

**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.21-029**

**APPLICATION:** Application of Edward Eng for a conditional use to operate a gunsmithing shop as a home occupation on a 0.16 acre parcel in an EFU (Exclusive Farm Use) zone located at 7555 Windsor Island Rd N, Keizer. (T7S; R3W; Section 21D; Tax lot 500).

**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 **July 28, 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 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 business shall continuously comply with the home occupation criteria in MCC 17.136.060(C) and listed in Finding #6 and the conditions of approval on this decision.
2. Failure to continuously comply with the Conditions of Approval may result in this approval being revoked. Any revocation can be appealed to a Marion County Hearings Officer for a public hearing.
3. This home occupation is not approved for retail sales open to the public. Sales shall be conducted on an appointment only basis.
4. 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 #5 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

5. 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 28, 2021**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is **July 29, 2021** 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 agriculture and commercial farm uses in the area.
2. The subject property is 1 mile north of the intersection of Windsor Island Rd and Naples St N. The property contains a legal home site established in 1940 and is therefore considered a legal parcel for land use purposes.
3. Properties are zoned EFU in all directions and consist of farms and home sites. The subject property contains a dwelling and accessory structure.
4. The applicant is proposing to operate a gun-smithing shop 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 REQUIREMENT**

- A. The existing access approach is graveled. Applicant should periodically inspect for strewn gravel on the public roadway, and sweep off, as necessary. If the Applicant wished to pave the approach with asphalt, an Access Permit would be required.
- B. Transportation System Development Charges may be assessed for the change in use of the personal accessory structure to commercial use upon application for building permits.

All other commenting agencies failed to comment.

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

*C. Home Occupations. Notwithstanding MCC 17.110.270 and 17.120.075, home occupations, including the parking of vehicles in conjunction with the home occupation and bed and breakfast inns, are subject to the following criteria:*

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).*

As described in the applicant statement, the shop will be ran only by the resident of the dwelling. 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.*A structure is already built that will house the gun-smithing operation. 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 as described should but affect other permitted uses in this zone. The parcel is not in farm use and is buffered from any parcel with intense farm use by either trees, other residential properties or by roads. The criterion is met.

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

The structure proposed for the use is accessory to residential use and was not an agriculture structure. The criterion is met.

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

No signs are proposed with this application. The criterion is met.

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

No employee dispatch is discussed in this application. 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.*

No sales are proposed except by appointment only which does not constitute retail sales. The low intensity nature of the use and employees can only allow for a low number of sales per month. 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:

A. *The following criteria apply to all conditional uses in the EFU zone:*

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 is not expected to affect farm use in any way. The parcel is buffered by trees and the use described is a low intensity gun-smithing studio, operation indoors, not unlike many of the uses already taking place in private shops in the County. The criterion is met.

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

Salem-Keizer Fire District serves the parcel. 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.*

The structure does not have bathrooms and will not affect groundwater. No new plumbing or septic is proposed. The criterion is met.

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

There is noise associated with gun-smithing, but this noise is not unlike noise created by farming or personal hobbies in the area. The applicant states they will not operate at night and the noise created will be indoors. 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.*

The structure will be not be hooked up to septic or create threats to groundwater quality. The applicant has written in his statement that he intends to use proper exhaust filtering and air scrubbing to combat any impurities put into the air. Additionally, as this will take place indoors with air filtration, this is not a threat to neighbors or adjacent land uses. The criterion is met.

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**, subject to conditions.

Joe Fennimore  
Planning Director

Date: July 13, 2021

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.