

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. 23-007**

APPLICATION: Application of Silvia Guzman Martinez, Ricardo Lopez Guzman, and Jose Guadalupe Ramirez Vasquez for a conditional use permit to operate a pallet business as a home occupation on a 2.17-acre property in an SA (Special Agriculture) zone located at 1382 Cordon Road SE, Salem (T7S, R2W, Section 32D, Tax Lot 3700).

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 **March 28, 2025**. 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 drain field 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 applicant shall obtain approval for all required permits from the Marion County Building Inspection Division.
2. No dispatch or assembly of other employees will be allowed from the property.
3. The pallet repair and building business shall be substantially operated in the two existing accessory buildings, which are 1,080 and 1,152 square feet.
4. All items related to the home occupation shall be stored inside the two existing accessory buildings, which are 1,080 and 1,152 square feet. No outside storage is permitted.
5. All sales involving customers of the pallet repair and building business shall not take place on the subject parcel.
6. Within 30 days from the date of final Planning approval, acquire a permit from the City of Salem to expand the paved apron at the Cordon Road north driveway access to provide a 20' x 20' HMAC apron, and complete paving within 90 days from the date of permit issuance.
7. Any new buildings are subject to a special setback of 60 feet from the centerline of Cordon Road SE.

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

8. The home occupation shall be operated in full compliance with the criteria in Marion County Code 17.137.060(C).
9. Failure to continuously comply with the conditions of approval may result in this approval being revoked. Any revocation can be appealed to a 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 another 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:

10. The applicants should contact the Marion County Fire District #1 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.

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 **March 28, 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 29, 2023**, 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 Special Agriculture in the Marion County Comprehensive Plan. The intent of this designation and the corresponding SA (Special Agriculture) zone is to allow for large and small farm operations and other uses compatible with agricultural activities.
2. The subject parcel is located at 1382 Cordon Road SE, near Salem and is just south of the intersection of Cordon Road SE and Macleay Road SE. The property currently contains one dwelling and five accessory structures. The property has not been the subject of any previous land use case. However, the current deed (Reel: 4656, Page: 456) description matches a deed description dated September 15, 1967 (Reel: 636, Page: 741). Therefore, this parcel is legal for land use purposes.
3. According to the applicant site plan and statement, the home occupation, a pallet repair and building business, is being proposed to operate in two existing accessory buildings.
4. Properties to the east and south are zoned SA, while properties to the north and west are within the City of Salem.
5. Various agencies and departments made the following comments:

Marion County Land Development, Engineering, and Permits (LDEP) commented that:

ENGINEERING CONDITION

Condition A – Within 30 days from the date of final Planning approval, acquire a permit from the City of Salem to expand the paved apron at the Cordon Road north driveway access to provide a 20' x 20' HMAc apron, and complete paving within 90 days from the date of permit issuance.

ENGINEERING REQUIREMENT

- B. Transportation System Development Charges may be assessed at the time of application for building permits.

- C. Backing of semi-tractor trailer rigs associated with the pallet business to/from Cordon Road onto the property will not be allowed.

ENGINEERING ADVISORIES

- D. City of Salem has jurisdiction over Cordon Road fronting the property.
- E. The seasonal ditch traversing the subject property should not be obliterated or impeded.

City of Salem commented that: Cordon Road SE abutting the subject property is under the jurisdiction of the City of Salem. According to the Salem Transportation System Plan (TSP), Cordon Road SE is classified as a Parkway. The property is subject to a special setback equal to 60-feet from the centerline of Cordon Road SE.

Marion County Fire District No. 1 made comments regarding the fire apparatus access road width and vertical clearance, fire apparatus road distance from buildings and turnarounds, surface and load capacities, turning radius, outdoor pallet storage, outdoor storage of pallets at pallet manufacturing and recycling facilities, premise identification, and gates. See file for full comments.

6. All other contacted agencies either failed to comment or had no objection to the proposal.
7. In order to approve a conditional use home occupation, the home occupation must meet the criteria provided under Marion County Code (MCC) 17.137.060(A). These include:

- 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 has stated that, currently, they operate the pallet repair and building business out of the 1,080 square foot accessory building on-site. In the future, the applicant intends to operate out of both the 1,080 square foot accessory building and the other accessory building on-site that totals 1,152 square feet. The applicant has operated the business, without a conditional use permit, prior to applying for this conditional use permit. In that time, there has been no known evidence that the business has forced a significant change in, or significantly increased the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. Furthermore, it is not expected that the proposed use will significantly change farm or forest practices in the surrounding area. Therefore, the criterion is met.

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

The subject parcel is located the Marion County No. 1 fire district and will have access to those services in case of a fire emergency. Additionally, the Marion County Fire District No. 1 made various comments and conditions regarding fire safety related to this specific type of business; see file for full comments. 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.*

The proposed home occupation is to repair and build pallets to be sold. The applicant is not proposing to use any chemicals that have the potential to seep into the watersheds or groundwater that could adversely impact fish and wildlife or water meant for human consumption and use. Additionally, based the nature of the business, it is not expected that the soil and slope stability and air and water quality will be adversely impacted. Therefore, 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 all work will be done inside the two accessory buildings on-site. Additionally, all work will be done between the hours of 8:00 am and 8:00 pm to prevent any disruption because of noise. Based on the use and that all work will be performed inside both accessory structures, it is not expected that the noise stemming from the business will have a significant adverse impact on nearby land uses. Therefore, this criterion is satisfied.

- 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 has stated that the home occupation will be conducted within the two existing accessory buildings. Additionally, it is not expected that the proposed business will have an adverse impact on potential water impoundments. The criterion is met.

8. In addition to the specific criteria above, the proposal must also satisfy the conditional use criteria in Marion County Code (MCC) 17.137.060(C). Those requirements are:

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

The applicant has stated that the pallet repair and building business will be conducted by himself. Furthermore, the applicant is not proposing to have any employees for the business. The criterion is met.

- 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

The applicant has stated that the pallet repair and building business will be operated in the two existing accessory buildings. The accessory buildings on-site and is allowed in the SA zone; this will be a condition of approval. Therefore, the criterion is met.

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

The applicant has stated that the pallet repairing and building, and storage will be performed in the two existing accessory buildings. By repairing/building and storing pallets inside the two existing accessory buildings, this will prevent the work from unreasonably interfering with other uses permitted in the zone. Therefore, the criterion is met.

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

The subject parcel is high-value farmland. The applicant is proposing to operate, and to store pallets, the pallet repair and building business out the of the two existing accessory buildings. Therefore, the criterion is met.

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

The applicant has stated that there will be no signs on-site. Therefore, the criterion is met.

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

The applicant has stated that the property, dwelling, shop, or other buildings will not be used for assembly or dispatch of employees. The criterion is met.

- 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.*

That applicant has stated that the sale of pallets will be done off-site. Additionally, the applicant has indicated that there will be no customers on-site. Therefore, this criterion is met.

9. Based on the above findings, it has been determined that the applicants' request meets all applicable criteria to operate a car repair shop as a home occupation and is, therefore, **APPROVED**, subject to conditions.

Brandon Reich,
Planning Director/Zoning Administrator

Date: March 13, 2023

If you have any questions regarding this decision contact Jared Bradford at (503) 566-4173.

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.