Chapter 9.25 MCC as presented in this report and as set forth in state law.
 - H. Enforcement:
 - The Organizer shall keep a reasonable count of persons and vehicles entering and leaving the outdoor mass gathering. If at any time during the outdoor mass gathering, the number of persons or vehicles attending the outdoor mass gathering exceeds by 10 percent or more the number of persons or vehicles estimated in the permit application, the Organizer shall limit further admissions until a sufficient number of individuals or vehicles have left the site to bring the actual attendance down to the number estimated by the Organizer.
 - If the Organizer cannot maintain order and compliance with all applicable state and local laws or refuses to maintain order and compliance or is unable to adhere to the terms and conditions of this permit, the County Sheriff has the authority to order the crowd to disperse and leave the outdoor mass gathering site.
 - If the organizer fails to remove all debris or residue from the event site or adjacent property within 72 hours after termination time of the event, or fails to remove all temporary structures within three weeks after the termination time of the event, any county code enforcement officer

may issue citations to any organizer of the event. The county code enforcement officers may also issue citations to any persons who have left behind debris at the site or on adjacent property.

I. Intoxicating Liquor: No organizer, landowner or any person having charge or control thereof at any time when an outdoor mass gathering is being conducted shall permit any person to bring into such outdoor mass gathering or upon the premises thereof, any intoxicating liquor, or permit intoxicating liquor to be consumed on the premises except from a licensed vendor, and no person during such time shall take or carry onto such premises or drink thereon intoxicating liquor, except from a licensed vendor. Prior to the event, the applicant shall provide evidence of vendors' OLCC license(s) to sell alcohol at the event.

J. Illegal Drugs:

- The operator of the mass gathering shall not permit any person to bring into the outdoor mass gathering, or upon the premises thereof, any illegal drugs, nor permit illegal drugs to be used on the premises.
- The applicant shall notify the Marion County Sheriff Department of the use of any illegal substances on the property and identify the individuals to the responding Officer.

K. Compliance:

- Failure to comply with the terms and conditions of this application shall constitute a public nuisance and shall be subject to all civil and equitable remedies as such.
- At least seven days before the event occurs, the applicant shall be in compliance with all conditions that are required prior to the opening date.
- If any organizer violates any provisions of this ordinance, the Board may immediately revoke any permit for an outdoor mass gathering and may seek any legal remedy available.

Brandon Reich
Planning Director/Zoning Administrator

Date: March 13, 2024

If you have any questions regarding this report please contact Brandon Reich, Building and Planning Division Manager, at (503) 588-5038.