

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. 23-034**

APPLICATION: Application of Stacy, Karen & Larry Wells and Paul Lanier for a conditional use to permit a bed and breakfast as a home occupation on a 133.88-acre parcel in an EFU (Exclusive Farm Use) zone located at 3080 Jefferson-Scio Dr SE, Jefferson (T10S; R3W; Section 13; Tax Lot 500).

DECISION: PLEASE READ ALL CONDITIONS: 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 **October 6, 2025** (two years). 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 home occupation shall be operated in full compliance with the criteria in MCC 17.136.060(C) that are listed in #7 of the Findings and Conclusions section of this decision.
3. The applicant shall sign and submit a Farm/Forest Declaratory Statement (enclosed) to the Planning Division. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
4. The Bed and Breakfast shall be operated in the same dwelling that the property owners reside in.
5. 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 any restrictions or conditions thereon. It is recommended that the agencies mentioned in Finding #10 & 11 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

6. The applicants should contact the Jefferson Fire District 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.

7. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #6 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 **October 6, 2023**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 7, 2023**, 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 major purpose of this designation and the corresponding EFU zone is to promote the continuation of commercial agricultural operations.
2. The property is located on the south side of Jefferson-Scio Dr NE, approximately 1200 feet west of its intersection with Trefethen Ln SE, a private road. It contains two legal dwellings, one built in 1920 and one built in 2022 as a replacement of the 1971 manufactured dwelling. The property also contains multiple farm structures and accessory buildings and is in commercial farm use. A stream crosses through the middle of the property running east to west and does not interfere with this proposal. The property was the subject of Conditional Use Case CU81-035 and is therefore legal for land use.
3. Surrounding uses are farm uses in all directions. All parcels are zoned EFU and developed with homesites and farm operations. This area contains large farms growing row crops, grass seed and wine grapes. To the northwest lies the City of Jefferson.
4. Soil Survey of Marion County Oregon indicates 97.4% of the subject property is composed of high-value farm soils.
5. The applicants are proposing to operate a bed and breakfast from the subject property.
6. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

ENGINEERING REQUIREMENTS

- A. At the time of application for building permits for the change-in-occupancy, it will be required to obtain an Access Permit to pave the west driveway access approach with hot mix asphalt.
- B. Transportation System Development Charges will be assessed at the time of application for building permits for the change-in-occupancy.

Marion County Building Department commented:

“According to the 2022 Oregon Structural Specialty Code, Section 310.4.4, and the information provided within the application and statement, the proposed bed and breakfast (i.e., lodging house) is an approved use within a one family dwelling, with five or fewer guest rooms and 10 or fewer total occupants. A permit is required to be obtained to establish the proposed bed and breakfast use within the existing dwelling.”

All other commenting agencies stated no objection to the proposal.

7. MCC Chapter 17.110.108 defines a bed and breakfast inn as “*a single-family dwelling where lodging and a morning meal for guests only are offered for compensation, having no more than five sleeping rooms for this purpose. An establishment where more than one meal per day is offered shall not be deemed a bed and breakfast inn. An establishment with more than five sleeping rooms shall be deemed a hotel. Unless specifically listed as a permitted or conditional use, a bed and breakfast inn is considered a home occupation. Weddings, receptions, group meetings, conferences and similar activities are not allowed as secondary uses, accessory uses or temporary uses in association with a bed and breakfast inn.*”

A bed and breakfast inn can be approved as a home occupation in the EFU zone subject to the terms of this definition. The applicants state that 3 rooms will be used for the bed and breakfast. No activities are proposed that are not included in this definition.

8. In order to approve a Bed and Breakfast in an EFU zone, the applicant must satisfy the criteria in Section 17.136.060(C) of the Marion County Code (MCC) as follows:

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).

Stacy Wells and Paul Lanier will reside in the dwelling and operate the bed and breakfast. 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.

The applicants propose to operate the bed and breakfast from the dwelling on the property. The criterion is met.

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

The rental of three bedrooms is not expected to interfere with any allowed uses in the EFU zone, the property will continue to be farmed. The criterion is met.

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

The use is proposed to be operated in the dwelling, not agricultural buildings. The criterion is met.

5. A sign shall meet the standards in Chapter [17.191](#) MCC.

The applicants state their sign will comply with our code regulations. 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 assembly or dispatch of employees is proposed with 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 with this application. The criterion is met.

9. Since the property is located in an EFU zone, the proposal must also satisfy the conditional use criteria in MCC 17.136.060(A). Those requirements are:

- (a) *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.*

This use is not expected to affect any adjacent uses as the parcel is large enough to create a buffer, such that, three rented rooms will not adversely affect adjacent properties. The criterion is met.

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

The property is served by the Jefferson Fire District. The criterion is met.

- (c) *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 use is very similar to everyday residential uses and the dwelling is connected to a septic system and well. This will not have an adverse impact on water, wildlife, or air quality. The criterion is met.

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

Due to the residential nature of the proposed use, there is not expected to be additional noise, such that, adjacent properties are affected by the bed and breakfast. The criterion is met.

- (e) *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 water impoundments identified on the subject property. The criterion is met.

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

Brandon Reich
Planning Director/Zoning Administrator

Date: September 21, 2023

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.