

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. 22-037

APPLICATION: Application of Jason Cravenho for a conditional use permit to operate two separate businesses, a firearm, and a payroll business, as a home occupation on a 2.02-acre parcel in a UT-5 (Urban Transition – 5 Acre Minimum) zone located at 4165 Cordon Rd NE, Salem (T7S; R2W; Section 08A; Tax lot 2300).

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 **December 1, 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 drain field 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 applicant shall obtain approval for all required permits from the Marion County Building Inspection Division.
2. The applicant shall obtain approval and comply with the requirements of permits issued by Marion County Land Development Engineering & Permits. This includes a removal agreement for fencing located within the Cordon Road special setback area. Please see LDEP comments for more information.
3. The applicant shall continue to comply with MCC 16.25.200(A)(13) and 16.26.410. In particular, a recreational vehicle space, if occupied by an occupied recreational vehicle for more than 120 days in any calendar year, the space shall be located in a recreational vehicle park.
4. 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. Delivery and pick-up of materials or commodities in conjunction with the home occupation to and from the premises shall be made by private vehicles or by commercial vehicles not exceeding two axles in size.

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

5. The home occupation shall be operated in full compliance with the criteria in Marion County Code 16.32.400.
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 another 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 any restrictions or conditions thereon. It is recommended that the agencies mentioned in the Findings and Conclusions section below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

7. The applicants should contact the Marion County Fire District #1 to obtain a copy of the 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.

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 **December 1, 2022**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **December 2, 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 located within the City of Salem Urban Growth Boundary (UGB). The City of Salem Comprehensive Plan designates the property as Developing Residential. Marion County correspondingly has zoned the property as Urban Transition – 5 Acre Minimum (UT-5). The intent of this zone is to retain and protect for future urban use properties which are undeveloped or underdeveloped and do not yet have available urban facilities such as sanitary sewer, water, drainage, and streets.
2. The subject property is located on the west side of Cordon Road NE, approximately 1,000 feet north of the intersection between Cordon Road NE and Herrin Road NE. The property is currently developed with one dwelling and multiple accessory structures per the Assessor records and aerial images. The adjacent property to the north has been annexed into the City of Salem. Properties to the south and west are similarly zoned Urban Transition. Properties to the east across Cordon Road are outside the Urban Growth Boundary and zoned as Exclusive Farm Use (EFU).
3. This property has existed as a **single parcel** in its current configuration since before September 1, 1977, per a warranty deed recorded in Volume 731, Page 13 of the Deed Records of Marion County, Oregon. Therefore, the parcel is legal for the purposes of land use per Marion County Code 16.49.152.
4. The applicant is proposing to operate two businesses as home occupations. Per MCC 16.13, the Urban Transition (UT) zone allows for home occupations under two sets of standards or criteria. The first, known as a "Limited Home Occupation," is permitted outright and is described under MCC 16.26.200. The second option is a "Conditional Use Home Occupation" described in MCC 16.32.400. The applicant has applied for the second option, a Conditional Use Home Occupation.
5. Marion County Building Inspection commented that:

Permits would be required for the use of the storage containers as a commercial business that is open for public access. Any storage, sale, or reloading of bullets, as a commercial use and not for personal use, may require upgrades to the structures. Consultation with a Building Plans Examiner is encouraged.

6. Marion County Land Development and Engineering commented that:

ENGINEERING CONDITION

A – Prior to issuance of commercial building permits related to the home occupation, record a Removal Agreement for the recently installed fencing that is situated in the Cordon Road 60-foot-wide special setback. A removal agreement acknowledges property owner understanding that upon potential future road widening and/or utility work there is potential that a structure may be impacted, and that a 45-day written notice for Owner to remove the structure will be issued [MCC 17.112.020(C) & (F)(2)(b)]. MCPW Engineering will prepare the document for execution.

ENGINEERING REQUIREMENT

B – Prior to the issuance of commercial building permits, complete any required access approach work under Access Permit #555-22-001270-PW associated with access review for the personal use shop.

C – Transportation System Development Charges will be assessed upon application for building permits associated with the proposed commercial use.

7. All other contacted agencies either failed to comment or had no objection to the proposal.
8. In order to approve a conditional use home occupation in the Urban Transition zone, the home occupation must meet the criteria provided under Marion County Code (MCC) 16.32.400. These include:

A. *The premises upon which the home occupation is conducted shall be the residence of the person conducting the home occupation.*

The applicant has stated that he recently purchased the property and is currently residing on the property. The applicant is currently residing in an occupied RV on the property until the current dwelling occupants vacate the property. Limited duration occupancy of an RV is permitted per MCC 16.26.410. The applicant will be operating the home occupations from the dwelling on the property. The criterion is met.

B. *The home occupation shall be continuously conducted in such a manner as not to create any nuisance, public or private, known law or equity, including but not limited to: noise, odors, vibration, fumes, smoke, fire hazard, or electronic, electrical, or electromagnetic interference.*

The home occupation consists of two types of businesses. One business is operated as a “business service,” which includes payroll and bookkeeping. This business is operated predominantly online and off-site. The business involves an office space which creates no abnormal nuisances. The second business is an online firearms business. This business requires the storage of firearms and an office space. The number of firearms and ammunition kept on the property will be limited in scale in order to prevent increased fire hazard. No noise, odors, vibrations, fumes, or other nuisances are expected from these businesses. The criterion is met.

C. *No sign shall be displayed on the premises except those as permitted in MCC [16.31.060\(A\)](#).*

The applicant has stated that they will not have a sign for the business. If they later decide to add a sign, the applicant must follow the requirements of the code. The criterion is met.

D. *No structural alterations shall be made to the dwelling that would be inconsistent with the future use of the building as a dwelling.*

The applicant states that the residence and shipping containers on the property will be utilized for the home businesses. The applicant also states that no alterations or construction will occur to accommodate the home businesses. An on-going permit to construct an accessory shop structure exists for this property. The applicant has stated the shop will not be used for either business. The criterion is met.

E. *No alteration to or use of the premises shall be made that would reduce the number of on-site parking spaces required for dwellings as outlined in MCC 16.30.170.*

The applicant has shown that the shipping containers placed on the property pose the most significant alteration. However, these containers are temporary and do not reduce the number of on-site parking spaces required for dwellings. The property is large enough to accommodate plenty of parking. The criterion is met.

- F. *Parking of customers' or clients' vehicles shall create no hazard or unusual congestion. If the home occupation requires any parking for an employee or customer, a site plan meeting the requirements for off-street parking in Chapter [16.30](#) MCC shall be submitted and approved by the planning.*

The applicant has shown that plenty of space on the property is available for parking. A long driveway exists with space for off-street parking. The criterion is met.

- G. *Delivery and pick-up of materials or commodities in conjunction with the home occupation to and from the premises shall be made by private vehicles or by commercial vehicles not exceeding two axles in size.*

The applicant has indicated that some deliveries will be needed for the home businesses. This requirement will be made a condition of approval. The criterion is met.

- H. *There shall be no outside storage or display of materials, equipment, or merchandise used in or produced in connection with the home occupation.*

The applicant has stated that all materials are currently stored in the shipping containers. These materials will be moved inside the home. No equipment will be stored outdoors. The criterion is met.

- I. *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.*

The applicant states that sales do occur for the purpose of the firearms business. These sales, in order to meet zoning code, will need to be completed off-site. This will be made a condition of approval. The criterion is met.

- J. *The dwelling or other buildings shall not be used for assembly or dispatch of employees to other location.*

The applicant has indicated that the only employees of the business are residents of the property. No other employees will assemble or dispatch from the property. The criterion is met.

9. In addition to the specific criteria above, the proposal must also satisfy the conditional use criteria in Marion County Code (MCC) 16.13.030. Those requirements are:

- A. *The use will not increase traffic beyond the capacity of existing roads.*

The applicant has stated that customers and deliveries will be occasional. In their application, they stated an average of 0.5 visits per day, but in verbal conversation have also stated that the number of customers would likely average 2 or 3 per month. The applicant will be required to abide by the off-site sales requirements of MCC 16.32.400, thereby further limiting the amount of traffic generated. The criterion is met.

- B. *If the use will remain after the area is urbanized, it will be located in such a manner that any significant unused portion of the property has adequate development options.*

The applicant has indicated that the businesses are currently being operated out of shipping containers while he awaits the dwelling's current tenant's departure. Once the applicant moves into the dwelling, he will operate inside the residence/dwelling. No structures will be built exclusively for the purpose of the business; the shop being built on the property is for personal use according to the applicant. The predominant use of the property will remain as residential. The UT zone code will preserve the property so that future development options will be maintained. The criterion is met.

- C. *The use and related structures and improvements meet the development standards of the most restrictive zone consistent with the applicable Comprehensive Plan designation; or the city concurs and, if the city requests, conditions are imposed that require the structures and improvements to be brought into conformance with city zoning regulations upon annexation.*

The most restrictive Marion County zone consistent with the Comprehensive Plan designation is Single Family Residential (RS). That zone, like the Urban Transition zone, also allows for home occupations. The development standards and requirements for home occupations under both zones are very similar. The uses and development standards will be met. The criterion is met.

- D. *The most restrictive zone used in the applicable Comprehensive Plan designation lists the proposed use as a permitted or conditional use; or the city concurs and, if the city requests, conditions are imposed which require that the use be brought into conformance with city zoning regulations upon annexation.*

The most restrictive Marion County zone consistent with the Comprehensive Plan designation is Single Family Residential (RS). That zone, like the Urban Transition zone, also allows for home occupations as both a permitted and conditional use. The criterion is met.

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

The applicant's proposal shows that these home occupations will operate indoors and operate essentially like home offices. Any noise will probably be associated with deliveries and occasional visits by customers. The limited scope suggests that noise will not have a significant adverse impact on nearby land uses.

- F. *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 are no nearby water impoundments, mineral, or aggregate sites located nearby. There is no evidence that the home occupation will have conflicts with such sites. The criterion is met.

10. In addition, MCC 16.13.030 states that all conditional use approvals must be found to satisfy the criteria of MCC 16.40.020. Those requirements are:

- 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.*

The proposed use is a home business, also known as a home occupation. This use is identified as a permitted and conditional use in the Urban Transition zone. The criterion is met.

- B. *The parcel is suitable for the proposed use considering such factors as size, shape, location, topography, soils, slope stability, drainage, and natural features.*

The parcel is still primarily a residential property. The size, shape, topography, soils, drainage, and slope stability of the parcel all fit the nature of the land use. The proposed use also does not negatively impact any of these items. The criterion is met.

- 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.*

The home occupation will be conditioned in order to minimize impacts on neighboring properties. The majority of neighboring properties are zoned Urban Transition and utilized for residential purposes. The criterion is met.

- D. *The proposed use, as conditioned, will not have a significant adverse effect on air or water quality.*

Neither home occupation will have significant effects on air or water quality. As stated earlier, both businesses are limited in scope and consist of home offices plus some equipment storage. The criterion is met.

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.

The parcel is already served by utilities for the home. The parcel is located within the Marion County Fire District #1. Services are already provided, and therefore the criterion is met.

11. Based on the above findings, it has been determined that the applicants' request meets all applicable criteria, and is, therefore, **APPROVED**, subject to conditions.

Brandon Reich,
Planning Director/Zoning Administrator

Date: November 18, 2022

If you have any questions regarding this decision contact Daniel Jansen 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.