

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
ADMINISTRATIVE REVIEW CASE NO. 24-017**

APPLICATION: Application of Robert Stouder and Shawna Stouder for an administrative review to permit dog training and testing trials on a 3.93-acre parcel located at 7985 Marion RD SE, Turner (T8S; R2W; Section 33BA; Tax lot 200).

DECISION: The Planning Director for Marion County has **APPROVED** the above-described Administrative Review, subject to certain conditions.

EXPIRATION DATE: This decision is valid only when exercised by **September 12, 2026** unless an extension is granted. The effective period may be extended for one year subject to approval of an extension. Request for an extension must be submitted to the Planning Division prior to expiration of the approval (form available from the Planning Division).

WARNING: A decision approving the proposal is for land use purposes only. Due to septic, well and drainfield replacement areas, this parcel 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:

1. The applicant shall obtain all permits, including subsurface sewage disposal, required by the Marion County Building Inspection Division. See comments in Finding #5 for specific information.
2. All development on the property not permitted under FP23-011 shall be subject to floodplain development regulations and requirements.
3. All activities relating to dog training and conditioning shall be conducted either outdoors or within the approved replacement structure authorized by building permit 555-23-009799.
4. All conditions of approval for case FP23-011 shall be met prior to the conducting of any approved dog training or conditioning activities in the structure.
5. The dog training business shall be operated in full compliance with the criteria in MCC 17.136.040(O) that are listed in #6 of the Findings and Conclusions section of this decision. Only dog training activities are approved.
6. 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.
7. Any expansion of the structure approved by permit 555-23-009799 shall not be used for conducting dog training activities without first seeking approval from the Planning Director.

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 the agencies mentioned in Finding #5 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

8. The applicants should contact the Turner Fire District 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. Please see the specific comments provided by the Turner Fire District in Finding #5 below.
9. 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 Planning Director. If there is any doubt that the application conforms with adopted land use policies and regulations the Director must deny the application. Anyone who disagrees with the Director's decision may appeal the decision to a Marion County hearings officer. The applicant may also request reconsideration (one time only and a \$200.00 fee) 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. Appeals 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 **September 12, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **September 13, 2024** unless appealed.

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 and zoned SA (Special Agriculture). The intent of both the designation and zone is to promote and protect the existing pattern of large and small farm units and some acreage homesites.
2. The subject property is located on the southwest side of the Y-shaped intersection between Mill Creek Rd SE and Marion Rd SE at the address 7985 Marion Rd SE. A review of available imagery of the property reveals it was recently cleared of several structures, though the manufactured home is still visible on site in the May 2023 satellite imagery. The property was created in its current configuration as a result of Property Line Adjustment Case 22-020. The parcel is considered legal for land use purposes.
3. Surrounding uses include several SA parcels of similar size to the subject property. Many of them appear to be used as acreage homesites or have small tree stands that don't appear to be for resource harvesting purposes. To the west and northwest is the city of Turner urban growth boundary and several annexed parcels used as large church sites and a retirement facility. On the other side of Marion Rd SE towards the southeast is a large commercial aggregate site. Finally, Mill Creek forms the rear property boundary of the lot and almost the entirety of the subject parcel is located within the floodway and floodplain of Mill Creek.
4. The applicants are proposing to conduct dog training and conditioning on the property. This will include hosting group classes and private coaching for dog training and dog sports.
5. Various agencies were contacted about the proposal and given an opportunity to comment.

Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

Requirements:

- A. Transportation System Development Charges (TSDCs) are assessable for the indoor training facility structure that was originally submitted for personal use only based on Applicant statement at the time.

Marion County Septic commented: "There is currently an approved site evaluation to serve a 4-bedroom Single Family Dwelling. Kennels are not allowed to connect to the drainfield serving the dwelling. The Oregon Department of Agriculture regulates and permits the discharge of wastewater from kennel operations since the influent is not residential waste strength."

Marion County Building commented: “Once the structure is built and final building inspection approval is granted, a separate permit would have to be obtained to change the use of the structure to a commercial business. This permit would address the building being accessed by the public, accessibility, parking, and restroom requirements. Application for this would have to be made, along with copies of plans to identify or address exiting, accessibility, parking, and restroom location. If the restroom is in another building on the same property, the distance to this restroom from the dog training facility would have to be identified on the plans.”

The Turner Fire District commented:

“Fire apparatus access, fire protection water supplies, and other fire service features are required to comply with the Oregon Fire Code (OFC) and the Marion County Fire Code Applications Guide (MCFCAG). The following links to the OFC and the MCFCAG are provided to assist applicants, design professionals, and/or developers.

1. The 2022 Oregon Fire Code contains the currently adopted fire and life safety regulations for the State of Oregon.
2. The Marion County Fire Code Applications Guide contains guidelines established by the fire agencies throughout Marion County and is to assist designers and applicants with how to apply fire and life safety regulations to their projects.
Applicants are encouraged to contact Turner Fire District if they have questions or for assistance with determining how best to address fire service features including fire apparatus access and fire protection water supplies for this location and/or project”

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

6. Chapter 17.137.040(O) of the Marion County Code (MCC) allows the conducting of dog training classes or testing trials conducted outdoors or in agricultural buildings existing on June 4, 2012, subject to the following criteria:

- (1) *The number of dogs in each training class shall not exceed 10.*
- (2) *There shall be no more than six training classes per day.*
- (3) *The number of dogs participating in the testing trials shall not exceed 60.*
- (4) *There shall be no more than four testing trials per calendar year.*

The applicants are requesting to use a fenced outdoor space on their property as well as an accessory pole building permitted through Floodplain case FP23-011 and building permit 555-23-009799. The building proposed to be included in the operation of dog training is a rebuild of a previously existing structure that existed on the property prior to June 4, 2012 and was on the property as recently as 2021. The rebuild is using the same location and foundation of the previously existing structure. At the time of this staff decision, not all of the conditions of approval for case FP23-011 have been met. The Planning Staff concludes that since the proposed structure will functionally be the same as what previously existed, particularly because it will use the remnant concrete pad of the old structure still visible on the property, the proposal matches the intent of the code section above and can have dog training and conditioning activities conducted inside. The criteria listed above shall be made conditions of any approval as well as the completion of all conditions of approval for case FP23-011.

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

Brandon Reich
Planning Director

Date: August 28, 2024

If you have any questions regarding this decision contact Alexander Seifer 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.

