



MARION COUNTY BOARD OF COMMISSIONERS

**Board Session Agenda Review Form**

Meeting date: January 15, 2025

Department: Public Works

Title:

Receive notice of Hearing Officer's decision approving Conditional Use case CU24-039/Whitewind Woodland, LLC.

Management Update/Work Session Date: N/A Audio/Visual aids ☐

Time Required: 5 Min Contact: John Speckman Phone: 503-566-4173

Requested Action:

Receive notice of Hearings Officer's decision approving Conditional Use 24-039/Whitewind Woodland, LLC.

Issue, Description  
& Background:

The Marion County Hearings Officer held a duly noticed public hearing on November 21, 2024 and on January 3, 2025 issued a decision approving the request. As part of the land use process, the Marion County Board of Commissioners must receive notice of the recommendation.

Financial Impacts:

None

Impacts to Department  
& External Agencies:

None

List of attachments:

Hearings Officer Decision

Presenter:

John Speckman

Department Head  
Signature:

for Brandon Rich

In the Matter of the Application of: ) Case No. CU 24-039  
)  
WHITEWIND WOODLAND, LLC, , ) **CONDITIONAL USE**

This matter comes before the Marion County Hearings Officer on the Application of Whitewind Woodland, LLC, (Nancy White) for a mass gathering event over three weekends on an 80.55 acre property in an EFU (Exclusive Farm Use) zone located at 6518 Cascade Highway NE, Silverton (T6S, R1W, Section 25, Tax Lot 900).

Standards and criteria relevant to this Application are found in the Marion County Code, Title 17, especially Chapters 17.119, 17.126.030, 17.136, and Marion County Code 9.25.

A public hearing was held on this matter on November 21, 2024. The Planning Division file was made part of the record. The following persons appeared and provided testimony at the hearing:

- |    |               |                        |
|----|---------------|------------------------|
| 1. | John Speckman | Marion County Planning |
| 2. | Nancy White   | Applicant              |

No objections were raised to notice, jurisdiction, or conflicts of interest, or to evidence or testimony presented at the hearing. No documents were entered into the record as exhibits.

Applicant Whitewind Woodland, LLC (Nancy White) seeks a conditional use permit for a mass gathering event over three weekends on an 80.55-acre property in an EFU (Exclusive Farm Use) zone located at 6518 Cascade Highway. Applicant desires to expand the previously approved conditional use for the Canterbury Renaissance Faire from the last two weekends in July to the last three weekends in July. The event is anticipated to be the same as the event in prior years but expanding from two weekends to three weekends. Applicant has met the criteria of the code, and the application is APPROVED with conditions. With approval, Applicant will apply for a Large Mass Gathering permit which will be heard in front of the Board of Commissioners.

## V. Findings of Fact

The hearings officer, after careful consideration of the testimony and evidence in the record, issues the following findings of fact.

1. The subject property consists of tax lot 900 on the south side of Cascade Highway, north side of Evans Valley Loop NE, with Valley View LN NE to the east, just outside of the City of Silverton. The parcel is approximately 80.55 acres in size. The properties are designated Primary Agriculture in the Marion County Comprehensive Plan and zoned EFU (Exclusive Farm Use).
2. The property is largely undeveloped except for a single-family dwelling, and accessory structures. The majority of the parcel is in either farm or forest use, with the structures clustered to the front (northern) portion of the parcel. There are no rivers, streams, wetlands, floodplains or other natural hazards on the parcel or within the immediate vicinity.
3. Surrounding properties are zoned EFU and in various types of farm use. Property to the northeast of the parcel, approximately 600 feet, is zoned AR (Acreage Residential) and developed with residences. Property to the east of the parcel, approximately ¼ mile, are zoned AR and developed with residences. All of these parcels in the vicinity were on the notification list for the proposal.
4. Applicant has applied for a conditional use permit in conjunction with a mass gathering because Marion County Code (MCC) requires a conditional use permit be approved before, or considered in conjunction with, a permit for a large gathering (MCC 9.25.070 (C)). MCC 9.25.030(A) defines a large gathering as an assembly of persons of more than 3,000 at any time. In this case, the applicant is proposing 3,000 – 3,500 persons, over three weekends, during the last three weeks of July. The dates proposed would be July 17-18, July 24-25 and July 29-30. The Canterbury Renaissance Faire has previously operated on two weekends, and this Application seeks approval of an additional weekend.
5. Marion County Planning Division requested comments from various governmental agencies. Their comments are summarized below:

Marion County Building Inspection commented: No Building Inspection concerns.

Marion County Septic commented: The owner must provide adequate nonwater-carried systems for the number of attendees in accordance with all provisions of OAR 340-071-0330. No connection to the existing onsite wastewater treatment system is permitted without an authorization notice approval per OAR 340-071-0205(1).

Oregon Department of Transportation commented: ODOT has no objections to the Large Mass Gathering permit. Overall ODOT agrees with the applicant's assessment that the impacts to highway operations and safety will be minimal, but attendance at these types

of events are difficult to predict. If during the event there are concerns or issues, ODOT may require traffic mitigation such as signage, flaggers, or future limitations on capacity. All other contacted agencies either failed to comment or stated no comment or no objection to the proposal.

## **VI. Additional Findings of Fact and Conclusions of Law**

1. Applicant has the burden of proving all applicable standards and criteria apply as explained in *Riley Hill General Contractor, Inc. v. Tandy Corporation*, 303 Or 390, 394-395(1987).

“Preponderance of the evidence” means the greater weight of evidence. It is such evidence that when weighed with that opposed to it, has more convincing force and is more probably true and accurate. If, upon any question in the case, the evidence appears to be equally balanced, or if you cannot say upon which side it weighs heavier, you must resolve that question against the party upon whom the burden of proof rests. (Citation omitted).

Applicant must prove, by substantial evidence in the record, it is more likely than not that each criterion is met. If the evidence for any criterion is equal or less, Applicant has not met its burden and the application must be denied. If the evidence for every criterion is even slightly in Applicant’s favor, the burden of proof is met and the application is approved.

2. Under MCC 17.119.030, a hearings officer may hear and decide applications for conditional uses and shall decide whether the conditional use may be placed in a zone and may impose conditions and restrictions.
3. Under MCC 17.119.020, a conditional use application may only be filed by certain people, including the owner of the property subject to the application. A deed recorded in the county records at Reel 3923, Page 319 shows that Nancy White, owns the subject property. The Articles of Organization filed with the Oregon Secretary of State for Whitewind Woodland, LLC lists Nancy White as the Owner. The application was filed by appropriate persons. MCC 17.119.020 is satisfied.
4. Under MCC 17.119.025, a conditional use application shall include signatures of certain people, including all owners of the subject property. Nancy White owns the subject property and signed the application. MCC 17.119.025 is satisfied.
5. Under MCC 17.119.070, before granting a conditional use, the director, planning commission or hearings officer shall determine:
  - A. That is has the power to grant the conditional use;
  - B. That such conditional use, as described by the applicant, will be in harmony with the purpose and intent of the zone;

- C. That any condition imposed is necessary for the public health, safety, or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood.
6. Under MCC 17.119.030, the hearings officer may hear and decide only those applications for conditional uses listed in MCC Title 17. In the conditional use application “request” section, Applicant states a request to expand the approved Conditional Use for the Canterbury Renaissance Faire for a third weekend.
7. MCC 9.25.070 (C) states that for a gathering, “the applicant must obtain a conditional use permit for a temporary use in accordance with Chapters 17.119 and 17.126 MCC.” Therefore, the criteria in Chapters 17.119 and 17.126 MCC will be considered in conjunction with this conditional use application.

Uses in MCC 17.126 are permitted generally across all zones subject, in part, to the criteria contained in that chapter, as well as other pertinent criteria. Also, the EFU zone contains specific criteria which apply to a conditional use in the EFU zone, MCC 17.136.060(A).

In addition, a large mass gathering that is anticipated not to last more than 120 hours would not materially alter the stability of the overall land use pattern of the area, meeting the criteria in Oregon Revised Statutes 433.763(1)(c)(B). This event, subtracting the 48 hours exempted by county code for set up and 48 hours exempted for take down, is expected to last approximately 100 hours.

8. Applicant states that the Canterbury Renaissance Faire was operating annually for the first 13 years, under a small mass gathering permit. The Faire took a two-year hiatus in 2020 and 2021 due to the pandemic. In 2022, Applicant applied for a conditional use to expand from a small mass gathering to a large mass gathering (CU22-045) and subsequently a large mass gathering permit (MG23-001). Both were approved, as well as the mass gathering permit for 2024 (MG24-001). The applicant anticipates between 4,000-5,000 people attending and wishes to apply to maintain compliance with MCC Mass Gathering criteria. This application is seeking to expand the Mass Gathering to three weekends (six days) per year from two weekends (four days) per year.
9. Applicant provides the following information to address criteria:
- That in the 16 years the event has been hosted in Marion County, the event did not cause a change in farm practices on surrounding properties.
  - That they have worked on a traffic and parking plan to ensure traffic will not impact local farming practices.

- Noise from the event will follow Marion County Noise Ordinance and the limited hours of operation will also assist in mitigation.
  - The only structures on the property will be temporary and not cause watershed issues or impact fire or wildlife.
  - That wildlife was not impacted by their event, Canterbury Renaissance Faire.
  - Garbage, grey water, etc. will all be contained on site and removed from the property.
  - That the event will not permit cruising or ATVs in order to minimize vehicle traffic.
  - That attendees in previous events have not caused impact to neighboring properties.
10. The general conditional use criteria are found in MCC 17.119.070. Before granting a conditional use, the director, planning commission or hearings officer shall determine:

1. *That it has the power to grant the conditional use;*

The application was heard in front of the Hearings Officer for a decision. Upon approval, Applicant will apply for a Large Mass Gathering permit which will be heard in front of the Board of Commissioners. This criterion is met.

2. *That such conditional use, as described by the applicant, will be in harmony with the purpose and intent of the zone;*

According to MCC 17.136.010, the purpose of the EFU zone is to provide areas for continued practice of commercial agriculture. The purpose of the zone is also intended to allow other uses that are compatible with agricultural activities, to protect forests, scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water, and land resources of the county. In order to determine that the proposed conditional use for a mass gathering is in harmony with the purpose and intent of the zone, the proposal is evaluated with the specific criteria for a conditional use in the EFU zone below.

3. *That any condition imposed is necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood.*

This criterion can be met by ensuring that any condition imposed is necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood. Also, in this instance complying with the requirements for a mass gathering, including providing plans related to fire protection, health safety, medical

service, public safety, and parking and traffic control will ensure the public health, safety and welfare of persons working or residing in the area, and the protection of property and improvements in the neighborhood. This criterion can be met through the application of the mass gathering code.

11. The criteria for a temporary use are found in MCC 17.126.030(E):

1. *The temporary use is compatible with the purpose of the zone and adjacent land uses.*

The proposal will be evaluated with the specific criteria for a conditional use in the zone below to ensure the use is compatible with the purpose of the zone and will minimize any impact on adjacent land uses.

2. *The temporary use will have adequate public services to maintain the public health and safety.*

Applicant states that there are adequate public services to the property for the event while maintaining public health and safety. Applicant works with the Scotts Mills Firefighters Association for emergency medical services, coordinates with the Silverton Fire Department to ensure fire safety, hires security, rents the number of portable toilets required by Marion County Health, rents dumpsters from Republic Services for trash collection, and brings in potable water. In addition, complying with the requirements for a mass gathering, including providing plans related to fire protection, health safety, medical service, public safety, and parking and traffic control, will provide a means to review the event to ensure there are adequate public services available to the property and the event to maintain the public health and safety. This criterion can be met through the application of Marion County Code provisions for mass gatherings.

3. *The operator of the temporary use has signed an agreement with the planning division regarding termination of the use consistent with the time limitations established in the conditions of approval.*

As part of the mass gathering approval, the event will be granted specific times of operation. Penalties can be assessed for exceeding those operating times. This criterion can be met through the application of the mass gathering code.

12. The criteria for a conditional use in the EFU zone are found in MCC 17.136.060(A):

1. *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.*

Agriculture is a significant economic asset for Marion County. The EFU zone recognizes the importance of agriculture and the need to protect farming practices from potential conflicts. The applicant attests that the event will not impact either their own or their neighbors' farming activities. The grass seed and/or hay harvest on the subject parcel will be completed prior to the event. Therefore, the temporary use will have no impact on the farming activity on the subject parcel. The neighboring farms have not previously expressed issues or complaints regarding impacts on their farm operations. The hearings officer recognizes that it is critical that any event of such a large scale on farmland not impact farming practices on the subject parcel or other lands in the area. Based on testimony by Applicant, and the past years of the faire hosted by the applicant, there is no reason to believe that this criterion cannot continue to be met with an additional weekend of the Canterbury Renaissance Faire.

Applicant attested that the primary potential source of conflict with farms in the area would be traffic caused by the event. This was apparently an issue in 2023, as the result of an unexpected volume of taxi/uber drop offs on Cascade Highway. Mitigation was implemented that prevented a repeat of that traffic in 2024. Significant effort has been put forth to avoid an increase in traffic that may affect surrounding farms harvesting grass seed during the weekends the proposed event would be hosted. Two different shuttle parking lots in Silverton allow attendees to park in town and ride a shuttle out to the subject parking lot. The shuttle parking is free, while parking on site is subject to a fee, to incentivize attendees to ride the shuttle. For attendees that chose to utilize taxis/Ubbers, a specific area of the parking lot has been designated as the drop off area to avoid drop-offs occurring on the roadway and slowing traffic flow. The traffic plan that will be provided as a component of the mass gathering permit will ensure that this criterion can be met.

2. *Adequate fire protection and other rural services are, or will be, available when the use is established.*

The Silverton Fire District did not make comments regarding this specific permit but have worked with Applicant in previous years. There is no indication that any issues would arise from the new proposal to extend the faire for a third weekend. The traffic, health and safety (water, sewage disposal, garbage, etc.) plans have not been updated since the last mass gathering permit, and will need to be provided by the applicant for the new mass gathering permit to demonstrate there are adequate rural services available to the property for the proposed event. Marion County Land Development and Engineering Department had no comment on the proposed use. The Oregon Department of Transportation responded to say that they had no comment, and that the applicant has been good about communicating with them. This criterion can be met through the mass gathering permit process.

3. *The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.*

As part of the mass gathering permit, the applicant will have to have an approved health safety (sanitation) plan in place and collect and remove garbage, black and grey water,



etc. Also, the applicant intends to abate dust in parking areas. The applicant states that they will continue to ensure sufficient potable water supply, portable toilets, adequate waste disposal (garbage) and traffic/parking lot attendants for the events. Under previous health and safety plans, this event has not had a significant adverse impact on watersheds, groundwater, soil and slope stability, and air and water quality. A new health safety plan will be required to be approved through the mass gathering process, at which time this criterion can be met.

4. *Any noise associated with the use will not have a significant adverse impact on nearby land uses.*

The applicant attests that the primary noise production is only during the joust show which occurs twice per day and utilizes amplified sound for the announcer. Applicant is familiar with the noise ordinance in Marion County and states that no amplified sounds will be produced between 10:00pm and 8:00am. The criterion is met.

5. *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.*

There do not appear to be any potential water impoundments, such as ponds, that would be impacted by the proposal. There are no areas of the parcel in any natural hazard areas. The proposal is not within a Sensitive Groundwater Overlay and would not impact the ground water. There also are no significant mineral and aggregate sites in the area that would be impacted by the proposal. This criterion is met.

13. Findings must also be made for a large gathering related to Oregon Revised Statute 433.763(1)(c)(B):

*The proposed gathering:*

- (i) *Is compatible with existing land uses; and*

The predominate use of the land on the subject properties and surrounding lands is farm use. If the applicant can demonstrate the event will not impact the farming practices on those properties, as described in #12 above, then this event can be demonstrated to be compatible with existing farm uses. Provision of the health safety, medical service, public safety, and parking and traffic control required by the mass gathering permit should ensure the event is compatible with other land uses, such as residential use of land near the event. Based on the past 16 Canterbury Renaissance Faires, Applicant has shown the ability to run this event without being disruptive to existing surrounding land uses. This criterion is met.

(ii) *Does not materially alter the stability of the overall land use pattern of the area.*

No permanent changes to the land are proposed. If the applicant meets the requirements for a mass gathering, the event will be temporary in nature and minimize the impact to the subject properties and neighboring properties, thus ensuring that the event does not alter the overall land use pattern of the area. Demonstrating that the event will not cause farming practices to change during the event will ensure that farming in the area will be able to continue, again maintaining the stability of the overall land use pattern of the area. Subject to providing the evidence described above, this criterion is met.

13. Planning suggested the following conditions of approval be applied (If approved):

1. Applicant shall obtain an approved Mass Gathering Permit, including approved plans for health safety, medical service, public safety, and parking and traffic control.
2. Applicant shall obtain any building and septic permits required for the event.
3. Applicant shall identify likely farm practices in the area that could take place during the event and incorporate into their event plan measures to minimize the impact of the event on farming practices without farmers having to appreciably change farming practices during the event.
4. Applicant shall submit evidence of compliance with all required agencies to planning staff no later than 90 days prior to the event.
5. For wells used in conjunction with the event, provide evidence of obtaining any required permits.

The proposed conditions are necessary for public health, safety, and welfare.

## **VII. ORDER**

It is hereby found that Applicant has met the burden of proving applicable standards and criteria for approval of a conditional use application to expand the approved Conditional Use for the Canterbury Renaissance Faire for a third weekend. Therefore, the conditional use application is **GRANTED**, subject to the conditions set forth below. The conditions are necessary for public health, safety, and welfare.

1. Applicant shall obtain an approved Mass Gathering Permit, including approved plans for health safety, medical service, public safety, and parking and traffic control.
2. Applicant shall obtain any building and septic permits required for the event.
3. Applicant shall identify likely farm practices in the area that could take place during the event and incorporate into their event plan measures to minimize the impact of the

event on farming practices without farmers having to appreciably change farming practices during the event.

4. Applicant shall submit evidence of compliance with all required agencies to planning staff no later than 90 days prior to the event.
5. For wells used in conjunction with the event, provide evidence of obtaining any required permits.

### **VIII. Other Permits**

Applicant herein is advised that the use of the property proposed in this application may require additional permits from other local, state, or federal agencies. The Marion County land use review and approval does not take the place of or relieve the Applicant of responsibility for acquiring such other permits or satisfy any restrictions or conditions thereon. The land use permit approved herein does not remove, alter, or impair in any way any covenants or restrictions imposed on this property by deed or other instrument.


### **IX. Effective Date**

The application approved herein shall become effective on the 22<sup>nd</sup> day of January, 2025, unless the Marion County Board of Commissioners, on their own motion or by appeal timely filed, is asked to review this Order. In the event of Board review, this Order shall be stayed and shall be subject to such final action as is taken by the Board.

### **X. Appeal Rights**

An appeal of this decision may be taken by anyone aggrieved or affected by this Order. An appeal must be filed with the Marion County Clerk (555 Court Street NE, Salem, Oregon) by 5:00 on the 21<sup>st</sup> day of January, 2025. The appeal must be in writing, must be filed in duplicate, must be accompanied by a payment of \$500.00, and must state wherein this Order fails to conform to the provisions of the applicable code provision(s). If the Board denies the appeal, \$300.00 of the appeal fee will be refunded.

DATED this 3<sup>rd</sup> day of January, 2025.

  
Jill F. Foster  
Marion County Hearings Officer

## CERTIFICATE OF MAILING

I hereby certify that I served the foregoing order on the following persons:

Whitewind Woodland, LLC  
Nancy White  
6118 Mt. Angel Hwy.  
Silverton, OR 97381

Area Advisory Committee 7:

James Sinn *(via email)*  
3168 Cascade Hwy. NE  
Silverton, OR 97381  
[ijsinn@gmail.com](mailto:ijsinn@gmail.com)

Dawn Olson  
15056 Quall Rd.  
Silverton, OR 97381

Roger Kaye  
Friends of Marion County  
P.O. Box 3274  
Salem, OR 97302

1000 Friends of Oregon  
133 SW 2nd Ave  
Portland, OR 97204-2597

County Agencies Notified:

Assessor's Office *(via email)*  
[assessor@co.marion.or.us](mailto:assessor@co.marion.or.us)

Tax Collector *(via email)*  
[NMcVey@co.marion.or.us](mailto:NMcVey@co.marion.or.us)  
[ADhillon@co.marion.or.us](mailto:ADhillon@co.marion.or.us)

Surveyor's Office *(via email)*  
[KInman@co.marion.or.us](mailto:KInman@co.marion.or.us)

Fire District:

Silverton Fire District *(via email)*  
819 Railway St.  
Silverton, OR 97381  
[billmiles@silvertonfire.com](mailto:billmiles@silvertonfire.com)

Planning Division *(via email)*

[breich@co.marion.or.us](mailto:breich@co.marion.or.us)  
[abarnes@co.marion.or.us](mailto:abarnes@co.marion.or.us)  
[ANajeraSanchez@co.marion.or.us](mailto:ANajeraSanchez@co.marion.or.us)

Building Inspection *(via email)*

[pwolterman@co.marion.or.us](mailto:pwolterman@co.marion.or.us)  
[Kaldrich@co.marion.or.us](mailto:Kaldrich@co.marion.or.us)  
[ABammes@co.marion.or.us](mailto:ABammes@co.marion.or.us)  
[CTate@co.marion.or.us](mailto:CTate@co.marion.or.us)

Public Works LDEP Section *(via email)*

[jasmussen@co.marion.or.us](mailto:jasmussen@co.marion.or.us)  
[mcldep@co.marion.or.us](mailto:mcldep@co.marion.or.us)  
[JShanahan@co.marion.or.us](mailto:JShanahan@co.marion.or.us)

School District:

Silver Falls School District *(via email)*  
802 Schlador St.  
Silverton, OR 97381

[Nielsen\\_steve@silverfalls.k12.or.us](mailto:Nielsen_steve@silverfalls.k12.or.us)  
[Stanley\\_lorin@silverfalls.k12.or.us](mailto:Stanley_lorin@silverfalls.k12.or.us)

Code Enforcement *(via email)*

[CGoffin@co.marion.or.us](mailto:CGoffin@co.marion.or.us)  
[JTaylor@co.marion.or.us](mailto:JTaylor@co.marion.or.us)

**State Agencies Notified:**

DLCD (*via email*)

635 Capitol St., Ste. 200

Salem, OR 97301

Hilary.foote@dlcd.oregon.gov

ODOT (*via email*)

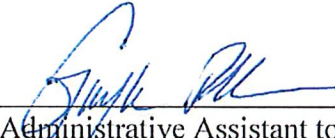
Transportation Building

355 Capital St.

Salem, OR 97310

ODOTr2planmgr@odot.state.or.us

By mailing to them copies thereof. I further certify that said copies were placed in sealed envelopes addressed as noted above, that said copies were deposited in the United States Post Office at Salem, Oregon, on the 3rd day of January, 2025 and that the postage thereon was prepaid.

  
\_\_\_\_\_  
Administrative Assistant to the  
Hearings Officer