

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. 19-032**

APPLICATION: Application of Britt and Kyle Lewelling for a conditional use to establish a hair salon as a home occupation on a 5.17 acre parcel in an EFU (Exclusive Farm Use) zone located at 8783 Broadacres Rd NE, Aurora. (T4S: R2W Section 25; tax lot 01300).

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 12, 2021**. 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 drain field 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.
2. The applicant shall sign and submit a Declaratory Statement (form 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 development shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval of the Planning Director.
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.

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

5. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #6 below, that may be required.

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 regula-

tions 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 12, 2019**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **November 13, 2019** 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 northeast corner of the intersection of Broadacres Road NE and Case Road NE. The property contains a single family dwelling, accessory structures, well and septic system.
3. Surrounding uses all surrounding properties are zoned EFU and in various types of farm use.
4. Soil Survey of Marion County Oregon indicates 100% of the subject property is high-value farm soils.
5. The applicant is proposing to construct a detached garage and include an area for a hair salon. The salon will be operated by the property owner who resides in the dwelling on the property and there will no employees.
6. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision:
 - A. In accordance with Marion County Code (MCC) 11.10, driveway approach modifications such as widening and paving require an Access Permit.
 - B. The subject property is within the unincorporated area of Marion County and will be assessed Transportation System Development Charges (SDCs) per Marion County Ordinance #00-10R upon application for building permits and/or change-in-use of an existing structure. MCPW Building Department issued a Structural Permit on 9/17/19 for a 2400 square foot (sf) detached garage (Permit #555-19-006149-STR). The land use application stated intent to occupy 400 sf of the garage with the proposed business.

Marion County Building Inspection commented that permits for plumbing, electrical, and mechanical work may be required.

Marion County On-site Wastewater Specialist indicates that a Septic Authorization is required.

All other commenting agencies stated no objection to the proposal.

7. MCC 17.136.060 (C) provides specific criteria for approval of a home occupation:
 - A. *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).*
 - B. *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.*
- C. *It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.*
- D. *A home occupation shall not be authorized in structures accessory to resource use on high-value farmland.*
- E. *A sign shall meet the standards in Chapter 17.191 MCC.*
- F. *The property, dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.*
- G. *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.*
8. Based on information provided by the applicant, the salon will be operated by Britt Lewelling who resides in the dwelling on the property and there will be no employees. The business will take up approximately 400 square feet inside a detached garage. All activity will be taking place indoors and is not expect any negative impacts on any adjacent properties. As described the applicant, the criteria in #7 above are met.
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. The proposed use will take place entirely within the existing accessory building on the property. 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 applicant and subsequent owners that there are farm or timber operations in the area. There is no anticipated impact from the use on surrounding farm or forest practices. Woodburn 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. No significant noise is anticipated from the property because of the proposed use. 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
12. Based on the above findings it has been determined that the applicant's request meets all applicable criteria to establish a hair salon as a home occupation and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Planning Director

Date: October 25, 2019

If you have any questions regarding this decision contact Joe Fennimore 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.