

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. 23-006**

APPLICATION: Application of Barbara and Ronald Easley for a conditional use to operate an agricultural equipment manufacturing business as a commercial use in conjunction with farm use on a portion of a 193.47-acre tract in an EFU (Exclusive Farm Use) zone located at 20495 Butteville Road NE, Hubbard (T4S; R1W; Section 18; Tax Lot 201 & 500).

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 **March 22, 2025**. The effective period of an approved application 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 uses is for land use purposes only. Due to septic, well and drain field replacement areas, this parcel may not be able to support the proposed activities. To be sure the subject property can accommodate the proposed use the applicant needs to check with 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 permits required by the Marion County Building Inspection Division. Permits will be required prior to any development and/or utilities on the subject property.
2. The applicant shall obtain all permits required by the Marion County Septic Division. A site evaluation, followed by a construction-installation permit, is required for the proposed development. During permitting, the applicant will need to specifically address the specifics of what foods/beverages will be prepared to determine if the waste produced is stronger than residential wastewater per OAR 340-071-0100(123).
3. The applicant shall obtain all permits required by Marion County Land Development Engineering & Permits Division and meet their requirements:

ENGINEERING REQUIREMENTS

- A. An Access Permit will be required at the time of application for building permits. It will be required to permanently close TL 500 access and pave TL 201 approach.
 - B. Transportation System Development Charges will be assessed at the time of application for building permits.
 - C. A civil engineered site plan will be required.
 - D. Stormwater detention is required for 0.5 acres of development.
 - E. Utility service extension work in the Butteville Road public right-of-way requires separate PW Engineering permits.
4. The applicant's activity shall abide by the Marion County Noise Ordinance (MCC 8.45).
 5. The applicant shall provide evidence of any necessary Oregon Department of Environmental Quality permits. This may include, but is not limited to, storage of hazardous waste, emissions, or air quality.

6. The proposed development shall significantly conform to the site plan submitted with this application. Minor variations are permitted upon review and approval of the Planning Director.
7. The proposed development and activity shall comply with all applicable development standards described in Marion County Code. This will include parking requirements. Parking surfaces shall be surfaces that prevent dust, and may include all-weather surfaces such as gravel, asphalt, or concrete.
8. 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 any 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 any restrictions or conditions thereon. It is recommended that the agencies mentioned in the Findings and Conclusions section below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

9. The applicant should contact the Aurora Fire District and obtain a copy of the District's Recommended Building Access and Identification Guidelines. For personal and property safety it is recommended that the applicant follow these guidelines. 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 Road NE, Salem, by 5:00 p.m. on **March 22, 2023**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **March 23, 2023**, unless further consideration is requested.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which the decision was based are noted below.

1. The subject properties are designated Primary Agriculture in the Marion County Comprehensive Plan and correspondingly zoned EFU (Exclusive Farm Use). The primary intent of both this designation and zone is to promote and protect commercial agricultural operations.
2. The property is located south of the City of Donald, on the west side of Butteville Road NE approximately 0.6 miles south of its intersection with Donald Road NE. The property is developed with farm structures. Adjacent properties in all directions are also zoned EFU. There is a mixture of large-scale farms, smaller farms, and smaller rural residential properties.
3. The subject property has been the subject of many land use decisions, including previous property line adjustments. The property consists of what appear to be two parcels. The tax lot 201 (189.87 acres as identified on the applicant site plan) has been recognized as a single parcel for land use purposes per Property Line Adjustment/Conditional Use 19-029 and the subsequent Partition Plat 2020-009. The parcel has remained in its configuration and has not been changed by deed or otherwise since then. The tax lot 500 (3.6 acres as identified on the applicant site plan) has existed in its current configuration prior to September 1, 1977, per a warranty deed recorded in Volume 364, Page 409 of the Deed Records of Marion County, Oregon. No further changes to tax lot 500 were recorded by deed (or otherwise) since. Therefore, these **two parcels** are considered legal for the purposes of land use per Marion County Code 17.110.427.

4. Marion County Building Division commented: Permits are required to be obtained prior to any development and/or utilities on the subject property.
5. Marion County Septic Division commented: A site evaluation, followed by a construction-installation permit, is required for the proposed development. During permitting, the applicant will need to specifically address the specifics of what foods/beverages will be prepared to determine if the waste produced is stronger than residential strength wastewater per OAR 340-071-0100(123).
6. Marion County Land Development Engineering & Permits Division commented:

ENGINEERING REQUIREMENTS

- a. An Access Permit will be required at the time of application for building permits. It will be required to permanently close TL 500 access and pave TL 201 approach.
 - b. Transportation System Development Charges will be assessed at the time of application for building permits.
 - c. A civil engineered site plan will be required.
 - d. Stormwater detention is required for 0.5 acres of development.
 - e. Utility service extension work in the Butteville Road public right-of-way requires separate PW Engineering permits.
7. Various agencies were contacted about the proposal and given an opportunity to comment. All other contacted agencies either failed to comment or stated no objection to the proposal.
 8. The applicant is proposing to establish a commercial activity in conjunction with farm use. The commercial activity proposed includes the manufacturing, machining, repair, and sales of agricultural equipment by an established agricultural equipment company (GK Machine). These kinds of commercial activities can be allowed as a conditional use per MCC 17.136.060(D) so long as they meet the applicable criteria. The “Commercial Activities in Conjunction with Farm Use” criteria are as follows:

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

The proposed business, GK Machine, is primarily a supplier of farm uses. The majority of the products and services produced by this commercial activity are supplied to farm customers, rather than the general public or other unrelated users. Their products are specialized for farm use; those products include greenhouses, tractor implements, harvesters, and other custom equipment. The 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.*

The activity enhances the nearby farming enterprises and local agricultural community by providing equipment used especially for the farm products grown in Marion County. Examples of this include harvesting equipment for nuts and fruits (which are popular crops in Marion County), tree trimmers, tractor implements, and greenhouses. The criterion is met.

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

As stated above, the commercial activity manufactures equipment for agricultural use; those products include equipment that is used within the local community for local farm uses. GK Machine has farm customers both inside Marion County and throughout Oregon. Farm use exists on and around the parcel where this commercial activity will be established. The criterion is met.

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

Modern farms require a variety of modern equipment in order to facilitate more efficient farm use. The products and services provided by GK Machine are essential for planting, growing, and harvesting a variety of local crops and other farm uses because they improve efficiency in farm practices. Without this kind of farm equipment, farms would need to either purchase equipment from further away (at an increased cost) or pay for more human labor (which also likely will increase costs). The criterion is met.

9. In addition to the rules and definitions dictated above, the following criteria found in MCC 17.136.060(A) apply to all conditional uses in the EFU zone:

B. 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.*

The applicant states that their proposed location for this commercial development is a graveled and unfarmable portion of a farm parcel, thereby reducing the impact and taking less farmland out of production. While the proposed commercial activity will increase traffic and create limited effects on nearby properties, the location appears it will not force a significant change or increase cost of farm/forest practices. The location is near the City of Donald and an existing urban-rural interface, so the effects of the commercial activity would not be unexpected or significant in the context of the area. Conditions of approval shall be implemented to reduce impacts on nearby farm use. Lastly, the commercial activity supports farm practices and arguably reduces farm costs by providing a local source of farm machinery and other equipment. The criterion is met.

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

The applicant states that sprinkler protection will be required and used in their structure. They state that adequate fire protection flows will be provided from either on-site wells capable of producing over 2,400 gallons per minute, or a 1.9-acre retention pond. The applicant will be required to meet the standards of the local fire district as a condition of approval. The 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.*

The applicant states that their operations will not impact watersheds or groundwater and that stormwater requirements will be met by their development. There is no evidence that any nearby critical fish or wildlife habitats exist. The applicant will be required to show evidence that they comply with Oregon DEQ requirements or permits. The applicant has stated that they store hazardous materials on-site, some of which are stored in tanks with secondary containment. The applicants shall obtain any necessary permits and adhere to best practices for the storage and disposal of materials. The criterion is met.

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

The applicant has stated that the noise generated at their current facility has not been an issue, even with residences within 30 feet of the current location. The new proposed facility will be approximately 600 feet from the nearest residence. Adjacent and nearby land uses are predominantly farming. It appears that most farm uses are for crops; there is no evidence that the noise generated from the proposed facility will negatively affect the farm uses and the few residences nearby. The Marion County Noise Ordinance and code will also apply, and the applicant must follow those regulations. The 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.*

The applicant's proposed location is not near any mineral or aggregate sites and will not cause conflicts. There are existing water impoundments that appear to have been created for a mixture of stormwater and farm use purposes nearby, but no other potential water impoundments identified in the Comprehensive Plan; the applicant shall abide by the regulations of Marion County Code and of Marion County Land Development Engineering & Permits Division to avoid adverse impacts on those water impoundments. The criterion is met.

10. Based on the above findings, the applicants' proposal meets the criteria for a conditional use commercial activity in conjunction with farm use. The request is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: March 7, 2023

If you have any questions regarding this decision contact Daniel Jansen 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.