

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. 24-011**

APPLICATION: Application of Catherine and Colby Korte for a conditional use permit to allow up to six agri-tourism events and activities per year on a 4.33-acre parcel in an EFU (Exclusive Farm Use) zone located at 6373 Sunnyview Rd NE, Salem (T7S; R2W; Section 16D; Tax Lot 100, 200 & 400).

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

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

1. The applicant shall obtain all required permits from the Marion County Building Inspection Division if any new structures are to be built. Applicants must receive issuance and final approval for the farm stand structural permit 555-24-002428-STR before use by the public.
2. Any approval shall be valid for two years and may be renewed subject to a review that the use continues to meet all applicable criteria and standards.
3. The applicant shall provide portable toilets and hand washing stations at quantities recommended by portable toilet providers. Permanent bathrooms on the property must be chained and locked.
4. The approval for up to six Agri-tourism events and activities annually is granted only for Catherine and Colby Korte.
6. 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.
7. 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.
8. The applicants should contact Marion County Land Development and Engineering for any required permits as noted in finding #6 below.
9. All noise generated, and speakers/sound amplification used shall be in accordance with Marion County Noise Code section 8.45.
10. If food vendors are to be stationed there, they shall obtain all necessary licenses from Marion County Environmental Health. Alcohol vendors shall obtain all necessary licenses from the Oregon Liquor Control Commission
11. To hold more than the three agri-tourism events outlined in this application for 2024, the applicant must provide dates and descriptions of between one and three additional events, which are compliant with all applicable criteria, to Marion County Planning prior to July 12th, 2024.
12. Dates and descriptions of up to six agri-tourism events for 2025, and every subsequent year wherein this permit has been renewed, shall be provided to Marion County Planning by the end of March of the same year.

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 **June 5, 2024**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **June 6, 2024**, 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 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 at 6373 Sunnyview Rd NE which is approximately 1.5-miles east of the City of Salem UGB. The subject property contains two dwellings, a barn, and a farm stand. The subject property is a lavender farm and contains a lavender field approximately 1-acre in size.

The subject parcel was described as it currently exists on June 9, 1971, in Volume 728 Page 353 in the Book of Land Records Marion County. In the intervening years a portion of the property was sold, foreclosed upon, then sold again. The current owners acquired these two portions of the single parcel separately, and the most current deed returned the description to the accurate legal one in Volume 728 Page 358. The parcel is therefore considered legal for land use purposes.

3. Surrounding uses to the north, east, and south consist of properties being farmed in an EFU zone. Property to the west across River Road is zoned Acreage Residential (AR) and developed with rural residential homesites and being farmed.
4. Soil Survey of Marion County Oregon indicates 84.2% of the subject property is composed of high-value farm soils.
5. The applicant is proposing to hold up to six agritourism events on the property in 2024, primarily during June and July. The agritourism events proposed are date nights, including music, during peak lavender bloom and a lavender festival July 12-14th. The applicant also propose events around the holiday season during the fall/winter of 2024.
6. Various agencies were contacted with requests for comments.

Marion County Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision:

ENGINEERING REQUIREMENT

- A. Prior to holding the inaugural agri-tourism event, acquire final inspection approval for paving the main entry driveway approach per Access Permit #555-23-000904-PW issued on August 7, 2023.

Marion County Fire Dept No. 1 submitted comments detailing code requirements which are included in the case file and were provided to the applicants.

Marion County Septic commented: "During events and activities, bathrooms must be chained and locked so they are inaccessible to the public and portable restrooms must be brought on-site for public use."

Marion County Building Inspection commented "Prior to use of the farm stand by the public, issuance of permit and final approval of 555-24-002428-STR is required."

1000 Friends of Marion County submitted comments in opposition to the application which are included in the case file.

All other commenting agencies stated no objection to the proposal.

7. Chapter 17.120.090 of the Marion County Code (MCC) requires that Agri-tourism and other commercial events or activities in conjunction with a farming operation shall meet the following use criteria and development standards:

B. A farming operation may conduct up to six events or activities in a calendar year subject to the following:

1. The events or activities shall be incidental and subordinate to the existing farm use on the tract; and

The applicant states that most of the farm sales are from U-Pick and cut lavender, as well as from by-products of their lavender in the form of essential oil. A farm stand was approved on the property in 2023 by Administrative Review AR23-0012. A condition of that approval (and farm stands in general) is that a minimum of 75% of annual sales shall be fresh or processed agricultural crops and/or livestock grown or raised in Oregon. The approval of an agritourism permit does not override this requirement for continued operation of the farm stand. The farm stand will be used as a part of the events proposed by the applicant, and the conditions of AR23-012 will ensure that the income from the farm remains primarily from agricultural goods. The proposed events are intended to support the sales of agricultural products, not be a product in and of themselves, and therefore will be incidental to the lavender farming operation.

The agri-tourism events proposed are directly related to the existence of lavender production occurring on the property. The proposed lavender festival includes an educational presentation on growing lavender and an essential oil making demonstration. This is clearly subordinate and dependent on this property because the requisite lavender is being grown on site. The farm to plate/date nights/opera and Small Business Saturday events will feature educational introductions to lavender farming, benefits and uses. They will also include lavender flavored beverages, farm-to-table meals featuring culinary lavender products produced by the subject property. The farm stand will be open for sales as well as U-pick in the lavender field on the nights of these proposed events. The music provided is customary to events of this nature, the primary draw is the lavender itself. These events, as described by the applicant, are dependent on the lavender farm which proposes to hold them. The criterion is met.

2. The duration of each event or activity shall not exceed 72 hours; and

The applicant attests that most events shall be one day events (farm-to-plate/date nights) and that the lavender festival will not exceed 72 hours and be held from July 12th through July 14th. The proposed time frames and dates do not exceed the 72-hour limit for each event. The criterion is met.

3. The events or activities shall not involve the construction or use of new permanent structures; and

The applicant intends to use the existing structures on the property. This criterion is met.

4. The events or activities shall not, in combination with other Agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern of the area; and

The applicant will utilize the existing structures and open space around the lavender field for the proposed events. The proposed events will not materially alter the stability of the land use pattern in the area. The criterion is met.

5. The event or activity shall cause no alteration to land including, but not limited to, grading, filling or paving;

The applicant is not proposing any alteration of the land, including grading, filling or paving. This criterion is met.

6. *Any approval shall be valid for two years and may be renewed subject to a review that the use continues to meet all applicable criteria and standards.*

This shall be a made a condition of approval.

D. *The events or activities in subsection (A), (B), or (C) of this section shall comply with conditions established for:*

1. *The types of events and activities authorized including the number of events or activities, duration of events or activities, attendance of events or activities, and hours of operation of events or activities; and*

The applicant is seeking approval for six events, with two occurring during the four-week lavender bloom this year (2024). In future years the applicant proposes to hold more events during the weekends of the lavender bloom season. One type of agri-tourism event proposed during the bloom is a farm-to-table date night with an estimated maximum attendance of 100 people. The proposed date night in 2024 is July 20th between the hours of 6:30-8:30pm. This event would include an operatic performance between 6:30-8:00pm. The other event proposed during the bloom this year, and annually thereafter, is a lavender festival. The applicant did not provide an estimated attendance for the proposed lavender festival. The proposed dates for the lavender festival are July 12th-14th. The other proposed event for 2024 is on Small Business Saturday (November 30th), which is a day like Black Friday or Cyber Monday but focused on supporting small businesses. This event would feature educational information and demonstrations about lavender, as well as promote the sale of lavender products produced on the farm.

The applicants would be allowed three other events as per this permit. The applicant does not have specific plans for the other events. These events, if held, must be clearly dependent on the lavender farming occurring on the property to be compliant with Marion County Code. The dates and descriptions of the events not specified in this application for 2024 shall be developed and provided to planning prior to the first event (July 12th) as a condition of approval. Events for 2025, and every subsequent year shall be provided to planning in March as a condition of approval.

2. *The location of existing and proposed temporary structures used in conjunction with the events or activities. Temporary structures must be removed at end of the event or activity; and*

The applicant states the event will be held in existing structures and under temporary pop-up tents (awnings). This shall be a condition of approval.

3. *Location of access, egress, and parking facilities; and*

The applicant did not provide evidence that access to the property has been approved by Land Development Engineering and Permits. As indicated by LDEP, the final inspection approval is still required for paving the main entry driveway approach. The applicant has attested that this will take place prior to the first event. The applicant appears to have adequate parking in on their property, and the approval of an adjacent neighbor to use a portion of their grass field for any overflow parking.

4. *Traffic management including project number of anticipated vehicles; and*

The applicant describes the parking area, expected number of vehicles, and a plan for the circulation of vehicles. LDEP made no comment on the proposed traffic management plan.

5. *Sanitation and solid waste;*

The applicant proposes portable toilets and handwashing stations in addition to the onsite bathroom. Marion County Septic Division commented that the drainfield on the property is not sufficient for the proposed events and onsite bathrooms must be chained and locked. This shall be a condition of approval.

6. *Notice of public hearing or any decision approving events under the provisions of this section shall be mailed to all owners of property, any portion of which is within 1,500 feet of the subject property.*

The Planning Division will ensure notice is provided as required.

E. *Any approval for events or activities under subsection (A) or (B) of this section is for the applicant only and does not apply to the land.*

If approved, this would be made a condition of approval.

8. A discussed above, the applicant meets all of the criteria for approving Agri-tourism events on the subject property.

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.*

The applicant has identified surrounding farming taking place and has letters of support from two of the surrounding neighbors. The events would be limited and primarily take place only on the applicant's farm which has frontage on a major collector, Sunnyview Rd NE. The applicant has permission to use a portion of grass field for overflow parking for the lavender festival. Parking on the grass for a few days out of the year will not cause a significant change in the use of that field. The criterion is met.

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

The subject parcel is served by Marion County Sheriff's Department and Marion County Fire District No. 1. The nearest fire station is approximately three miles away. Portable toilets would be placed on the property during the events. It appears that adequate fire protection and other rural services are available on the property for the proposed use. This criterion is met.

(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.*

There do not appear to be significant watersheds, groundwater, fish and wildlife habitat, or soil and slope stability areas on the property. The criterion is met.

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

The applicant states that there will be music at all the events, whether live or recorded. There are several small farms and associated dwellings around the subject parcel, with the closest being 300-feet away. All events and music will be over before 10pm. Compliance with Marion County noise ordinance (MCC 8.45) shall be a condition of approval. The criterion is met.

(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.*

There do not appear to be any potential water impoundments identified or significant mineral and aggregate sites that would be impacted by the proposed events. This criterion is met.

10. Based on the above findings it has been determined that the applicant's request does meet all applicable criteria for Agri-tourism events in the EFU zone and is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: May 21, 2024

If you have any questions regarding this decision contact John Speckman 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.