

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/ADJUSTMENT CASE NO. 23-010**

**APPLICATION:** Application of Guadalupe, Ana, and Cesar Maciel Chavez for a conditional use permit to establish a hair salon home occupation and for an adjustment to reduce the required setback of an accessory structure from 12 feet to 4 feet on a 0.17-acre property in an RS (Single-Family Residential) zone located at 4102 Watson Avenue NE, Salem (T7S, R2W, Section 18BD, Tax Lot 6000).

**DECISION:** The Zoning Administrator 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 **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 proposal. To ensure the subject property can accommodate the proposal the applicant should contact 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 permits required by the Marion County Building Inspection Division.
2. The structure shall maintain a 4 foot setback from all property lines.
3. The home occupation shall be continuously conducted in such a manner as not to create any nuisance, public or private, known law or equity, including but not limited to: noise, odors, vibration, fumes, smoke, fire hazard, or electronic, electrical, or electromagnetic interference.
4. There shall be no outside storage or display of materials, equipment, or merchandise used in or produced in connection with the home occupation.
5. 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.
6. 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.
7. Retail sales and walk in customers are not permitted with this home occupation. Appointment only business is allowed.

**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 any restrictions or conditions thereon.

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

**APPEAL PROCEDURE:** The Marion County Zone Code provides that certain applications be considered first by the County Zoning Administrator. If there is any doubt that the application conforms with adopted land use policies and regulations the Zoning Administrator must condition or deny the application. Anyone who disagrees with the decision may request that the application be considered by a 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 120 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 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 property is designated Single Family Residential in the Salem Area Comprehensive Plan. The purpose of this designation and the corresponding Single Family Residential zone is to allow development of attached or detached residences on individual lots provided with urban services at low urban densities.
2. The property is located on the south eastern corner of the intersection of Watson Ave NE and Phillips Ln NE. The property contains a dwelling. The property was platted as part of the Lombard Subdivision in 1955 and is therefore considered legal for land use purposes.
3. Surrounding uses are residential all directions except east. The property is bordered by the City of Salem McKay School Park to the east which serves the surrounding subdivision. This property is zoned PA with the City of Salem.
4. The applicant proposes to establish a hair salon home occupation and for an adjustment to reduce the required setback of an accessory structure from 12 feet to 4 feet.
5. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

#### **ENGINEERING REQUIREMENTS**

- A. Driveway approaches must meet MCPW Eng standards. Review of 2019 street view imagery indicates the concrete approach is degraded. It will be required under an Access Permit to replace the approach in conjunction with issuance of building permits.
- B. Transportation System Development Charges will be assessed at the time of application for building permits for commercial use of the proposed accessory structure.
- C. Utility service extension work in the public right-of-way requires a permit from PW Engineering.

City of Salem Public Works commented:

“The subject property is located within the East Salem Sewer District and the Highland Water Corporation. Any additional connections to this sewer district will require an annexation agreement to be filed with the City of Salem, where one has not already been done so.”

Marion County Building Department commented:

“The proposed structure and use would be subject to the code requirements of the 2019 Oregon Structural Specialty Code, and the proposed setbacks from the property lines and adjacent home may require the proposed structure to have additional fire resistive materials installed on the exterior walls. This code requirement is dependent on the methods of construction, size of the structure, and location on the property. Permits are required to be obtained prior to any development and/or utilities on private property.”

City of Salem Planning commented:

“Upon annexation to the City of Salem home occupations shall conform to Salem Revised Code Chapter 700.020. Accessory structures in the RS zone must be setback from the rear property line 1 ft for each 1 ft in height over 9 ft. the maximum height of an accessory structure is 15 ft.”

All other contacted agencies either failed to comment or stated no objection to the proposal.

6. All conditional uses are subject to the general criteria in MCC 16.40.020, these include:

(a) *The use is listed as a conditional use in the zone, or is otherwise identified as a conditional use and is consistent with the intent and purpose of the zone and the provisions that authorized consideration as a conditional use.*

Home occupations that are not retail sales are allowed in this zone. This maintains the intent and purpose of the zone. The criterion is met.

(b) *The parcel is suitable for the proposed use considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features.*

There is adequate space to build the additional structure if the adjustment is approved. The structure would be fully contained on the property in the side and rear yards while still maintaining a setback of 4 feet which is typical of an accessory structure in this zone. The criterion is met.

(c) *The proposed use, as conditioned, will not substantially limit, impair, or preclude the use of surrounding properties for the uses permitted in the applicable zone.*

This use is not expected to limit or impair surrounding properties as only one client will be present at a time and the use will be fully contained indoors. The criterion is met.

(d) *The proposed use, as conditioned, will not have a significant adverse effect on air or water quality.*

Any wastewater discharge will be hooked up to the sanitary sewer line. The criterion is met.

(e) *Adequate public and utility facilities and services to serve the use are available or will be made available prior to establishment of the use.*

Water, sewer and storm drain are all available and the parcel is served by the Marion County No. 1 Fire District. The criterion is met.

7. In addition to these general criteria, in order to approve a Conditional Use Home Occupation in a RS zone the specific criteria in MCC 16.32.400 must be satisfied:

A. *The premises upon which the home occupation is conducted shall be the residence of the person conducting the home occupation.*

The home occupation will be operated by Guadalupe Chavez who is an owner and resident of the property. The criterion is met.

- B. *The home occupation shall be continuously conducted in such a manner as not to create any nuisance, public or private, known law or equity, including but not limited to: noise, odors, vibration, fumes, smoke, fire hazard, or electronic, electrical, or electromagnetic interference.*

The home occupation will be conducted entirely within the new building and the washing, cutting and drying of a persons hair is not expected to create any nuisance to surrounding properties. The criterion is met.

- C. *No sign shall be displayed on the premises except those as permitted in MCC 16.31.060(A).*

No sign is proposed. The criterion does not apply.

- D. *No structural alterations shall be made to the dwelling that would be inconsistent with future use of the building as a dwelling.*

No alterations to the dwelling are proposed. The criterion is met.

- E. *No alteration to or use of the premises shall be made that would reduce the number of on-site parking spaces required for dwellings as outlined in MCC 16.30.170.*

No onsite parking is being reduced, the driveway is not being affected by this proposal. The criterion is met.

- F. *Parking of customers' or clients' vehicles shall create no hazard or unusual congestion. If the home occupation requires any parking for an employee or customer, a site plan meeting the requirements for off-street parking in Chapter 16.30 MCC shall be submitted and approved by the planning manager.*

The applicant has made a finding in their supplemental information that additional parking will not be required for the expected two to three customers a day. The driveway is of sufficient size to park 4 cars of which the applicants do not take up each space. The criterion is met.

- G. *Delivery and pick-up of materials or commodities in conjunction with the home occupation to and from the premises shall be made by private vehicles or by commercial vehicles not exceeding two axles in size.*

No deliveries of this type are proposed but the proposal will be required to meet this standard. The criterion is met.

- H. *There shall be no outside storage or display of materials, equipment, or merchandise used in or produced in connection with the home occupation.*

This shall be made a condition of approval. The criterion is met.

- I. *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.*

No retail sales are proposed, the hair salon will be appointment only. The criterion is met.

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

No additional employees or dispatch is proposed. The criterion is met.

8. All adjustments are subject to the general criteria in MCC 16.41.030, these include:

- A. *The proposed development will not have a significant adverse impact upon adjacent existing or planned uses and development; and*

The development is similar to other properties with accessory buildings or ADU's in the side or rear yards. The adjustment is only needed as the property borders a street on two sides, making two 12' setbacks. This closer setback will not have an adverse effect on the existing or planned uses. The criterion is met.

- B. The adjustment will not have a significant adverse effect upon the health or safety of persons working or residing in the vicinity; and*

A structure being located 4 feet from the property will not have an adverse effect on the health or safety of people as it will be required to obtain building permits. The criterion is met.

- C. The adjustment is the minimum necessary to achieve the purpose of the adjustment and is the minimum necessary to permit development of the property for the proposed use; and*

This adjustment is the minimum necessary as this maintains setbacks from the home and other yards while allowing the structure to have setbacks on all sides. The criterion is met.

- D. The intent and purpose of the specific provision to be adjusted is clearly inapplicable under the circumstances; or the proposed development maintains the intent and purpose of the provision to be adjusted.*

There is not way to fit the proposed structure in the backyard without an adjustment due to the street setbacks. The criterion is met.

9. Based on the above findings, it has been determined that the request satisfies all applicable criteria and is, therefore, **APPROVED**.

Brandon Reich  
Planning Director/Zoning Administrator

Date: March 13, 2023

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.