

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. 24-017**

**APPLICATION:** Application of Dustin Cannoy for a conditional use permit to a home occupation on 1.57-acre parcel in a EFU (Exclusive Farm Use) zone located at 4767 Poinsettia St NE, Salem (T6S; R2W; Section 20CB; tax lot 1000).

**DECISION:** The Planning Director 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 **July 13, 2026**. 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 proposal is for land use purposes only. Due to septic, well, and drain field replacement areas, these parcels may not be able to support the proposal. To be sure 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 all required permits from the Marion County Building Inspection Division.
2. The applicant shall follow all applicable state and federal laws.

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

3. 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.
4. Work that creates substantial noise for prolonged periods of time such as, but not limited to, grinding or hammering shall be performed only between the hours of 8:00 AM and 6:00 PM. Other business activities that do not create prolonged noise are not limited to these hours.
5. The conditional home occupation shall not significantly interfere with other uses permitted in the zone in which the property is located.
6. The 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).
7. It shall be operated substantially in:
  1. The dwelling; or
  2. Other buildings normally associated with uses permitted in the zone in which the property is located.
8. A sign for the home occupation shall meet the standards in Chapter 17.191 MCC.

9. The property, dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.
10. 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. Only visits and sales via appointments will be allowed.
11. 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 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 # below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

12. The applicants should contact **Paula Smith** with the **Marion County #1 Fire District** at **(503) 588-6513** 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.
13. The applicants should contact **Marion County Land Development and Engineering (503-584-7714)** for additional Engineering Requirements and Advisories, listed in Finding #6 below, that may be required.

**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 **July 15, 2024**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **July 16, 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 major 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 4767 Poinsettia St NE. It is approximately 2 miles north of the City of Salem Urban Growth Boundary, and 2 miles east of the City of Keizer UGB. It is also just under a mile north of the Labish Village community. The subject parcel is 1.57-acres and contains a dwelling and three accessory structures. Much of the area around the structures is graveled. The parcel was originally created in 1983 by Partition P83-005, and subsequently modified to the current configuration in 2004 by Property Line Adjustment PLA24-019. Having been created by, and subject of, prior land use cases the subject parcel is considered a legal lot for land use purposes.
3. Surrounding uses include primarily agricultural land, and some rural residences. The subject parcel is within a large tract of EFU zoned land northeast of Salem. The immediately adjacent properties are in use for Christmas tree production and rural residences. To the east of the Christmas tree operation where Poinsettia meets 99E, is a

cluster of parcels under 0.5-acres in residential use. A variety of commercial agricultural operations exist directly across 99E. To the east, south, and north of the subject parcel there are a variety of crops such as nursery crops, row crops, and grass seed being produced.

4. Soil Survey of Marion County Oregon indicates 100% of the subject property is composed of high-value farm soils, however half of the parcel is graveled.
5. The applicant is proposing to operate an appointment only background check and firearm transfer business, for clients who order firearms from online dealers, as a home occupation on the subject parcel.
6. The following agencies responded with comments related to the case:

Marion County Building Department commented: “No concerns with Building Inspection. A permit would be required to be obtained prior to business operations being performed in the building with customers to change the occupancy of the building to business use. Primary areas of code concerns would be accessibility to those with disabilities and restroom availability for customers. Discussion with a building plans examiner is recommended prior to application.”

Marion County Septic Division commented: “A septic authorization is required due to the change per OAR 340-071-0205(1).”

Friends of Marion County submitted comments regarding the applicant’s need of a Federal Firearms License (FFL) and suggested evaluation of neighboring property usage.

All other commenting agencies stated no objection to the proposal.

7. The proposal must 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 attests that his business will be by appointment only and not increase traffic in the area. In discussion with the applicant, they attested that the expected frequency is at most a few visits per week. This home occupation is not expected to have any effect on farm practices in the surrounding area. 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 within the Marion County Fire District #1 and served by the Marion County Sheriff’s Department. The 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.*

The proposed use will have no effect on watersheds, groundwater, fish and wildlife habitat, or soil and slope stability. The anticipated level of traffic increase is unlikely to affect air quality. The criterion is met.
  - (c) *Any noise associated with the use will not have a significant adverse impact on nearby land uses.*

The use will not create any additional noise beyond trips to the subject property, trips that are not expected to be significantly higher than normal for rural residences. The criterion is met.

- (d) *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 are no identified reservoirs in the vicinity of the subject parcel. There are no significant mineral and aggregate sites in the vicinity of the subject parcel either. The criterion is met.

8. In addition to the specific criteria above, the proposal must also satisfy the specific EFU home occupation criteria in MCC 17.136.060(C). Those requirements are:

- (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).*

The employees include only the applicant who is the resident and owner of this property. This shall be made a condition of approval. The criterion is met.

- (b) *It shall be operated substantially in:*  
*1. The dwelling; or*  
*2. Other buildings normally associated with uses permitted in the zone in which the property is located.*

The proposed home occupation will be entirely conducted within an accessory structure that is not related to agricultural use. The criterion is met.

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

The proposed home occupation will not interfere with the farming or residential uses occurring around the subject parcel. The criterion is met.

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

The structure in which the applicant proposes to conduct this home occupation is not related to resource use. The criterion is met.

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

The applicant will follow these standards. This shall be made a condition of approval. The criterion is met.

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

The applicant will be the only employee of the home occupation, and the home occupation will necessarily occur only on the subject parcel. This shall be made a condition of approval. 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.*

The proposed home occupation is to run background checks and transfer firearms that were purchased from online firearms dealers and shipped the subject parcel. The applicant is not proposing to sell

firearms as a retail operation. The proposed home occupation is to provide firearms transfer as a service by appointment only. The criterion is met.

9. Based on the above findings it has been determined that the applicant's request meets all applicable criteria for a and is, therefore, **APPROVED**, subject to conditions.

Brandon Reich  
Planning Director/Zoning Administrator

Date: June 27, 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.