

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. 18-061**

APPLICATION: Application of Coleman Land Company, LLC for a conditional use to operate a hemp processing facility as a commercial activity in conjunction with farm use on a 38.9 acre parcel in an EFU (Exclusive Farm Use) zone located at 5233 Keene Road, Gervais (T5S; R2W; Section 20; tax lot 1700).

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

EXPIRATION DATE: This permit is valid only when exercised by **December 12, 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 proposal is for land use purposes only. Due to septic, well, and drainfield replacement areas, these parcels may not be able to support the proposal. To be sure 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 all required permits from the Marion County Building Inspection Division.

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

2. The development shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval of the Planning Director.
3. The industrial hemp processed at the facility must be grown in the State of Oregon.
4. 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.
5. Material remaining after oil extraction may not be composted on the property or sold as compost.

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

6. The applicants should contact Woodburn 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 **December 12, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **December 13, 2018** 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 (Exclusive Farm Use) zone is to promote the continuation of commercial agricultural and forestry operations.
2. The property is located on the north side of Keene Road in the 5200 block. The property was determined to be a legal parcel as part of land use case Property Line Adjustment 03-33. The property contains existing farm related structures, a dwelling, well and septic system.
3. Surrounding properties in all directions are zoned EFU and in farm use.
4. Soil Survey for Marion County, Oregon indicates 100% of the subject property soils are high-value farmland.
5. The applicant is proposing to establish an industrial hemp processing facility as a commercial activity in conjunction with farm use in the existing structure.
6. Marion County Building Inspection commented that a building permit is required for a change of use or occupancy.

Marion County Tax Assessor provided information related to taxes on the subject property.

Marion County Land Development and Engineering Permits commented: *“Public Works Engineering Division Requirements are given below.*

- A. *In accordance with MCC 11.10, driveways must meet sight distance, design, spacing, and safety standards. The following numbered sub-requirements pertain to access.*
 1. *Obtain an Access Permit to remove the fill that has been placed in the roadside ditch of the western access such that the access width is no more than 40 feet wide measured at the property line.*
 2. *Provide evidence that the access work required under Access Permit #555-13-006979, for which final inspection was evidently not requested, was completed including the pavement joint where it meets Keene Road being sanded and sealed. If this was not done then, complete the work in conjunction with the fill removal required by item 1 above. Request an inspection upon completion, and/or advise in advance with any technical questions.*
- B. *Prior to operation of the proposed hemp processing facility, design and construct a stormwater detention facility capable of detaining the stormwater from impervious surfaces as required by Marion County PW Engineering Design Standards. Per Aerial photographs, additional driveway and parking area has been added since the January 19, 2007 signed Agreement (copy attached) relating to the installation of stormwater detention and driveway modifications. A letter, dated June 2, 2011 concerning stormwater detention, was also transmitted (copy attached). Furthermore, there is no evidence of stormwater compliance associated with 2013 county building record #555-13-006977, which had been created after-*

the fact for a fourth building (18 ksf) added sometime between 2010 and 2011. Applicant shall provide stormwater detention calculations and a proposed design to Marion County Public Works Engineering prior to construction. It is noted on the site plan that a stormwater detention pond area is called out. If in fact the pond has been constructed, provide as-built information along with a Stormwater Application (attached) and schedule an inspection. A rain drain plumbing permit may also be required from the Building Department in conjunction.

The County requires any development having 0.5 acre or more of impervious (hard) surface to provide storm water detention. As such, the applicant will need to provide a storm-water detention system(s) that detain enough of the storm-water runoff on site so that there is no net rate increase in storm-water flow from the subject property. Such a system shall be sized and modified so that it will detain the difference between a 5-year frequency storm with pre-development conditions and a 10-year frequency storm under development conditions, including capacity to pass the 50-year storm.

C. The subject property is within the unincorporated area of Marion County and will be assessed Transportation System Development Charges (SDCs) for the change in use from seed storage to hemp manufacturing, per Marion County Ordinance #00-10R.”

7. In order to approve a commercial activity in conjunction with farm use, the applicant must demonstrate compliance with the specific criteria listed in Chapter 17.136.060(D) of the Marion County Code (MCC). 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. Hemp was approved to be grown as an agricultural crop by H.R. 525 during the 113th U.S. Congress in 2013. H.R. 525 defines "industrial hemp" to mean the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-nine tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis. The Oregon Department of Agriculture regulates the growing of industrial hemp and handling of hemp seed in the state of Oregon and requires registration of businesses that grow and/or process industrial hemp as well as periodic testing of the crop to ensure that THC levels do not exceed 0.3%.

The applicant is proposing to process industrial hemp for its oil. The hemp processed at the facility will be grown by growers registered with the Oregon Department of Agriculture in the State of Oregon. The proposal is for processing an agricultural crop grown in the state of Oregon, which is considered to be the local area and is essential to the practice of agriculture. According to the applicant, it is essential that the oil be extracted from the hemp for effective long-term storage and maximum preservation of quality. Processed oil is subsequently made into consumer products; however, no such products are proposed as part of this request. The commercial activity meets the criteria for operating in conjunction with farm use.

9. In addition to the specific criteria above, the proposal must also satisfy the conditional use criteria in Marion County Code (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. Since the use has been determined to be in conjunction with farm use, it is not expected to have a negative impact on nearby lands devoted to farm use. The proposal meets #9(a). The Woodburn Fire District serves the parcel and all other needed services are currently available to the site. The proposal satisfies the criterion in #9(b). The property is not within a wildlife habitat area, groundwater limited area, floodplain or geologically hazardous area. There is no evidence of significant odors or noxious matter emitted from the premises that would affect air or water quality. Noise generated by the proposed activity should be comparable to agricultural activities. The proposal meets #9(c) and (d). There are no potential water impoundments, identified wetlands, or significant mineral and aggregate sites identified by the Comprehensive Plan in the area. The criterion in #9(e) is met.
11. The applicant proposes to dispose of hemp bio-mass after oil extraction to feed manufactures or through composting. MCC 17.136.020 (J) permits composting of materials generated on the subject tract subject to certain conditions. In this case, the material that is ultimately composted would come from other farms in the State of Oregon. MCC 17.136.050 (D)(7)(b) permits new composting operations that do not meet the standards in MCC 17.136.020 (J), but only on land that is not high-value farmland. In this case, the property is entirely high-value farmland and composting of material remaining after the oil extraction cannot be permitted.
12. Based on the above findings it has been determined that the applicant's request meets all applicable criteria to establish a hemp processing facility as a commercial activity in conjunction with farm use and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Planning Director

Date: November 27, 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.