

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  
RECONSIDERATION OF  
CONDITIONAL USE CASE NO. 21-018**

**APPLICATION:** Application of Charles and Sharon Pearce for a conditional use to operate a dog kennel on a 3.63 acre parcel in an AR (Acreage Residential) zone located at 8856 Jeanne Ct. SE, Aumsville. (T8S; R2W; Section 13B; Tax lot 1600).

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

**RECONSIDERATION:** **The planning director issued a decision approving the request, after that decision was issued additional comments were receive from Marion County Dog Services that need to addressed reconsidered. Additional comments and conditions are in *bold italics*.**

**EXPIRATION DATE:** This conditional use permit is valid only when exercised by **July 23, 2023**. 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. The applicant shall have all adult dogs licensed through Marion County Dog Control.
3. Prior to establishment of the kennel, acquire an Access Permit from MCPW Engineering, and under the Permit, widen the driveway approach off the end of the cul-de-sac to provide a 20' x 20' paved surface.

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

4. The applicants shall maintain adequate fencing to contain dogs on the property at all times. ***Within 45 days of decision becoming final, the applicant shall provide evidence that adequate fencing has been installed and approved by the Marion County Dog Services.***
5. ***There shall n more than 20 adults dogs (6 mo. or older) kept on the property at any given time.***
6. 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.

7. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #5 below, that may be required.

**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 **July 23, 2021**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the above address. This decision is effective **July 24, 2021** 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 for the creation of acreage home sites 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 west side of Jeanne Ct. SE, approximately ¼ mile north of the intersection with Silver Falls Highway NE. The property contains a single family home, accessory structures, well, and septic system. The property is considered a legal parcel for land use purposes.
3. Properties to the north, east and south are zoned AR, and consist of rural residential lots and some small farm parcels. Adjacent properties to the west are zoned EFU (Exclusive Farm Use) and consist of farming parcels.
4. The applicant is requesting to establish a dog kennel on the subject property. This would include the breeding and selling of dogs.
5. Public Works Land Development and Engineering Permits commented:

#### **ENGINEERING CONDITION**

*Condition A - Prior to establishment of the kennel, acquire an Access Permit from MCPW Engineering, and under the Permit, widen the driveway approach off the end of the cul-de-sac to provide a 20' x 20' paved surface.*

Access work is typically an Engineering Requirement; however, it is being elevated to Condition status as a matter of timing for completion. The current driveway approach appears to have been recently paved without a required permit. Furthermore, the approach at approximately 10' in width is too narrow to safely accommodate two-way traffic associated with client ingress/egress. Although the land use application was silent as to client traffic, under a potential land use approval there would be no prohibition against it.

#### **ENGINEERING REQUIREMENT**

- B. Transportation System Development Charges (SDC) will be due at the time of application for building permits and/or establishment of the kennel. The SDC rate is per approximately \$118 per dog. The land use application stated a maximum of 30 adult dogs at any given time. Please contact PW Engineering to confirm amount and arrange payment.

#### **ENGINEERING ADVISORY**

- C. Applicant may wish to also consider installing a graveled vehicle pull-out at a mid-point along the private driveway to enhance ability for two-way vehicular passage.

Marion County Building Inspection commented that a Building permit may be required for a Change in Use or Occupancy.

Marion County Onsite Septic commented that the applicant will need to follow through with CAFO. If utility sinks or dog baths or restrooms are needed an authorization for a change of use and connection to the existing septic will be needed.

Marion County Code Enforcement commented that the approval of this application would resolve the only violation on this property.

***Marion County Dog Services commented that the property does not have an adequate perimeter fence; the southeast side of the property borders a grass field. A majority of this fence is field fencing which is not adequate for housing dogs. Also the north, northwest, and south end of the property also has a majority of field fence. The driveway is also not secure and some of the dogs are frequently let out front and running loose on the property. With they have free access to leave the property via many options. Also with a reduction to 20 adult (6 mo. or older) dogs, they may be able to manage them better.***

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

6. All conditional uses are subject to the general criteria in MCC16.40.020, these include:

- (a) *The use is listed as a conditional use in the zone, or is otherwise identified as a conditional use and is consistent with the intent and purpose of the zone and the provisions that authorized consideration as a conditional use.*
- (b) *The parcel is suitable for the proposed use considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features.*
- (c) *The proposed use, as conditioned, will not substantially limit, impair, or preclude the use of surrounding properties for the uses permitted in the applicable zone.*
- (d) *The proposed use, as conditioned, will not have a significant adverse effect on air or water quality.*
- (e) *Adequate public and utility facilities and services to serve the use are available or will be made available prior to establishment of the use.*

7. The property does not appear to be farmed and surrounding properties consists of single family homes and small hobby farmed parcels and one large EFU zoned farm to the west. The dogs will be contained in the proposed accessory structure with a fenced run attached for outside time. It does not appear that the kennel will have a negative impact on surrounding land uses. Conditions have been placed upon a kennel on this property in order to ensure that it maintains the purpose and intent of the zone of the property on which it is placed. The proposal meets the criterion in 6(a).

The property is served by Aumsville Fire District and other services are available or can be provided. The applicant will be required to obtain any needed 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 and water quality areas identified. If additional water or septic needs are present the applicant shall apply for the appropriate permits through Marion County Building Department. The proposal meets the criteria in 6(d).

The Marion County Comprehensive Plan identifies no potential water impoundments or mineral and aggregate sites. The proposal meets 6(f).

9. 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 reconsidered and **APPROVED** subject to conditions.

Joe Fennimore  
Director Planning Division

Date: July 8, 2021

If you have any questions please contact Lindsey King 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.