

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. 17-039

APPLICATION: Application of William and Allison Hamlin and Robert Aldridge for a conditional use to establish a meadery as a commercial activity in conjunction with farm use on a 7.62 acre parcel in an EFU (Exclusive Farm Use) zone located at 12433 Silverton Rd NE, Silverton. (T6S; R1W; Section 33D; tax lot 800).

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

EXPIRATION DATE: This Conditional Use Permit is valid only when exercised by **November 14, 2019**. 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. Prior to any use of the property for mead or cider production, sales or tasting events, the applicants shall obtain all permits, including subsurface sewage disposal, required by Marion County Building Inspection Division.
2. Prior to or in conjunction with issuance of any building permits, the applicants shall provide a detailed site plan demonstrating compliance with the parking requirements of Chapter 17.118 of the Marion County Code (MCC).
3. Customer tasting of mead or cider and tasting events are permitted on the property.
4. The sale of mead or cider from the property is permitted as part of this approval.
5. Incidental sales (less than 25% of total sales) of other items directly related to mead or cider, such as product grown on the property, serving glasses, and mead or cider from product not grown on the property, are permitted as part of this approval.
6. No limited service restaurant is approved through this decision.
7. No other events, such as weddings and receptions, are permitted as part of this approval.
8. 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.
9. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use until the following conditions have been satisfied:

Condition A – Prior to issuance of building permits associated with the proposed business, submit an engineered civil site plan to MCPW Engineering for review and approval that addresses grading, stormwater management, access, traffic circulation, and parking.

Condition B – Prior to issuance of building permits associated with the proposed business, obtain an Access Permit, and under the Permit, widen and pave a 20-24 wide x 30 foot deep driveway connection to the public road with hot mix asphalt.

Condition C – Prior to issuance of building permits, dedicate a 50-foot public right-of-way half-width along the subject property Silverton Road frontage to meet the standard for a County Arterial road.

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

10. Any sign placed on the property shall meet the standards in Chapter 17.191 MCC.
11. 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.

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 #6 be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

12. The applicant should contact the Marion County Health Department or the Oregon Department of Agriculture and obtain any permits or licenses required to operate a commercial kitchen.
13. The applicant should contact the Oregon Health Authority and obtain any permits or licenses required for use of the well for the business.
14. The applicants should contact the Silverton 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 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 **November 14, 2017**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **November 15, 2017** unless further consideration is requested.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which the decision was based are noted below.

1. The property is designated Primary Agriculture in the Marion County Comprehensive Plan. The purpose of this designation and the corresponding EFU (Exclusive Farm Use) zone is to promote and protect commercial agricultural operations.

2. The property is located on the north side of Silverton Road NE in the 12,400 block. The property contains a dwelling, accessory building, well and septic system. The property was described by deed (Volume 599, Page 543) as far back as April 15, 1965 and is considered a legally created parcel.
3. According to the Soil Survey for Marion County Oregon, 100% of the soils on the subject property are high-value soils.
4. Surrounding uses consist of properties in an EFU zone and to the south an industrial and storage use in the Industrial zone.
5. The applicants are proposing to operate a commercial activity in conjunction with farm use to produce mead and cider.
6. Public Works Land Development and Engineering Permits requested that Conditions A through C be included in the land use decision. LDEP also commented on requirements that are not part of the land use decision and available for review in the planning file. LDEP will not approve the final use until the following conditions have been met:

“Condition A – Prior to issuance of building permits associated with the proposed business, submit an engineered civil site plan to MCPW Engineering for review and approval that addresses grading, stormwater management, access, traffic circulation and parking.

Condition B – Prior to issuance of building permits associated with the proposed business, obtain an Access Permit, and under the Permit, widen and pave a 20-24 wide x 30 foot deep driveway connection to the public road with hot mix asphalt.

Access work, which is typically given as an Engineering Requirement, is being elevated to Condition status relative to its timing for completion.

Condition C – Prior to issuance of building permits, dedicate a 50-foot public right-of-way half-width along the subject property Silverton Road frontage to meet the standard for a County Arterial road.

R/W dedication requirements for conditional uses are in general accordance with Marion County Code (MCC) 17.119.060. The nexus for this Condition is the addition of commercial traffic to the site, and the need to allocate width for future road improvements and utilities.

Building Inspection commented that septic permits may be required.

Silver Fire District commented on access, construction, and water supply requirements related to fire safety.

All other commenting agencies stated no objection to the proposal.

7. In order to approve a commercial activity in conjunction with farm use the applicants must demonstrate compliance with the specific criteria listed in Marion County Code (MCC) 17.136.060(D). These include:
 - (a) *The commercial activity must be primarily a customer or supplier of farm uses.*
 - (b) *The commercial activity must enhance the farming enterprises of the local agricultural community to which the land hosting that commercial activity relates.*
 - (c) *The agricultural and commercial activities must occur together in the local community to satisfy the statute.*
 - (d) *The products and services provided must be essential to the practice of agriculture.*

8. The applicants would take honey and fruit from farms in Oregon and produce mead and cider. The use is a customer of farm products in the local agricultural community, which includes all of Oregon. Adding value to a farm crop, such as fruit and honey, to make mead or cider is a common practice in Oregon and is essential to the marketing of Oregon farm products and preparing some food products for market (such as blemished fruit that would not be sold fresh). The use meets the criterion for a commercial activity in conjunction with farm use.
9. In addition to the specific criteria above, 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.*
 - (b) *Adequate fire protection and other rural services are, or will be, available when the use is established.*
 - (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.*
 - (d) *Any noise associated with the use will not have a significant adverse impact on nearby land uses.*
 - (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.*
10. As described above, the use is a commercial use in conjunction with farm use and, due to the close connection between the proposed use and farm use it would not significantly increase the cost of farming. However, to ensure compatibility with surrounding uses, MCC 17.136.050(B) requires that a declaratory statement meeting the requirements of MCC 17.136.100(C) be filed and this serves to notify the applicants and subsequent owners that there are farm or timber operations in the area. Recording the declaratory statement can be made a condition of any approval. There appear to be adequate fire protection and other rural services to the property and it can be made a condition of approval that any well used for the business on the property obtain necessary permits from the Oregon Health Authority. Because the use will take place inside a building, there are no anticipated significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality or noise in excess of what is usually found in rural agricultural settings. Also there are no water impoundments or significant mineral and aggregate sites on the property or in the area that could be impacted by the proposed use. The proposal satisfies, or can be conditioned to satisfy, the general criteria for a conditional use in the EFU zone.
11. Based on the above findings, it has been determined that the applicants' request meets, or can be conditioned to meet, all applicable criteria for producing mead or cider as a commercial activity in conjunction with farm and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Planning Director

Date: October 30, 2017

If you have any questions regarding this decision contact Brandon Reich 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.