

**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. 22-014**

**APPLICATION:** Application of Grit Phillips for a conditional use permit to allow up to six Agri-tourism events and activities per year on a 12.37-acre parcel in an EFU (Exclusive Farm Use) zone located at 7720 River Road NE, Keizer (T6S; R3W; Section 24C; tax lot 700).

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

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

1. The applicant shall obtain all required permits from the Marion County Building Inspection Division if any new structures are to be built.
2. Marion County Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision:

***Condition A** - Prior to holding the first event, obtain an Access Permit, and under the Permit extend the River Road paved access surface back with Hot Mix Asphalt to provide a total paved distance of 50 feet measured from the roadway paved shoulder.*

***Condition B** - Prior to holding the first event, submit a detailed traffic circulation and parking plan. The plan shall contemplate all types of anticipated vehicular traffic (i.e., passenger cars, over-sized pick-ups pulling horse trailers, and potentially buses).*

3. Any approval shall be valid for two years and may be renewed subject to a review that the use continues to meet all applicable criteria and standards.
4. The applicant shall provide portable toilets and hand washing stations consistent with standards recommended by Marion County Septic Inspection. These are:  
  
*Portable Toilets should be brought in for the event, manufacturer charts state that 2-5 toilets should be brought in with one having ADA access and one sink. Ensure that the existing septic system on the property is not driven on by guests and that the septic system is not used for the waste disposal from the event*
5. The approval for up to six Agri-tourism events and activities annually is granted only for Grit Phillips.
6. 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.
7. 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.
8. The applicants should contact Marion County Land Development and Engineering for any required permits as noted in finding #6 below.
9. All noise generated, and speakers/sound amplification used shall be in accordance with Marion County Noise Code section 8.45.

10. If food vendors are to be stationed there, they shall obtain all necessary licenses from Marion County Environmental Health. Alcohol vendors shall obtain all necessary licenses from the Oregon Liquor Control Commission

**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) based on 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 **April 13, 2022**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 14, 2022**, 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 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 east side of River Road North approximately 1,350 feet north of Perkins Street. The property contains a dwelling, accessory building and a rodeo area with bleachers. Based on Assessor records, the property was created by deed (Reel 1, Page 958) when a property was divided and this portion of the property remained. At that time (October 1, 1974), the Planning Division did not have regulations regarding divisions of land; therefore, the property was legally created.
3. Surrounding uses to the north, east, and south consist of properties being farmed in an EFU zone. Property to the west across River Road is zoned Acreage Residential (AR) and developed with rural residential homesites and being farmed.
4. Soil Survey of Marion County Oregon indicates 100% of the subject property is composed of high-value farm soils.
5. The applicant is proposing to hold up to six rodeo events on the property in 2022 from May to September.
6. Marion County Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision:

### **ENGINEERING CONDITIONS**

***Condition A** - Prior to holding the first event, obtain an Access Permit, and under the Permit extend the River Road paved access surface back with Hot Mix Asphalt to provide a total paved distance of 50 feet measured from the roadway paved shoulder.*

***Condition B** - Prior to holding the first event, submit a detailed traffic circulation and parking plan. The plan shall contemplate all types of anticipated vehicular traffic (i.e. passenger cars, over-sized pick-ups pulling horse trailers, and potentially buses).*

### **ENGINEERING ADVISORY**

***Advisory C** -An 18-foot wide 'gravel road' is depicted on a Record of Survey logged under MCSR #39022. This road is situated within or about a shared access easement serving the subject property and adjacent southern neighboring property. Per State Statute, easement users are responsible to participate in maintenance of private*

*access easements. Acute damage to the driving surface caused by one user's unique activities would theoretically be their sole responsibility to repair.*

Marion County Fire Dept No.1 provided comments related to fire access, building identification and surface and load capacities. These comments can be found in the land use file.

Marion County Septic commented "Portable Toilets should be brought in for the event, manufacturer charts state that 2-5 toilets should be brought in with one having ADA access and one sink. Ensure that the existing septic system on the property is not driven on by guests and that the septic system is not used for the waste disposal from the event."

Marion County Building Inspection commented "if any new structures are proposed to be constructed or erected, even for temporary use, permits may be required.

All other commenting agencies stated no objection to the proposal.

7. Chapter 17.120.090 of the Marion County Code (MCC) requires that Agri-tourism and other commercial events or activities in conjunction with a farming operation shall meet the following use criteria and development standards:

*B. A farming operation may conduct up to six events or activities in a calendar year subject to the following:*

*1. The events or activities shall be incidental and subordinate to the existing farm use on the tract; and*

The applicant states that they facilitate 30 horses on the subject property, employ two trainers, one of which specializes in barrel racing. The state they have 27 stalls and an existing outdoor arena for barrel racing and other activities associated with horse riding and training. Farm use is in part defined as "*the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows.*" The applicants use of the property fits the definition as intended. Barrel racing is incidental and subordinate to training and stabling horses on the property as it fits the natural progression that equine riders take. The criterion is met.

*2. The duration of each event or activity shall not exceed 72 hours; and*

The applicant indicates each event will include barrel racing and be held on May 6-7<sup>th</sup>, June 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup>, July 8<sup>th</sup>, 9<sup>th</sup> and 10<sup>th</sup>, July 29<sup>th</sup>, 30<sup>th</sup> and 31<sup>st</sup>, August 19<sup>th</sup> and September 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup>. The arena is proposed to be open from 8:00 AM until dusk. The proposed time frames and dates do not exceed the 72 hour timeframe for each event. The criterion is met.

*3. The events or activities shall not involve the construction or use of new permanent structures; and*

The applicant intends to use the existing structures on the property. This criterion is met.

*4. The events or activities shall not, in combination with other Agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern of the area; and*

The applicant states the event will be held in an existing building on the property and will not force any change in or increase the cost of, accepted farm or forest practices on surrounding lands. The applicant has already built the structures and riding area and a large grassy field exists that would accommodate the parking as shown in the site plan. All of the proposed activities already occur on the subject property in a less intensive way, usually through training lessons or recreational barrel racing. Taking into account these factors, the criterion is met.

*5. The event or activity shall cause no alteration to land including, but not limited to, grading, filling or paving;*

The applicant is not proposing any alteration of the land, including grading, filling or paving. This criterion is met.

6. *Any approval shall be valid for two years and may be renewed subject to a review that the use continues to meet all applicable criteria and standards.*

If approved, this would be made a condition of approval.

- D. *The events or activities in subsection (A), (B), or (C) of this section shall comply with conditions established for:*

1. *The types of events and activities authorized including the number of events or activities, duration of events or activities, attendance of events or activities, and hours of operation of events or activities; and*

The applicant is seeking approval for six events with an estimated attendance of 30-100 persons for each event. The proposed activities are described as a barrel racing with an announcer. The proposed dates are May 6-7<sup>th</sup>, June 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup>, July 8<sup>th</sup>, 9<sup>th</sup> and 10<sup>th</sup>, July 29<sup>th</sup>, 30<sup>th</sup> and 31<sup>st</sup>, August 19<sup>th</sup> and September 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup>. Any approval can be conditioned to meet this criterion.

2. *The location of existing and proposed temporary structures used in conjunction with the events or activities. Temporary structures must be removed at end of the event or activity; and*

The applicant states the event will be held in an existing outdoor arena and no alterations will be made to the land or the buildings. Parking will occur near the back of the property in a large grassy field. As described, it appears this criterion has been met.

3. *Location of access, egress, and parking facilities; and*

The applicant has not provided evidence that access to the property has been approved by Public Works Land Development for use for these events. The applicant appears to have adequate parking in the back of the property, as proposed. LDEP has proposed a condition to pave the entrance of the property under an access permit. This criterion can be conditioned to be met.

4. *Traffic management including project number of anticipated vehicles; and*

The applicant describes the parking area and the expected number of vehicles, but not the circulation of vehicles or how the events would ensure vehicles would not back up onto River Road. This criterion can be met by imposing Condition A, required by LDEP.

5. *Sanitation and solid waste;*

The applicant describes how sanitation and solid waste would be provided on site during events. The proposal satisfies this criterion.

6. *Notice of public hearing or any decision approving events under the provisions of this section shall be mailed to all owners of property, any portion of which is within 1,500 feet of the subject property.*

The Planning Division will ensure notice is provided as required.

- E. *Any approval for events or activities under subsection (A) or (B) of this section is for the applicant only and does not apply to the land.*

If approved, this would be made a condition of approval.

8. A discussed above, the applicant meets all of the criteria for approving Agri-tourism events on the subject property.

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.*

The applicant has identified surrounding farming taking place and discussed how the proposed events would not affect that farming. With many of the proposed activities already occurring on the property on a daily basis, these events are not expected to interfere with farming practices in the area. The criterion is met.

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

The applicant describes that fire and medical staff would be on site. Marion County Fire District #1 and Marion County Sheriff also provide services to the subject property. Portable toilets would be placed on the property during the events. It appears that adequate fire protection and other rural services are available on the property for the proposed use. This 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.*

There do not appear to be significant watersheds, groundwater, fish and wildlife habitat, or soil and slope stability areas on the property. There could be large amounts of dust generated during events, however the applicant states they will maintain a watering plan to keep the dust levels down. Also, animal waste could impact water quality in the area of the event if runoff occurs from watering or rain, however the applicants have been boarding horses for many years and appear to have the necessary skills and tools to deal with horse waste. The criterion is met.

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

The applicant states that there will be no noise impact to neighbors, as they will be using a microphone and speakers to amplify their voices when announcing the barrel racers. They plan to announce from the backside (west) of the indoor arena so that all amplified sound will be directed away from homes and project into large vacant fields of farmland where the nearest house is 0.57 miles away. The sound will cross over a railroad and it can be assumed that the railroad would create louder noises than a small speaker system for announcing riders. 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 do not appear to be any potential water impoundments identified or significant mineral and aggregate sites that would be impacted by the proposed events. This criterion is met.

10. Based on the above findings it has been determined that the applicant's request does meet all applicable criteria for Agri-tourism events in the EFU zone and is, therefore, **APPROVED**.

Brandon Reich  
Planning Director

Date: March 29, 2022

If you have any questions regarding this decision contact Austin Barnes 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.