

**NOTICE OF DECISION  
CONDITIONAL USE CASE NO. 18-053**

**APPLICATION:** Application of Thomas Charles Pickett for a conditional use to establish a cabinet construction and installation business as a home occupation on a 6.12 acre parcel in an SA (Special Agriculture) zone located at 9180 Smith Road, Aumsville. (T8S; R2W; Section 24; tax lot 503).

**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 **September 20, 2020**. 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. Prior to operating the home occupation from the property, the applicant shall sign and submit a Declaratory/Farm-Forest 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.

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

3. The business shall continuously comply with the home occupation criteria in MCC 17.136.050(C) and listed in Finding #7.
4. On days when installing cabinets, employees may not travel to the property on Smith Road but must meet at the cabinet installation site or elsewhere off-site (such as at a park-and-ride location).
5. 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 #5 be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

6. The applicant should contact the Aumsville 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. All or a portion of this property has been identified as wetland on the statewide wetland's inventory. If the site is a jurisdictional wetland, this proposal may require a permit from the Division of State Lands and/or the Army Corps of Engineers. You must obtain any necessary state or federal permits before beginning your project. Marion County is not liable for any delays in the processing of a state or federal permit.

**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 **September 19, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **September 20, 2018** 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 Special Agriculture in the Marion County Comprehensive Plan. The purpose of this designation and the corresponding SA (Special Agriculture) zone is to promote and protect commercial agricultural operations. Non-farm uses, such as home occupations, can be approved where they do not have a significant adverse impact on farming operations in the area.
2. The property is located on the south side of Smith Road in the 9100 block. The property contains a dwelling, garage, shop, well and septic system. The property was subject of a previous land use case, Conditional Use 93-94, which approved a non-farm dwelling. The property is considered a legal parcel for land use purposes.
3. Surrounding properties in all directions consist of land being farmed in an SA zone. To the southeast is Hwy. 22.
4. The applicant is proposing to establish a cabinet manufacturing and woodworking business as a home occupation.
5. Public Works Land Development and Engineering Permits commented on requirements that are not part of the land use decision and available for review in the planning file.

Marion County Building Inspection commented that permits for a Change in Use or Occupancy may be required.

Marion County On-Site Sewage commented that authorization is required for septic system connection/change of use.

6. Marion County Code (MCC) 17.137.050 permits a home occupation subject to the criteria in MCC 17.137.060(A) and (C) with the filing of a declaratory statement regarding nearby farm and forest practices. The recording of a declaratory statement can be made a condition of any approval.
7. MCC 17.137.060 (C) provides specific criteria for approval of a home occupation:
  1. A home occupation or bed and breakfast shall be operated by a resident of the dwelling on the property on which the business is located. Including the 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).
  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.
  3. It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
  4. A home occupation shall not be authorized in structures accessory to resource use on high-value farmland.
  5. A sign shall meet the standards in Chapter 17.191 MCC.
  6. The property, dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.

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.

Information provided by the applicant indicates Thomas Pickett and up to three employees would work from the existing shop on the property building and installing custom cabinets and doing other woodwork. A shop is a kind of building normally associated with a residence in a farm zone. The applicant states that noise will be minimal because the work will take place indoors, no outside storage will take place, and a collection system will remove dust from the woodworking process. The shop does not appear to have been constructed as a farm structure. Employees would work both from the property and installing cabinets at customers' locations. While there is a prohibition of using the property to assemble or dispatch employees to other locations, employees could meet Mr. Pickett at the cabinet installation locations (or elsewhere such as a park-and-ride) on the days cabinets are installed. In a phone conversation with the applicant, Mr. Pickett agreed to operate the home occupation in that manner. No retail sales are proposed. The proposal meets, or can be conditioned to meet, the criteria above.

8. In addition to the specific criteria, MCC 17.136.060(A) contains general criteria that apply to any conditional use:
  - 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.*

The proposed use will take place entirely within an existing accessory building on the property. There is no anticipated impact from the use on surrounding farm or forest practices. Aumsville Fire District provides fire protection to the property and the Marion County Sheriff provides police protection. Other rural services are available to the property, such as a well and septic system. There are no identified watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality issues on the property. Portions of the property are identified as wetlands on the statewide wetland's inventory and the applicant should contact the Division of State Lands and/or the Army Corps of Engineers to see if a permit is required before beginning operation of the business. No significant noise is anticipated from the property because the proposed use will take place inside a building. There are no identified potential water impoundments or mineral and aggregate sites on the property or nearby that would be affected by this proposed use. These criteria are met by the proposal.

9. Based on the above findings it has been determined the applicant's request meets, or can be conditioned to meet, all applicable criteria to establish a cabinet manufacturing and woodworking business as a home occupation and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore  
Planning Director

Date: September 4, 2018

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.