

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. 20-012**

APPLICATION: Application of Ingalls Road LLC, for a conditional use to establish a farm equipment auction business as a commercial activity in conjunction with farm use on a 31.29 acre parcel in an EFU (Exclusive Farm Use) zone located at 17127 HWY 99E NE, Woodburn, Oregon 97071 (T5S; R1W; Section 04; tax lots 1000 and 1002).

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

EXPIRATION DATE: This permit is valid only when exercised by **June 10, 2022**. 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 drainfield 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.

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

2. 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.
3. The farm equipment sold at auction on the property must be sourced within the state of Oregon.
4. Sales are permitted at scheduled auctions only.
5. Sales are limited to farm equipment and incidental items. The sale and storage of boats, recreational vehicles, motorcycles, automobiles, and pickup trucks shall be prohibited.
6. All activities associated with the auction shall be located at least 100 feet from the north property line.
7. No outdoor amplified sound is permitted.
8. Outdoor storage areas visible from adjacent properties to the north shall be screened with a minimum six foot tall sight obscuring fence.
9. Outdoor lighting shall be directed away from residentially developed properties.
10. Auctions are permitted between the hours of 7 am and 10 pm.

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 #5 be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

12. The applicants should contact the Woodburn 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.
13. The applicants should contact the Oregon Department of Transportation to verify access onto Hwy 99E and obtain any required approach permits.
14. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements, listed in Finding #6 below, that may be required.

APPEAL PROCEDURE: The Marion County ZoneCode 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 5:00p.m. **June 10, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **June 11, 2020** 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 on the west side of HWY 99E NE at the intersection of HWY 99E and Ingalls Lane NE. The property contains an irrigation well and an agricultural building under construction. The property is described by deed as far back as 1976. The parcel is considered to have been lawfully created.
3. Surrounding properties in all directions are zoned EFU and in farm use.
4. Soil Survey for Marion County, Oregon indicates 97% of the subject property soils are high-value farmland.
5. The applicant is proposing to establish a farm equipment auction business as a commercial activity in conjunction with farm use in an existing building.
6. Public Works Land Development and Engineering Permits (LDEP) requested the following be included in the land use decision:

ENGINEERING REQUIREMENTS

- A. Prior to issuance of building permits, provide evidence of an ODOT Approach Permit or waiver. Note that ODOT controls Hwy 99E.
- B. Prior to site development, provide a civil engineered site plan that addresses grading and drainage elements.
- C. Storm water detention is required for 0.5-acre or more of development. Note that if drainage outfall is to Hwy 99E, then ODOT may require water quality treatment.
- D. Transportation System Development Charges (SDCs) will be assessed for building permits and/or a change-in-use to the property based on an anticipated increase in traffic.
- E. Prior to commencement of ground disturbing activities, provide evidence of a DEQ NPDES 1200-C Permit. The land use Application indicated intent to establish a 7 to 10-acre gravel storage yard.

Marion County Building Inspection commented that a building permit may be required for a change in use or occupancy. If the structure currently being constructed on the property is to be accessible to the public, a change of use or occupancy will be required.

Marion County Building Inspection Onsite Wastewater Specialist commented that septic authorization or evaluation may be necessary for any restroom facilities.

Oregon Department of Transportation commented: “The site is adjacent to the Pacific Highway East, No. 081 (OR-99E) and is subject to state laws administered by the ODOT. There is an existing highway approach at MP 30.42, near the south side of tax lot 1000, which is presumed to be permitted. This does not match the applicant’s site plan which shows an existing gravel approach on tax lot 1002 near the border of tax lot 1000. ODOT has no record of an approach for tax lot 1002. The site will need to share one approach, which could either be the existing approach at MP 30.42 or at a new location. Once the applicant has decided where they want the approach, ODOT will need to determine if a new permit is required.”

- 7. In order to approve a commercial activity in conjunction with farm use, the applicant must demonstrate compliance with the specific criteria listed in Chapter 17.136.060(D) of the Marion County Code (MCC). These include:
 - (a) *The commercial activity must be primarily a customer or supplier of farm uses.*
 - (b) *The commercial activity must enhance the farming enterprises of the local agricultural community to which the land hosting that commercial activity relates.*
 - (c) *The agricultural and commercial activities must occur together in the local community to satisfy the statute.*
 - (d) *The products and services provided must be essential to the practice of agriculture.*
- 8. The proposed auction business will sell farm equipment that is essential to the practice of agriculture. The auction business will provide an outlet for purchase and sales of used agricultural equipment within the local agricultural community. A condition of approval limits sourcing of equipment sold at auction to the state of Oregon, to ensure that the activity serves the local farming community. The commercial activity meets the criteria for operating in conjunction with farm use.
- 9. In addition to the specific criteria above, the proposal must also satisfy the conditional use criteria in Marion County Code (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.

- (b) Adequate fire protection and other rural services are, or will be, available when the use is established.*
- (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.*
- (d) Any noise associated with the use will not have a significant adverse impact on nearby land uses.*
- (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.*

10. Since the use has been determined to be in conjunction with farm use, it is not expected to have a negative impact on nearby lands devoted to farm use. The proposal meets #9(a). The property is located midway between the cities of Woodburn and Hubbard and by mutual response agreement, fire protection is available from either jurisdiction. It is the applicants responsibility, to provide onsite water and septic if necessary. Police protection is proved by Marion County. The proposal satisfies the criterion in #9(b). The property is not within a wildlife habitat area; groundwater limited area, floodplain, or geologically hazardous area. The use would take place within an existing structure and there is no evidence of significant odors or noxious matter emitted from the premises that would affect air or water quality. Noise generated by the proposed activity should be comparable to agricultural activities and any outdoor amplified sound will be prohibited. The proposal meets #9(c) and (d). There are no potential water impoundments, identified wetlands, or significant mineral and aggregate sites identified by the Comprehensive Plan in the area. The criterion in #9(e) is met.
11. Based on the above findings it has been determined that the applicant's request meets all applicable criteria to establish a hemp processing facility as a commercial activity in conjunction with farm use and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Planning Director

Date: May 27, 2020

If you have any questions regarding this decision contact Lisa Milliman 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.