

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. 25-006

APPLICATION: Application of Blanca Gutierrez Santos and Javier Gutierrez Aguilar for a conditional use permit to operate a painting business as a home occupation on a 5-acre parcel in an EFU (Exclusive Farm Use) zone located at 23765 Klupenger Rd NE, Aurora (T3S; R1W; Section 33; Tax lots 1000 & 1100).

DECISION: Notice is hereby given that the Planning Director for Marion County has **APPROVED** the above-described Conditional Use application subject to certain conditions.

EXPIRATION: This decision is valid only when exercised by **February 26th, 2027** (two years from the effective date of the decision) unless an extension is granted. The effective period of this application may be extended for one year subject to approval of an extension. Request for an extension must be submitted to the Planning Division prior to expiration of the approval. (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 proposal. To ensure the subject property can accommodate the proposal 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(s) shall obtain all required building permits, including septic if needed, from the Marion County Building Inspection Division and Septic Division.
2. The applicant(s) shall record a Farm/Forest Declaratory Statement into the deed at the Marion County Clerk's Office.

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

3. The property, dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.
4. Paints shall not be disposed of in the residential onsite wastewater system.
5. The use shall not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.
6. 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.)
7. The home occupation shall be operated substantially in the dwelling; or other buildings normally associated with uses permitted in the zone in which the property is located.
8. The home occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
9. A home occupation shall not be authorized in structures accessory to resource use on high-value farmland.

10. A sign shall meet the standards in Chapter 17.191 MCC.
11. 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.
12. Failure to continuously comply with the conditions of approval may result in this approval being revoked. Any revocation could be appealed to the 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 the agencies mentioned in Finding #5 in the Findings and Conclusions section below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

13. The applicants should contact Aurora 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.

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 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 by the Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on **February 26th, 2025**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **February 27th, 2025**, 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 Exclusive Farm Use zone is to promote the continuation of commercial agricultural operations.
2. The property is located on the west side of Klupenger Rd NE approximately ¼ mile north of its intersection with Arndt Rd NE. Tax lot 1100 consists of a dwelling and one small farm building, while tax lot 1000 has several farm buildings and contains the farmable acreage of the property. The parcel was described in its current configuration in Volume 573 Page 283 in the book of land records for Marion County. This 1963 legal description concludes that this parcel is considered legal for land use purposes.
3. Surrounding uses immediately adjacent are zoned Exclusive Farm Use and contain large farming operations, with some having single family dwellings.
4. The applicants are proposing to operate their painting business as a home occupation on this property.
5. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Septic Division commented:

“An authorization will be required per OAR 340-071-0205 due to a change in use. No paint products will be permitted to enter the residential onsite wastewater system.”

Marion County Building commented:

“No Building Inspection concerns. Permit(s) would be required to be obtained prior to any development of structures, alterations of structures, and/or utilities installation on private property, if proposed.”

Marion County Code Enforcement commented:

“I support this 100%. I would like to see a condition of no dispatching of employees from the property. The approval of this CU will allow me to close a Code Enforcement case I have on the property.”

All other agencies contacted either failed to respond or had no comment.

6. Since the property is located in an EFU zone, the proposal must 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.*

The proposed home occupation involves the storage of business equipment in an accessory structure on the subject parcel. The applicants attest that the business will be conducted offsite at clients' homes. No employees or customers will be traveling to the subject parcel. The applicants state that they do not perform any painting onsite and dispose of all paint at paint recycling facilities. The maximum number of company vehicles the applicant proposes to have on the property at one time is two, and they are owned by the applicants who reside on the property. Therefore, based on the information supplied by the applicant, this use will neither force a significant change in, nor a significant cost of, accepted farm practices on surrounding lands. The criterion is met.

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

The subject parcel is served by the Aurora Fire District and the Marion County Sheriff's Department. 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.*

Potential adverse impacts on the watershed or groundwater would result from improper paint disposal. The applicants state they dispose of all paint supplies offsite. Furthermore, a condition of approval states that all business supplies must be stored indoors. Any spill or leak of paint would be contained within the structure, meaning there is no inherent risk to groundwater or waterways. This shall be a condition of approval. The criterion is met.

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

The applicants state that no noise will be associated with the home occupation, as the services take place off the property. This lack of noise indicates no significant adverse impact on nearby land uses. 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 neither water impoundments nor aggregate sites in the area surrounding the subject parcel. The criterion is met.

7. 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 in MCC 17.136.060 (C):

- (a) *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 applicants attest that they will be the only employees for the proposed home occupation. The criterion is met.

- (b) *It shall be operated substantially in:*
- i. The dwelling; or*
 - ii. Other buildings normally associated with uses permitted in the zone in which the property is located.*

The applicant proposes utilizing an existing accessory structure to store equipment for the painting business. Accessory structures are permitted when associated with rural/farm dwellings in the EFU zone. The criterion is met.

- (c) *It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.*

The proposed use will primarily impact traffic from the two residents leaving the property for work, which will not significantly increase traffic levels compared to typical rural residential and farm activities. This travel is similar to that of other individuals leaving their properties for work. Given the absence of significant foreseeable impacts, the proposed use shall not unreasonably interfere with other uses permitted in the zone. The criterion is met.

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

The proposed structure for the home occupation is 50' x 25' pole barn that was built prior to the applicants owning the property. It is a residential accessory structure, not an agricultural structure. The criterion is met.

- (e) *A sign shall meet the standards in Chapter 17.191 MCC.*

No sign is proposed. This shall be a condition of approval.

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

The applicants attest that no assembly or dispatch will occur on the property. This will be a condition of approval.

- (g) *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.*

Retail sales are not proposed. The criterion is met.

8. Based on the above findings, it has been determined that the request satisfies all applicable criteria and is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: February 11th, 2025

If you have any questions regarding this decision contact Gillian Peden at (503) 566-4165.

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.



ZONING MAP

Input Taxlot(s): 031W330001000, 031W330001100

Owner Name: GUTIERREZ-AGUILAR, JAVIER
GUTIERREZ-SANTOS, BLANCA

Situs Address: 23765 KLUPENGER RD NE

City/State/Zip: AURORA, OR, 97002

Land Use Zone: EFU

School District: NORTH MARION

Fire District: AURORA

Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



scale: 1 in = 373 ft

DISCLAIMER: This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.