

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. 24-004**

APPLICATION: Application of Imelda Morales and Miguel Alejandro for a conditional use permit to operate a landscape business as a home occupation on a 1.00-acre property in an AR (Acreage Residential) zone located at 15102 Pine St, Jefferson (T10S, R3W, Section 2BA, Tax Lot 1400).

DECISION: The Planning Director for Marion County has **APPROVED** the above-described Conditional Use application subject to conditions. **PLEASE READ ALL CONDITIONS.**

EXPIRATION DATE: This conditional use permit is valid only when exercised by **March 21, 2026** (two years). The effective period may be extended for an additional year subject to approval of an extension (form available from the Planning Division).

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 applicant shall obtain approval for all permits, including subsurface sewage, as required by the Marion County Building Inspection Division.

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

2. The home occupation shall be conducted by the resident or residents of a dwelling on the subject property as a secondary use and may employ no more than two persons ("person" includes volunteer, non-resident employee, partner or any other person).
3. The home occupation shall be continuously conducted in such a manner as not to create any public or private nuisance including, but not limited to, offensive noise, odors, vibration, fumes, smoke, fire hazard, or electronic, electrical, or electromagnetic interference.
4. The conditional home occupation shall not significantly interfere with other uses permitted in the zone in which the property is located.
5. Any sign shall meet the standards Chapter 17.191MCC.
6. The home occupation shall be conducted entirely within the dwelling or accessory building. This does not include the parking of vehicles.
7. The total floor area of buildings on the subject property devoted to a home occupation shall not exceed 500 square feet in a residential zone, except in the AR zone where 1500 square feet is the maximum.
8. No structural alterations shall be made that would be inconsistent with future use of the buildings exclusively for residential purposes.

9. No alteration to or use of the premises shall be made that would reduce the number of required on-site parking spaces.
10. All visits by suppliers or customers shall occur between the hours of 8:00 a.m. and 8:00 p.m.
11. There shall be no outside storage or display of materials, equipment, or merchandise used in, or produced in connection with, the conditional home occupation. All storage of tools, material, equipment and merchandise related to the landscaping business will be within an accessory building.
12. Deliveries to or from the dwelling shall not involve a vehicle rated at more than 1 ton. There shall be no more than one commercial vehicle located on the property in conjunction with the home occupation.
13. Where a home occupation involves deliveries, one off-street loading space shall be provided. If visits by customers occur, two additional off-street parking spaces shall be provided if the street along the lot frontage does not provide paved area for at least two parallel parking spaces. During normal loading/unloading or customer parking periods the off-street loading and parking spaces shall be reserved exclusively for that use.
14. The dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.
15. Retail and wholesale sales that do not involve customers coming to the property, such as internet, telephone or mail order offsite 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.
16. The business shall comply with all the requirements of the Jefferson Fire District.
17. The business shall comply with all Department of Environmental Quality standards.
18. Any hazardous chemicals (such as pesticides, herbicides, fungicides, etc.) stored on the applicant's property will comply with Oregon Administrative Rule (OAR) 437-004-1680 *Storage of Hazardous Chemicals*.
18. The business shall not do anything that adversely impacts watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.
19. 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.
20. Failure to continuously comply with the conditions of approval may result in this approval being revoked. Any revocation could 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 # below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

21. 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.
22. 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 regula-

tions 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 **March 21, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **March 22, 2024**, 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 Residential in the Marion County Comprehensive Plan and correspondingly zoned AR (Acreage Residential). The purpose of this zone is to provide areas that are suitable for development of acreage homesites.
2. The subject property is a 1-acre parcel of land located at 15102 Pine St. SE, Jefferson. The parcel is flat and contains a dwelling and two accessory structures. Roughly one quarter of the property consists of a graveled driveway and parking area. This parcel was created by subdivision and recorded on the Oakdale Plat in 1949 as lot 2 of block 5 and has not changed since then. The parcel is therefore considered a legal lot for land use purposes.
3. All adjacent properties are zoned AR (Acreage Residential) and are in use as rural residences in a neighborhood directly northwest of Jefferson's UGB. One parcel in the neighborhood, approximately 350 feet to the southwest, is zoned industrial and in use as a junkyard. Outside of the neighborhood, roughly 400 feet to the east and 1,000 feet to the west, are EFU zoned parcels in agricultural use. North of the AR zoned tract the general pattern of use consists of large EFU zoned parcels.
4. The applicant is proposing to park the vehicles related to their landscaping business on their property and conduct any administrative work related to the landscaping business as a home occupation. The actual work related to landscaping occurs entirely offsite.
5. Various agencies were contacted for comment regarding the application.

Marion County Code Enforcement commented: "Code Enforcement would approve this. Approving the Conditional Use will allow us to close a Code case."

Marion County Building Inspection commented: "No Building Inspection concerns. If the business will be open to the public, with the public present to conduct business transactions on private property, a change of use permit would be required."

Marion County Septic Division commented: "The septic system on the property is for residents of the dwelling only and nothing is needed by our department. If the bathrooms are to be used by the business and not just the dwelling, an authorization for change of use/change of proposed flow is required. Please let me know if you have any additional questions or concerns."

Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

ENGINEERING REQUIREMENTS

- A. Upon application for building permits, if any such permits were to be required such as for storage of certain liquids or chemicals to be used in the proposed business, then Transportation System Development Charges

(TSDCs) may be assessed for a change-in-use of one or both the accessory buildings from personal to commercial storage.

- B. Employee parking shall take place on private property; no employee parking in Pine Street public right-of-way is allowed.

ENGINEERING ADVISORY

- C. Pine Street is a Local Access Road not maintained by Marion County.

All other commenting agencies stated no objection to the proposal.

- 6. In order to approve a conditional use home occupation in an AR zone, the applicant must demonstrate compliance with the specific criteria listed in MCC 17.125.075, these include:

- A. *The home occupation shall be carried on by the resident or residents of a dwelling on the subject property as a secondary use and may employ no more than two persons ("person" includes volunteer, nonresident employee, partner or any other person).*

The applicant attests that this is a family business operated by her husband and herself with the assistance of her brother who does not reside on the property. The aspect of this business being applied for as a home occupation is specifically the parking of vehicles and a trailer related to the business, and any administrative work done within a home office. Any employees engaged in the landscaping that occurs offsite shall not assemble or dispatch from this property as a condition of approval. The criterion is met.

- B. *The home occupation shall be continuously conducted in such a manner as not to create any public or private nuisance, including, but not limited to, offensive noise, odors, vibration, fumes, smoke, fire hazard, or electronic, electrical, or electromagnetic interference. In a residential zone noise associated with the home occupation shall not violate Department of Environmental Quality standards or Chapter 8.45 MCC, Noise.*

These shall be continuous conditions of approval. The applicant attests that any noise related to the coming and going of the business vehicles is occurring during normal business hours. The storing of vehicles should in and of itself does not create any offensive odors, vibrations, fumes, smoke, fire hazard or electronic, electrical or electromagnetic interference. Neither should it violate any DEQ standards. The criterion is met.

- C. *The conditional home occupation shall not significantly interfere with other uses permitted in the zone in which the property is located.*

The purpose of this zone is for rural residential purposes. The storing of landscaping vehicles and any administrative work occurring inside the dwelling should not interfere with other uses or the purpose of the zone. The criterion is met.

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

The applicant shall meet all of these standards as a condition of approval. The criterion is met.

- E. *The home occupation shall be conducted entirely within the dwelling or accessory building.*

The work associated with the home occupation is any administrative activities related to the landscaping business which will be occurring inside. This case was spurred by complaints related to the parking of business-related vehicles on the property, and clarification of that use is the goal. Conditions of approval will include restricting assembly and dispatch of employees from the homesite, guidelines for parking,

and assurance that any work relating to the vehicles, and storage of tools and equipment is occurring within an accessory building. The criterion is met.

- F. The total floor area of buildings on the subject property devoted to a home occupation shall not exceed 500 square feet in a residential zone, except in the AR zone where 1,500 square feet is the maximum.*

The square footage of the existing accessory structures is well within the 1,500 square foot limitation for the AR zone. The criterion is met.

- G. No structural alterations shall be made that would be inconsistent with future use of the buildings exclusively for residential purposes.*

The applicant proposes no structural alterations relative to the proposed condition use home occupation. Additionally, this shall be a condition of approval. The criterion is met.

- H. No alteration to or use of the premises shall be made that would reduce the number of required on-site parking spaces.*

The property contains a large gravel driveway that the applicant parks their work vehicles within. The applicant has proposed no further alterations to the driveway or parking area. The criterion is met.

- I. All visits by suppliers or customers shall occur between the hours of 8:00 a.m. and 8:00 p.m. These limitations do not apply to a bed and breakfast use as defined in MCC 17.110.108.*

The applicant attests that there are no suppliers or customers who come to the property. Additionally, this shall be a condition of approval. The criterion is met.

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

The applicant parks the trucks and trailers associated with the landscaping business in their driveway. Storage of all tools and heavy equipment shall be within the accessory structures as a condition of approval. The criterion is met.

- K. Deliveries to or from the dwelling shall not involve a vehicle rated at more than one ton. There shall be no more than one commercial vehicle located on the property in conjunction with the home occupation.*

The applicant attests that there are no deliveries to the dwelling related to their landscaping business. Additionally, this shall be a condition of approval. The criterion is met.

- L. Where a home occupation involves deliveries, one off-street loading space shall be provided. If visits by customers occur, two additional off-street parking spaces shall be provided if the street along the lot frontage does not provide paved area for at least two parallel parking spaces. During normal loading/unloading or customer parking periods the off-street loading and parking spaces shall be reserved exclusively for that use.*

This home occupation does not involve deliveries or visits by customers. The criterion does not apply.

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

The applicant attests that the only employee other than themselves is a brother who parks on the lot. Assembly and dispatch from this location will cease as a condition of approval. The criterion is met.

- N. *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 on the property are involved in this business. Administrative work and storage of the trucks and equipment is taking place on the property. The criterion does not apply.

8. The AR zone, in MCC 17.128.040 contains general criteria that apply to all conditional use proposals. Those requirements are:

- A. *The conditional use as described by the applicant will be in harmony with the purpose and intent of the zone.*

The proposed conditional use will not interfere the purpose of the AR zone which is to provide land for rural residential properties. The vehicles and tools stored at this property for the purpose of a landscaping business are not outside of the normal vehicles and tools stored on rural residential properties. The work hours when the applicant is leaving the property to engage in landscaping are standard work hours. The administrative work related to running the business is no different than remote work performed inside of a home and will not disturb other outright permitted uses in the area. The criterion is met.

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

The use will not draw any suppliers or customers to the property, so the effect on traffic will be no different with this business than any other profession that requires someone to leave their home in the morning and return in the evening. The criterion is met.

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

Adequate fire protection services are provided by Jefferson fire district. The use is being established within an existing AR zoned neighborhood where rural services are present. The criterion is met.

- D. *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 parking of the vehicles associated with the landscaping business will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air or water quality. Any hazardous chemicals (such as pesticides, herbicides, fungicides, etc.) stored on the applicant's property will comply with Oregon Administrative Rule (OAR) 437-004-1680 as a condition of approval. Additionally, it will be made a condition of approval that no activities associated with the business may have adverse impacts on any of the aforementioned. The criterion is met.

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

The applicant attests that they do not start the workday until 8:00am and no noise will be made earlier in the day than 8:00am. The noise associated with loading the trailer, connecting it to a truck, and driving on gravel will not be loud enough to have significant adverse impacts on the nearby parcels in use for rural residential purposes. Additionally, this shall be made a condition of approval. The criterion is met.

- 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 or mineral, or aggregate sites. The criterion does not apply.

9. Based on the above findings it has been determined that the proposed Conditional Use complies with the criteria for Home Occupations in the AR zone and is, therefore, **APPROVED**.

Brandon Reich
Planning Director

Date: March 6, 2024

If you have any questions regarding this decision contact John Speckman 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.