

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.21-046**

APPLICATION: Application of David and Cordia Gilliam for a conditional use to operate a CNC based repair and manufacturing gun-smith shop as a home occupation on a 49.85 acre parcel in a TC (Timber Conservation) zone located at 26208 Taylor Park Rd SE, Lyons (T9S; R2E; Section 14B; Tax lot 100).

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

EXPIRATION DATE: This conditional use permit is valid only when exercised by **October 22, 2023**. 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 drainfield 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 business shall continuously comply with the home occupation criteria in MCC 17.138.050(B), listed in Finding #6, and the conditions of approval on this decision.
2. Failure to continuously comply with the conditions of approval may result in this approval being revoked. Any revocation could be appealed to a county hearings officer for a public hearing.

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

3. A home occupation 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).
4. The home occupation shall be continuously conducted in such a manner as not to create any public or private nuisance including, but not limited to, offensive noise, odors, vibration, fumes, smoke, fire hazard, or electronic, electrical, or electromagnetic interference.
5. The conditional home occupation shall not significantly interfere with other uses permitted in the zone in which the property is located.
6. Any sign shall meet the standards Chapter 17.191MCC.
7. The home occupation shall be conducted entirely within the dwelling or accessory building.
8. No structural alterations shall be made that would be inconsistent with future use of the buildings exclusively for residential purposes.

9. All visits by suppliers or customers shall occur between the hours of 8:00 a.m. and 8:00 p.m. These limitations do not apply to a Bed and Breakfast use as defined in Chapter 17.110.108.
10. There shall be no outside storage or display of materials, equipment, or merchandise used in, or produced in connection with, the conditional home occupation.
11. The dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.
12. Retail and wholesale sales that do not involve customers coming to the property, such as internet, telephone or mail order offsite 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.
13. The business shall comply with all the requirements of the Stayton Fire District.
14. The development shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director.

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

15. The applicants should contact the Stayton 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.
16. 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 **October 22, 2021**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 23, 2021** 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 Forest in the Marion County Comprehensive Plan. The intent of this designation and the corresponding TC (Timber Conservation) zone is to promote the continuation of resource uses in the area.
2. The subject property is located on the south side of Taylor Park Rd SE, approximately 0.37 miles east of its intersection with Winstanley Dr SE. The property contains a stick built dwelling. The property was the subject of Conditional Use 98-17 and is therefore considered a legal parcel for land use purposes.

3. Properties to the north are zoned Acreage Residential (AR) and consist of small acreage home sites. Properties in all other directions are zoned TC and consist of parcels in timber production.
4. The applicant is proposing to operate a CNC based repair and manufacturing gun-smith shop as a home occupation.
5. Marion County Building Inspection commented: “Permits required for any proposed alterations to electrical, plumbing, mechanical or building systems.”

Marion County Septic Inspection commented: “An authorization notice will be required for the change in use and the increase in flow from the customers that will come in for appointments.”

All other commenting agencies declined to comment on the proposal.

6. In order to approve a home occupation in a TC zone, the applicant must demonstrate compliance with the specific criteria listed in MCC 17.138.050(B). These include:

- 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).*

According to the applicant statement, the three family members who reside in the home will be performing the work and no one else. The criterion is met.

- 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.*

The applicant proposes to operate in the attached garage. The criterion is met

- C. *It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.*

As the use will be entirely contained within their garage it is not expected to interfere with any farm or forests uses or other uses in the zone. The criterion is met

- D. *A home occupation shall not be authorized in structures accessory to resource use on high-value farmland.*

The structure that the use will take place in is a residential, attached garage. The criterion is met

- E. *A sign shall meet the standards in Chapter 17.191 MCC.*

The sign proposed is going to be no more than 4 square feet in size and no more than 4 feet off the ground. The criterion is met

- F. *The property, dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.*

No employee dispatch is proposed. The occupation does not involve employee dispatch. The criterion is met

- 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.*

Sales proposed are to be made through phone communication and mail services. The applicant is not proposing to have customers come to the property except for a few appointments when needed. The criterion is met

7. The TC zone, in MCC 17.138.050(A), contains general criteria that apply to all conditional use proposals. Those requirements are:

(a) *The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming 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 in exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.*

The use will be low volume and conducted entirely within the applicants garage, this is not expected to change farm or forest practices in the area, The criterion is met

(b) *The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.*

This use is not expected to increase fire risk as it will be conducted indoors with proper equipment, in an area that can be suppressed if a fire were to occur. The criterion is met

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

This property is served by the Stayton Fire District. The criterion is met

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

As the use will be conducted indoors, it will not affect watersheds, groundwater, fish or wildlife, soils or slopes or the air quality. The criterion is met

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

The sounds created will be buffered by the garage and the distance to the next dwellings. The criterion is met

(f) *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.*

As the use will be conducted indoors, it will not affect watersheds, groundwater, fish or wildlife, soils or slopes or the air quality. The criterion is met

8. Based on the above findings it has been determined that the proposed Conditional Use complies with the criteria for a Home Occupation in the TC zone and is, therefore, **APPROVED**.

Brandon Reich,
Planning Director

Date: 10/07/2021

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.