

0Attention 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.22-003

APPLICATION: Application of Meng and Ntxhees Vue for a conditional use permit for a home occupation business on a 2.14-acre property in an EFU (Exclusive Farm Use) zone located at 7620 Portland Rd NE, Salem. (T6S, R2W, Section 19D, tax lot 1400).

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

EXPIRATION DATE: This conditional use permit is valid only when exercised by **March 26, 2024**. 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 proposed use is for land use purposes only. Due to septic, well and drainfield replacement areas, this parcel may not be able to support the proposed use. To ensure 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 home occupation shall be continuously conducted in such a manner as not to create any public or private nuisance including, but not limited to, offensive noise, odors, vibration, fumes, smoke, fire hazard, or electronic, electrical, or electromagnetic interference.
2. Failure to continuously comply with the conditions of approval may result in this approval being revoked. Any revocation could be appealed to a county hearings officer for a public hearing.
3. The home occupation shall be conducted by the resident or residents of a dwelling on the subject property as a secondary use and may employ no more than two persons ("person" includes volunteer, non-resident employee, partner, or any other person).
4. The applicant shall obtain all required permits from Marion County Building Inspection.
5. The conditional home occupation shall not significantly interfere with other uses permitted in the zone in which the property is located.
6. Any sign shall meet the standards found in Chapter 17.191MCC.
7. The home occupation shall be conducted entirely within the dwelling or accessory building.
8. All visits by suppliers or customers shall occur between the hours of 8:00 a.m. and 8:00 p.m.
9. There shall be no outside storage or display of materials, equipment, or merchandise used in, or produced in connection with, the conditional home occupation.

10. Where a home occupation involves deliveries, one off-street loading space shall be provided. If visits by customers occur, two additional off-street parking spaces shall be provided if the street along the lot frontage does not provide paved area for at least two parallel parking spaces. During normal loading/unloading or customer parking periods the off-street loading and parking spaces shall be reserved exclusively for that use.
11. The dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.
12. Retail and wholesale sales that do not involve customers coming to the property, such as internet, telephone or mail order offsite sales, and incidental sales related to the home occupation services being provided are allowed. No other sales are permitted as, or in conjunction with, a home occupation.
13. The business shall comply with all the requirements of the Marion County No. 1 Fire District.
14. The applicant shall sign and submit a Home Occupation Agreement to the Planning Division (enclosed).
15. The development shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director.

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 # below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

16. The applicants should contact the Marion District to obtain a copy of the Marion County No. 1 Fire 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 MCFD#1 - (503) 588-6513**

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 26, 2022**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **March 28, 2022**, 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 intent of this designation and the corresponding EFU (Exclusive Farm Use) zone is to promote the continuation of commercial farm uses in the area.
2. The subject property is located on the east side of HWY 99E, approximately 0.20 miles south of its intersection with Poinsetta St NE. The property contains a dwelling built in 1979, a garage and a shed. The property was the subject of land use case CU92-026 and is therefore considered legal for land use purposes.
3. Properties in all directions are zoned EFU and consist of large- and small-scale farm operations with dwellings.
4. The applicant is proposing to operate a meat jerky business as a home occupation.

5. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

ENGINEERING REQUIREMENTS

- A. *The subject property is within the unincorporated area of Marion County and will be assessed Transportation System Development Charges (SDCs) upon application for building permits per Marion County Ordinances.*

Marion County Building Inspection commented that permits are required for the construction of the kitchen, installation of utilities and/or ventilation.

Marion County Septic Inspection commented:

“An authorization notice application is required for the increase in flow to the septic system. The applicant must describe the number of partners/employees that will work at the kitchen and the days/hours per week they will work. They must also describe all sources of wastewater generated by the kitchen, including any cleaning chemicals used. The applicant indicates that this will be a commissary kitchen, if the space is to be shared/rented to other businesses they must also include the same information for the proposed shared/rented use.”

All other commenting agencies state no objections or did not comment.

6. In order to approve a home occupation in a EFU zone, the applicant must demonstrate compliance with the specific criteria listed in MCC 17.136.060 (C). These include:

1. A home occupation or bed and breakfast inn shall be operated by a resident of the dwelling on the property on which the business is located. Including residents, no more than five full-time or part-time persons shall work in the home occupation (“person” includes volunteer, nonresident employee, partner, or any other person).

The property owners are proposing to run the business with a maximum of two additional for a total of four employees. The criterion is met.

2. It shall be operated substantially in:

a. The dwelling; or

b. Other buildings normally associated with uses permitted in the zone in which the property is located.

Applicants are proposing to operate the business out of an existing shed on the property that they will convert into a kitchen. The criterion is met.

3. It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.

The use is to be constrained inside of an existing structure as to not affect farm use in the area. Additionally, no customers will be coming to the property and the use is not expected to create noise or fumes that would interfere with farm use. The criterion is met.

4. A home occupation shall not be authorized in structures accessory to resource use on high-value farmland.

The proposed structure is a shed that is accessory to residential use. The criteria is met.

5. A sign shall meet the standards in Chapter 17.191 MCC.

No sign is proposed. The criterion does not apply currently. This will be made a condition of approval for future signs.

6. The property, dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.

No assembly or dispatch of employees is proposed. The criterion is met.

7. Retail and wholesale sales that do not involve customers coming to the property, such as Internet, telephone or mail order off-site sales, and incidental sales related to the home occupation services being provided are allowed. No other sales are permitted as, or in conjunction with, a home occupation.

Applicant has proposed to meet this criterion by only having deliveries be picked up at the subject property by USPS or other similar mail carriers. No customers are proposed to visit the property. The criterion is met.

7. The EFU zone, in MCC 17.136.060 (A), contains general criteria that apply to all conditional use proposals. Those requirements are:

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.

The use to be contained inside of a building and will not produce disruptions to farm use as noise smells and activity will be concealed by the building and ventilation systems. The criterion is met.

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

The property is served by Marion County Fire District No. 1. The criterion is met.

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.

Because this kitchen will utilize ventilation systems and a septic tank, this use will not affect watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air, and water quality.

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

The noise associated with this is expected to be minimal and contained within the building. 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.

None of those such sites are located on the subject property. The criterion does not apply.

8. Based on the above findings it has been determined that the proposed Conditional Use complies with the criteria for a Home Occupation in the EFU zone and is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: March 11, 2022

If you have any questions regarding this decision contact Austin Barnes 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.