

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. 20-024**

APPLICATION: Application of Idyll Acres LLC for an administrative review to establish a cider business on a 60 acre parcel in an EFU (Exclusive Farm Use) zone located at 7017 Stayton Rd. SE, Stayton (T9S; R2W; Section 27; tax lot 1600).

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 **October 14, 2022** unless an extension is granted. The effective period may be extended for two years 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: The following conditions must be met before a building permit can be obtained or the approved use established:

1. The applicants shall obtain all permits, including subsurface sewage disposal, required by the Marion County Building Inspection Division.
2. Sales from the cider business shall be predominantly cider produced in conjunction with the cider business and may include the following activities: cider tours; cider tastings in a tasting room or other location at the cider business; cider clubs; and similar activities conducted for the primary purpose of promoting cider produced in conjunction with the cider business.
3. Sales from the cider business may include items directly related to the sale or promotion of cider produced in conjunction with the cider business, the marketing and sale of which is incidental to retail sale of cider on-site, including food and beverages served by a limited service restaurant, as defined in ORS 624.010. The gross income of the cider business from the sale of incidental items may not exceed 25 percent of the gross income from the on-site retail sale of cider produced in conjunction with the cider business.
4. Permitted activities include the provision of services including private events, such as facility rentals and celebratory gatherings hosted by the cider business or patrons of the cider business, at which cider produced in conjunction with the cider business is featured, that:
 - a. Are directly related to the sale or promotion of cider produced in conjunction with the cider business;
 - b. Are incidental to the retail sale of cider on-site and may not exceed 25 percent of the gross income from the on-site retail sale of cider produced in conjunction with the cider business; and
 - c. Are limited to 25 days or fewer in a calendar year.
5. If on-site retail sales of cider, incidental items or services occur, upon request from the Marion County Planning Director, the applicant shall submit a written statement for the tax year in which the sales occurred, prepared by a certified public accountant, certifying compliance with the standards in MCC17.125.030 (A)(1).

OTHER PERMITS, FEES AND RESTRICTIONS: This approval does not remove or affect any 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 #6 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

6. 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 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 **October 14, 2020**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or visit the office. This decision is effective on **October 15, 2020** unless appealed.

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 and zoned EFU (Exclusive Farm Use). The purpose of the Exclusive Farm Use zone is to maintain properties for farm use.
2. The subject property is located on the north side of Stayton Road SE, approximately 2,400 feet southwest of its intersection with Woodpecker Dr. SE. The property contains one dwelling and three accessory structures. The property was first described on a quitclaim deed recorded in the Marion County records as Volume 461, Page 132, recorded on March 19, 1954. This property is considered legal for the purposes of land use.
3. Adjacent parcels in all directions are zoned EFU and are developed with residential dwellings and accessory structures and in a mix of residential and farm uses.
4. The applicant is proposing to establish and operate a cider business on the subject property.
5. Soil Survey of Marion County Oregon indicates 100% of the subject property is composed of high-value farm soils.
6. Public Works Land Development and Engineering Permits (LDEP) requested that the following requirements and advisories be included in the land use decision:

ENGINEERING REQUIREMENTS

- A. At the time of application for building permits an Access Permit will be required to permanently close the western field access for not meeting spacing standard and minimization of accesses on an Arterial, and the Intersection Sight Distance (ISD) to the east that is impeded by a tree row. Of note is available imagery indicates the access is blocked off with a log, and no longer in use. Minor tree pruning may also be required at the east residential loop access in support of adequate ISD.
- B. The subject property is within the unincorporated area of Marion County and will be assessed Transportation System Development Charges (SDCs) upon application for building permits per Marion County Ordinances.

ENGINEERING ADVISORY

- C. The roadway Special Setback of 50 feet from centerline exceeds the existing 25-foot right-of-way half width of 25 feet. Parking structures, such as pavement, should not be placed within the Special Setback.

Marion County Building Inspection commented that a building permit is required for a change in use or occupancy.

All other contacted agencies did not respond or stated no objections to the proposal.

7. Wineries may be approved when the standards in Chapter 17.125.130 of the Marion County Code (MCC) are satisfied. These standards include:

(B) A cider business may be established if the cider business:

1. Less than 100,000 gallons of cider annually and the cider business:

- a. owns an on-site orchard of at least 15 acres.*
- b. owns a contiguous orchard of at least 15 acres*
- c. has a long-term contract for the purchase of all of the apples or pears from at least 15 acres of an orchard contiguous to the cider business; or*
- d. obtains apples or pears from any combination of subsection (B)(1)(a), (b), or (c) of this section.*

The site plan and applicant statement indicate that the existing orchard is greater than 15 acres. Aerial imagery indicates that the orchard is approximately 27 acres in size, which exceeds the 15 acre minimum required under section (B) (1) (a). The applicant also indicates that the cider business would likely produce approximately 2,000 gallons of cider per year, which satisfies section (B) (1).

8. A cider business described in Chapter 17.125.140 (B) (1) may:

2. Market and sell items directly related to the sale or promotion of cider produced in conjunction with the cider business, the marketing and sale of which are incidental to on-site retail sale of cider, including food and beverages:

- a. Required to be made available in conjunction with the consumption of cider on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or*
- b. Served in conjunction with an activity authorized by subsection (C)(2), (4) or (5) of this section.*

3. Carry out agri-tourism or other commercial events on the tract occupied by the cider business as provided for below.

4. Host charitable activities for which the cider business does not charge a facility rental fee.

5. Site a bed and breakfast as a home occupation on the same tract, and in association, with the cider business.

- a. The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and*
- b. The meals may be served at the bed and breakfast facility or at the cider business.*

Once the cider business has been established, it may perform the activities described above. The applicants state that they intend to operate the cider business in accordance with the criteria and carry out activities permitted for cider businesses. The criteria described above can be made conditions of approval to serve as notice that if the applicants decide to operate the cider business as allowed, activities must comply with the criteria.

9. Based on the above findings, it has been determined that the proposed winery satisfies all applicable criteria and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Director-Planning Division

Date: September 29, 2020

If you have any questions regarding this decision contact Alyssa Schrems 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.