

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 are 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. 24-047**

APPLICATION: Application of Elisha and Kyle Kirsch for a conditional use permit to establish a manufacturing and repair service as a home occupation on an 8.85-acre parcel in an EFU (Exclusive Farm Use) zone located at 7620 Heron St NE, Salem (T7S; R2W; Section 11C; Tax lot 700, 800, & 1000).

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 **December 19th, 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 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 any required permits from the Marion County Building Inspection Division.
2. All machining coolants and oils shall be disposed of properly and according to the manufacturer's directions and standard machine shop practices.

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

3. The home occupation shall continuously comply with all the standards of a conditional use within the EFU zone listed in 17.136.060(A) which are addressed in section 6 of this staff decision.
4. The home occupation shall continuously comply with all the standards for a home occupation listed in 17.136.060(C) which are addressed in section 7 of this staff decision.
5. The home occupation shall be conducted by the resident or residents of a dwelling on the subject property as a secondary use and may employ no more than five persons ("person" includes volunteer, non-resident employee, partner or any other person).
6. The home occupation shall be conducted entirely within the dwelling or accessory building.
7. No structural alterations shall be made that would be inconsistent with future use of the buildings exclusively for residential purposes.
8. All visits by suppliers or customers shall occur between the hours of 8:00 a.m. and 8:00 p.m. These limitations do not apply to a Bed and Breakfast use as defined in Chapter 17.110.108.

9. There shall be no outside storage or display of materials, equipment, or merchandise used in, or produced in connection with, the conditional home occupation. A sign shall meet the standards in Chapter 17.191 MCC.
10. Where a home occupation involves deliveries, one off-street loading space shall be provided. If visits by customers occur, two additional off-street parking spaces shall be provided if the street along the lot frontage does not provide paved area for at least two parallel parking spaces. During normal loading/unloading or customer parking periods the off-street loading and parking spaces shall be reserved exclusively for that use.
11. The dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.
12. Retail and wholesale sales that do not involve customers coming to the property, such as internet, telephone or mail order offsite 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.
13. The home occupation will cease if and when tax lot 700 is sold separately from tax lot 800, which contains the dwelling.
14. MCC 17.136.050(B) requires that a declaratory statement meeting the requirements of MCC 17.136.100(C) be filed and this serves to notify the applicant and subsequent owners that there are farm or timber operations in the area.

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. It is recommended that the agencies mentioned in Finding #15 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

15. The applicants should contact the Marion County No. 1 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.

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 \$250) 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 **December 19th, 2024**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **December 20th, 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 Exclusive Farm Use zone is to promote the continuation of commercial agricultural operations.
2. The property is located at 7620 Heron St NE, about 400 feet from the intersection with 76th Ave NE. The property consists of three parcels of 0.90-acre, 3.85 acre and 4.10 acre and contains a 1970 dwelling and two accessory structures, including an 8,000 square foot and a 2,000 square foot accessory building. The home occupation is proposed to be housed in the 8,000 square foot building. The home was built in 1970, and the three parcels were described in their current configuration in a 1987 deed (Reel 541, Page 459) and are shown on a 1967 survey

(S20106). The properties are considered legal for land use. The home occupation will cease if and when tax lot 700 is sold separately from tax lot 800, which contains the dwelling.

3. The subject parcels are surrounded on all sides by EFU lots in various phases of agricultural use. To the east there are many small acreage EFU homesites and small acreage farms. The majority of the rest of the immediate neighboring land are large acreage farm parcels.
4. The applicant proposes to operate a manufacturing and repair service to create parts and components for local farmers and land owners. They propose that their small machining business will provide a needed service to the local community by producing replacement parts and assemblies for farming equipment and other local businesses that need replacement parts and assemblies.
4. Soil Survey of Marion County Oregon indicates 100% of the subject properties are composed of high-value farm soils.
5. Marion County Planning requested comments from other government agencies.

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

Engineering Requirement:

- A. *The subject property will be assessed Transportation System Development Charges (SDCs) upon potential application for building permits for utilization of a portion of an existing personal use accessory structure for the proposed business under the category of manufacturing.*

Marion County Building Inspection commented: "No Building Inspection concerns."

Marion County Fire District #1 provided comments about requirements for building identification and apparatus access. These comments are included in the case file.

Marion County Septic commented: "Due to a change of use, a septic authorization is required."

All other commenting agencies either failed to respond or stated no objection to the proposal.

6. Since the property is located in an EFU zone, 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 proposed home occupation will be conducted in the existing accessory buildings and will not interfere with the use of the buildings or the land for agricultural related activities. Therefore, based on the information supplied by the applicant, this use will neither force a significant change in, nor a significant cost of, accepted farm practices on surrounding lands. 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 No. 1 Fire District and the Marion County Sheriff's Department. The property has a well and septic system for the dwelling inhabited by the property owners and proposed operators of the home occupation. Access to the parcel is accomplished via county roads within public right-of-ways. All services required for the manufacturing process will be within an existing accessory structure. 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 most likely potential adverse impact on the watershed or groundwater would result from cooling fluids and cutting oils. The machining work will be within an accessory structure so in the event of issues like leaking oil or coolant, these chemicals will be contained within the structure for cleanup without risk of soaking into the ground or being rinsed toward waterways by rain. Proper disposal of used coolants and oils shall be a condition of approval. The criterion is met.

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

Any noise generated by the proposed use will be confined to the interior of the building. 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 are neither water impoundments nor aggregate sites in the area surrounding the subject parcel. The criterion is met.

7. Notwithstanding MCC 17.110.270 and 17.120.075, home occupations, including the parking of vehicles in conjunction with the home occupation and bed and breakfast inns, are subject to the following criteria in MCC 17.136.60 (C):

- (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 applicant attests that they will be the operators and only employees of the proposed home occupation. The criterion is met.

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

The applicant proposes utilizing an existing accessory structure to house the machine tools and do all related work. Accessory structures like the barn proposed to house the machinery are permitted and normally associated with rural residences, and farm residences in the EFU zone. 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's impact on the subject parcel is the use of a portion of the floor space within an accessory structure, and the delivery and pick up of materials and finished products by standard small package shippers (USPS, FedEx, UPS, etc.) on and off the property. Because of the low volume of orders, and the offsite sales, the proposed use will not significantly increase levels of traffic relative to normal rural residential and farm traffic. Apart from the traffic, there are not expected to be other impacts on adjacent uses, nor uses permitted in the EFU zone where the property is located. Lacking significant foreseeable impacts, the proposed use shall not unreasonably interfere with other uses permitted in the zone. The criterion is met, and shall be a continuous condition of approval.

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

The proposed structure for the home occupation is an 8,000 square foot barn that already exists on the property. The criterion is met.

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

The applicant has not proposed a sign. If a sign is proposed in the future, it shall meet these standards as a condition of approval.

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

The applicants attest that they will be the only persons required for the proposed home occupation so there will be neither assembly nor dispatch from the property. This will be a condition of approval.

- (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 applicant's proposal is to be able to operate a small machine manufacturing and repair business. The applicants attest that all sales will take place offsite, over the phone, or via the internet; the only customer visits may be related to dropping off or picking up materials or completed parts. The limited customer visits will be a condition of approval.

8. MCC 17.136.050(B) requires that a declaratory statement meeting the requirements of MCC 17.136.100(C) be filed and this serves to notify the applicant and subsequent owners that there are farm or timber operations in the area.

This shall be a condition of approval.

9. Based on the above findings, it has been determined that the applicants' request meets all applicable criteria for a conditional use home occupation in the EFU and is, therefore, **APPROVED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: December 4, 2024

If you have any questions regarding this decision contact George Brandt 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.