



**Marion County**  
OREGON

## CONDITIONAL USE APPLICATION

RECEIVED

FEB 13 2024

Marion County  
Planning

**Do not double-side or spiral bind any documents being submitted**

**Fee: Please check the appropriate box:**

☒ Conditional Use - \$1450

☐ Conditional Use Hardship - \$450

☐ Conditional Use Hardship Change of Occupant - \$120

☐ Non-Farm Dwelling \$1930

☐ UT Zone Replacement Dwelling - \$450

☐ Conditional Use Home Occupation - \$770

☐ Amend Conditions/Permit - \$600

☐ Aggregate Site (non Goal 5) - \$3000+\$80/acre

☐ Agri-Tourism Single Event - \$375

☐ Agri-Tourism Max 6 Events - \$640

☐ Agri-Tourism Max. 18 Events/Longer Duration-\$640

PROPERTY OWNER(S): Hector Fregoso	ADDRESS, CITY, STATE, AND ZIP: 13817 PORTLAND RD NE, Woodburn, OR
PROPERTY OWNER(S) (if more than one): <del>Angel Perez</del> <i>OK</i>	ADDRESS, CITY, STATE, AND ZIP
APPLICANT REPRESENTATIVE: Lindsey King, CFM BRAND Land Use	ADDRESS, CITY, STATE, ZIP 1720 Liberty Street SE Salem, OR 97302
DAYTIME PHONE (if staff has questions about this application): 503-509-4275 cell	E-MAIL (if any): Lindsey@BRANDLandUse.com
ADDRESS OF SUBJECT PROPERTY: 13817 PORTLAND RD NE, Woodburn, OR	SIZE OF SUBJECT PROPERTY: 6.08 acres
THE PROPERTY OWNERS OF THE SUBJECT PROPERTY REQUEST TO (summarize here; explain in detail on the "Applicant's Statement"): Commercial use in conjunction with farming See attached narrative.	

### FOR OFFICE USE ONLY:

Township <u>5S</u>	Range <u>1W</u>	Section <u>19C</u>	Application elements submitted:
Tax lot number(s) <u>1600 &amp; 1700</u>			<input checked="" type="checkbox"/> Title transfer instrument
Zone: <u>EFU</u>			<input checked="" type="checkbox"/> Site plan
Zone map number: <u>15</u>			<input checked="" type="checkbox"/> Applicant statement
<input type="checkbox"/> TPA/header			<input checked="" type="checkbox"/> Filing Fee
Case Number: <u>CU 24-005</u>			<input type="checkbox"/> GeoHazard Peer Review (if applicable)
<input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural			<input type="checkbox"/> Physician's Certificate (if applicable)
Signs given:			<input type="checkbox"/> Home Occupation Supplemental (if applicable)
Date determined complete:			<input type="checkbox"/> Agri-Tourism Supplemental (if applicable)
			Application accepted by: <u>JS / AS</u>
			Date: <u>2/13/2024</u>

**IF THIS IS FOR A CONDITIONAL USE HARSHIP:**

WILL THE TEMPORARY DWELLING BE ( ) MANUFACTURED HOME OR ( ) RV? Check one.

IF USING AN RV, DO YOU INTEND TO:

( ) CONNECT TO THE EXISTING SEPTIC SYSTEM OR ( ) USE THE RV HOLDING TANK? Check one.

NAME OF PERSON(S) WITH MEDICAL HARSHIP:

HE/SHE/THEY WILL RESIDE IN: ( ) PRIMARY DWELLING OR ( ) TEMPORARY DWELLING

NAME OF CAREGIVER:

HE/SHE WILL RESIDE IN: ( ) PRIMARY DWELLING OR ( ) TEMPORARY DWELLING

RELATIONSHIP OF CAREGIVER TO PERSON(S) WITH MEDICAL HARSHIP:

WHAT TYPE OF ASSISTANCE WILL CAREGIVER PROVIDE:

IF THERE ARE OTHER ADULTS THAT RESIDE OR WILL RESIDE IN THE DWELLING WTH THE PERSON(S) NEEDING CARE, PLEASE EXPLAIN WHY HE/SHE CANNOT BE THE CAREGIVER:

**THE APPLICANT(S) SHALL CERTIFY THAT:**

- A. If the application is granted the applicant(s) will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.
- B. I/We hereby declare under penalties of false swearing (ORS 162.075 and 162.085) that all the above information and statements and the statements in the plot plan, attachments and exhibits transmitted herewith are true; and the applicants so acknowledge that any permit issued on the basis of this application may be revoked if it is found that any such statements are false.
- C. I/We hereby grant permission for and consent to Marion County, its officers, agents, and employees coming upon the above-described property to gather information and inspect the property whenever it is reasonably necessary for the purpose of processing this application.
- D. The applicants have read the entire contents of the application, including the policies and criteria, and understand the requirements for approving or denying the application.

**PRINTED NAME AND SIGNATURE** of each owner of the subject property.

Hector N. Gregorio  
Print Name Signature

2/12/24

Print Name Signature

\_\_\_\_\_  
Print Name Signature

Print Name Signature

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

# Conditional Use Permit – Commercial Activity in Conjunction with Farm Use

RECEIVED

FEB 13 2024  
Marion County  
Planning

Submittal Date:

February 2024

Submitted To:

Marion County Planning

Project Location:

13807 Portland Rd NE  
Woodburn, OR

Applicant(s):

Hector Fregoso

Applicant's Land Use  
Representative:

Lindsey King of BRAND Land Use  
[Lindsey@brandlanduse.com](mailto:Lindsey@brandlanduse.com)

# BRAND

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## Aerial View of Subject Property and Existing Development



## Section 1: Property Background and Request

The applicant, Hector Fregoso, is presenting an application for commercial use in conjunction with farming for a recreational vehicle park for farm worker housing. The proposal is aimed at amending existing land use violations and to alleviate the housing crisis within the Willamette Valley. The applicant believes the proposal falls within the category of a commercial use in conjunction with farm use because the people occupying the RVs are essential to the practice of agriculture and in order to provide workers, housing is a necessity.

The submitted site plans shows that the RV area will consists of 15 spaces and will include 1 (one) parking spaced per RV. The site plan depicts two location options, the applicant recognizes that one option will be eliminated at the time of staff decision. The applicant will obtain all appropriate permits from Department of Water Resources for potable water supply, from Marion County Building Division for any structural or septic permits, and Marion County Land Development and Engineering Permitting or Oregon Department of Transportation for any access permits subject to the comments received after submission. Attached to this narrative are exhibits mentioned in the findings below with regards to farm worker housing and its necessity to the continued practice of commercial farming.

## Section 2: Existing Conditions

The development site is approximately 6.08 acres in size and is described as Marion County Assessor Map and Tax Lots 051W19C001700 and 051W19C001600. A Marion County Tax Map is included within the exhibits list identifying the subject properties.

The site is located entirely within Marion County and borders Woodburn UGB to the north. The surrounding areas are a mix of commercial farm operations, developed and crops, mobile home parks, single family homes and smaller hobby type farms.

The subject property's comprehensive plan designation is Primary Agriculture

The Comprehensive Plan designations of surrounding properties include:

North: Primary Agriculture

South: Across Portland Rd NE/HWY 99E - Primary Agriculture

East: Primary Agriculture

West: Primary Agriculture

The subject property is zoned EFU (Exclusive Farm Use)

Surrounding properties are zoned as follows:

North: EFU (Exclusive Farm Use)

South: Across Portland Rd NE/HWY 99E - EFU (Exclusive Farm Use)

East: EFU (Exclusive Farm Use)

West: EFU (Exclusive Farm Use)

## Section 3: Applicable Zoning Codes

### **Title 17 Rural Zoning**

#### **Marion County Zoning Code – Article III. General Provisions**

*Sections 17.110.620 Official map*

*Section 17.110.630 Certification*

*Section 17.110.650 Location*

*Section 17.110.680 Administration of the title*

*Section 17.110.690 Minimum requirements*

*Section 17.110.705 Permit expiration dates*

#### **Marion County Zoning Code - Chapter 17.136 – EFU (Exclusive Farm Use) Zone**

*Section 17.136.010 Purpose*

*Section 17.136.020 Permitted uses*

*Section 17. 136.030 Dwellings permitted subject to standards*

*Section 17. 136.050 Conditional uses*

*Section 17. 136.060 Conditional use review criteria*

*Section 17 136.070 Non-farm dwelling requirements*

*Section 17.136.090 Minimum parcel size, divisions of land, and property line adjustments*

*Section 17.136.100 Development requirements*

*Section 17.136.120 Permit expiration dates*



***Applicant's Findings:*** *The applicant is not proposing a facility for processing forest products. This criterion is not applicable.*

D. The following commercial uses:

1. Home occupations, including bed and breakfast inns, subject to the criteria in MCC 17.136.060(C) with filing of the declaratory statement in MCC 17.136.100(C).

***Applicant's Findings:*** *The applicant is not proposing a home occupation, such as a bed and breakfast. This criterion is not applicable.*

2. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under MCC 17.136.040(F), and subject to MCC 17.136.060(D), but including a winery not permitted under MCC 17.136.040(B), but not including a medical marijuana processor as defined in MCC 17.110.376, subject to MCC 17.136.060(D).

***Applicant's Findings:*** *The applicant is proposing a commercial use in conjunction with farm use in the form of a recreational vehicle park for farm worker housing. As stated below in the conditional use criteria, the applicant's proposal shows this is a necessity for the continuance of commercial farm operations. This criterion is applicable.*

3. Expansion of a lawfully established dog kennel with filing of the declaratory statement in MCC 17.136.100(C).

***Applicant's Findings:*** *The applicant is not proposing the expansion of an established dog kennel. This criterion is not applicable.*

4. Room and board arrangements for a maximum of five unrelated persons in existing dwellings with filing of the declaratory statement in MCC 17.136.100(C).

***Applicant's Findings:*** *Although the application is for housing, it is not for room and board in the existing dwelling. This criterion is not applicable.*

5. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission.

***Applicant's Findings:*** *The applicant is not proposing to farm aquaculture like products. This criterion is not applicable.*

6. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.



- N. Expansion of existing schools not for kindergarten through grade 12 established on or before January 1, 2009, on the same tract wholly within a farm zone subject to MCC 17.136.060(I).

***Applicant's Findings:*** *The applicant is not proposing the expansion of an existing school. This criterion is not applicable.*

Section 17.136.060 – Conditional use review criteria

The uses identified in MCC 17.136.050 shall satisfy criteria in the applicable subsections below:

A. The following criteria apply to all conditional uses in the EFU zone:

1. 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.

***Applicant's Findings:*** *The proposed use will not force a significant change or significantly increase the cost of farm or forest practices in the area. With the immense need for farm workers, this proposal will significantly benefit farm and forest practices. According to the Farmworker Housing Development Corporation "Marion and Polk County FHDC has over 500 families on its waiting lists for its apartments in Woodburn, Salem, and Independence". Although the proposal is not for a structural unit, the ability to house farm workers in any capacity is a benefit. According to Oregon Housing and Community Services Department there are over 100,000 farm workers who support Oregon's \$42 billion industry, and without the housing for these workers this industry would suffer.*

*There are non-farm related properties to the north of the subject site, a cemetery, a mobile home park, multiple single family dwelling lots (not in farm use), and less than 0.18 miles is Woodburn's Urban Growth Boundary. The applicants' proposal, therefore, will not have any significant negative affect on the surrounding farm/forest practices. This criterion is met.*

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

***Applicant's Findings:*** *The property is to be served by Woodburn Fire District for fire and safety protection. The parcel will be adequately served by an approved septic system and will have a potable water supply served by a private well. This criterion is met.*

3. The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.

***Applicant's Findings:*** The proposal does not have a direct impact on the nearby waterway (Mill Creek) and floodplain, there are no wetlands or mapped wildlife habitat on site, and the ground is level with no mapped slopes. The applicant will obtain all required approval for potable water and septic disposal which will further protect any soil, air, or water quality. This criterion is met.

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

***Applicant's Findings:*** The proposal will not have a significant adverse impact on the neighboring parcels and uses when it comes to noise. The property is located directly along State Hwy 99E that conveys noise. There is a large commercial farm operation just across the highway from the subject parcel that has heavy trucks and processing on site. The proposed residential use will not produce noise more impactful than what already exists. The only impact could be at times of coming and going to on site at the typical busy times for a typical work week. This criterion is met.

5. 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.

***Applicant's Findings:*** There are no significant mineral or aggregate sites within the immediate vicinity. This criterion is not applicable.

- B. Non-Farm Dwellings. The following additional criteria apply to non-farm dwelling requests:

1. The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through Class VIII soils that would not, when irrigated, be classified as prime, unique, Class I or Class II soils. Soils classifications shall be those of the Soil Conservation Service in its most recent publication, unless evidence is submitted as required in MCC 17.136.130.

***Applicant's Findings:*** The applicant is not proposing a non-farm dwelling. This criterion is not applicable.

2. The dwelling will be sited on a lot or parcel that does not currently contain a dwelling and was created before January 1, 1993. The boundary of the lot or parcel cannot be changed after November 4, 1993, in any way that enables the lot or parcel to meet the criteria for non-farm dwelling.

***Applicant's Findings:*** The applicant is not proposing a non-farm dwelling. This criterion is not applicable.

***Applicant's Findings:*** *The applicant is not proposing a non-farm dwelling. This criterion is not applicable.*

C. Home Occupations. Notwithstanding MCC 17.110.270 and 17.120.075, home occupations, including the parking of vehicles in conjunction with the home occupation and bed and breakfast inns, are subject to the following criteria:

1. A home occupation or bed and breakfast inn shall be operated by a resident of the dwelling on the property on which the business is located. Including 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.

***Applicant's Findings:*** *The applicant is not proposing a home occupation. The above criterion are not applicable.*

D. Commercial Activities in Conjunction with Farm Use.

1. The commercial activity must be primarily a customer or supplier of farm uses.

***Applicant's Findings:*** *The applicants proposal provides necessary housing for farm workers within the Willamette Valley. The farm workers are essential to the continued farm practices in the valley. However, due to the rising cost of living, stagnant wages, and other issues, the available housing is minimal. If there is no housing available for farm workers there can be no farm operations, which is where the housing proposed is primarily a supplier of farm uses. According to the USDA (U.S. Department of Agriculture "Hired farmworkers make up less than 1 percent of all U.S. wage and salary workers, but they play an essential role in U.S. agriculture." Due to the rising cost of building materials and a shortage of builders (especially after the 2020*

wildfires) this proposal more than meets the needs of the community. There are endless articles and reports about farm worker housing and how the industry is a unique situation when it comes to them. Most of the time it is not just a single individual, it is a family or a couple who are here for the season but maybe cannot afford to purchase a house or rent an apartment. By supplying housing the applicant is also supplying farm works for the continued practice of commercial agriculture. The applicant believes they have shown the farm workers, and their housing is a necessary supplier of farm uses and meets the above criteria. This criterion is met.

2. The commercial activity must enhance the farming enterprises of the local agricultural community to which the land hosting that commercial activity relates.

***Applicant's Findings:*** The commercial activity, the RV use for farm worker housing, enhances the community by reducing the number of homeless individuals, creates a safe and clean environment for permanent or temporary farm workers and allows commercial farms to continue the employment of such workers. This criterion is met.

3. The agricultural and commercial activities must occur together in the local community.

***Applicant's Findings:*** The RV housing directly allows farms and farm workers to occur in the local communities. According to an article in the Statesman Journal from May, 2023, "Most farmworkers — roughly 80%, by Oregon Law Center's estimation — are permanent residents of their communities". This commercial use and the agriculture community are closely tied together, without farm worker housing there would not be farm workers, and without farm workers the commercial farm industry would be put at risk. Due to the rising cost of housing, building materials and labor, this proposal is a reasonable alternative to alleviate the heavy burden of providing housing to farm workers. It is with this understanding that the applicant believes they have met the burden of proof for this section. This criterion is met.

4. The products and services provided must be essential to the practice of agriculture.

***Applicant's Findings:*** As stated above, farm workers are essential to the success of commercial farm operations in the Willamette Valley, and more specifically Marion County which is one of the highest grossing farm counties in the state (Department of Ag). In this regard, having housing, temporary or permanent, for farm workers is an essential practice for agriculture operations. Without farm workers the farming industry will be negatively affected. This proposal is for minimally invasive commercial use, which, with all appropriate permitting (septic, well, access), will provide much needed housing to those workers which farm use relies on. If commercial operations like Pape' or farm schools like that permitted through Seasons at Red

*Oaks Farms (Agritainment) are considered essential to the practice of agriculture, then the housing of those farm workers should also be considered essential as well. This criterion is met.*

- E. Forest Products Processing Facility. A portable or temporary facility for the primary processing of forest products is subject to the following criteria and limitations:
1. The use shall not seriously interfere with accepted farming practices.
  2. The use shall be compatible with farm uses described in ORS 215.203(2).
  3. The use may be approved for a maximum one-year period, which is renewable.
  4. The primary processing of forest products, as used in this section, means the use of a chipper, stud mill, or other similar facility for initial treatment of a forest product in order to enable its shipment to market. "Forest products," as used in this section, means timber grown upon a tract where the primary processing facility is located.

***Applicant's Findings:*** *The applicant is not proposing a forest processing facility. This criterion is not applicable.*

- F. Power Generation Facility. A power generation facility shall not preclude more than:
1. Twelve acres from use as a commercial agricultural enterprise on high-value farmland unless an exception is taken pursuant to OAR Chapter 660, Division 004.
  2. Twenty acres from use as a commercial agricultural enterprise on farmland that is not high-value unless an exception is taken pursuant to ORS 197.732 and OAR Chapter 660, Division 004.

***Applicant's Findings:*** *The applicant is not proposing a power generating facility. This criterion is not applicable.*

- G. Private Parks and Campgrounds. Private parks, playgrounds, hunting and fishing preserves, and campground expansions shall meet the following criteria:
1. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 004.
  2. It shall be devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes, and is established on a site or is contiguous to lands with park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.
  3. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

***Applicant's Findings:*** Although the proposal is not for residential use, the applicant understands this provision. This criterion is met.

- E. The first extension of a permit consistent with subsection (D) of this section and with subsections (A)(1) through (4) of this section and where applicable criteria for the decision have not changed shall be valid for two years.

***Applicant's Findings:*** The applicant understands the requirements of this provision. This criterion is met.

- F. Up to five additional extensions of the permit consistent with subsection (D) of this section and with subsections (A)(1) through (4) of this section and where applicable criteria for the decision have not changed shall be valid for one year each.

***Applicant's Findings:*** The applicant understands the requirements of this provision. This criterion is met.

## Section 5: Conclusion

Based on the facts and findings presented by the applicant within this detailed written narrative, the applicant believes they have satisfied the burden of proof required by the Marion County Zoning Code and demonstrated how the proposed commercial use in conjunction with farm use for a farm worker recreational vehicle park not only satisfies all applicable criteria but would also be a benefit to the community by providing diverse and needed housing types for farm workers within Marion County.

## Section 7: Exhibits

<b>Exhibit A</b>	Conditional Use Application
<b>Exhibit B</b>	Deeds
<b>Exhibit C</b>	Site Plan
<b>Exhibit D</b>	Zoning Map
<b>Exhibit E</b>	Comprehensive Plan Map
<b>Exhibit F</b>	Marion County Tax Map
<b>Exhibit G</b>	Mentioned Articles