

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. 24-048**

APPLICATION: Application of Susan and Mark Nichols for a conditional use permit to operate an event business as a home occupation on a 21.55-acre parcel in an EFU (Exclusive Farm Use) Zone located at 10067 Siegmund RD SE, Stayton (T9S; R1E; Section 10; Tax lot 200).

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 **February 5th, 2027**. 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 sign and submit a Declaratory Statement (form enclosed) to the Planning Division. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
3. The applicant shall submit evidence that the Marion County Building Department/Stayton Fire Department has reviewed and approved a maximum occupancy for the structures involved in the event business and shall not exceed this number of persons.
4. The applicants shall provide evidence, prior to the first event taking place, that they have received all the necessary building and septic permits required for the event business and any additional review needed by the Stayton Fire Department.
5. The applicant shall continuously comply with the provisions in MCC 17.136.060 (C)(2).
6. The event business shall not unreasonably interfere with other uses permitted in the zone in which the property is located. The property owner shall provide evidence that all contracts include the requirement that the customer has signed and agreed to the following statement:

This event business is situated in or near a farm or forest zone or area in Marion County, Oregon, where the intent is to encourage, and minimize conflicts with, farm and forest use. Specifically, residents, property owners, and visitors may be subjected to common, customary and accepted farm or forest management practices conducted in accordance with federal and state laws that ordinarily and necessarily produce noise, dust, smoke and other impacts. I do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of using this venue. I acknowledge the need to avoid activities that conflict with

nearby farm and forest uses and practices, signatories will not pursue a claim for relief or course of action alleging injury from farming or forest practice for which no action is allowed under ORS 30.936 or 30.937.

7. Event business approvals must be renewed every year subject to the property owner providing the following information:
 1. Evidence of the annual renewal of permits required by other agencies and departments.
 2. A log of events held the prior calendar year.
 3. Any revisions to the site plan or parking and traffic circulation plan or both. Such revisions may be subject to review and approval by the Planning Director and Public Works Director for consistency with the home occupation event business approval.
 4. Evidence that the property continues to be subject to special assessment for farm use.
8. Any approval is only for the property owner at the time of application. If the property is subsequently sold or transferred to another person or entity, the new property owner must indicate review and acceptance of the conditions of the land use approval prior to operating the business.

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

9. 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.
10. 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:

11. The applicants should contact the Stayton 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.
12. 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 **February 5th, 2025**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **February 6th, 2025** 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 zone is to promote the continuation of commercial agricultural.
2. The property is located on the western side of Siegmund Rd SE, approximately 1,300 feet south of its intersection with Fern Ridge Rd SE. The property contains a dwelling built in 1905, a medical hardship manufactured home and approximately 7 associated farm buildings ranging in size from a full size barn to a small machine shed. The property has been the subject of 5 land use cases, namely Property Line Adjustment 10-008, which created its present configuration. Therefore, the parcel is legal for land use purposes.
3. Surrounding uses are farm uses in all directions. The area is comprised mainly of large fields growing hay, grass seed and Christmas trees. This area is considered the transition from Willamette Valley farmland to the Santiam Canyon.
4. Soil Survey of Marion County Oregon indicates 91.1% of the subject property is composed of high-value farm soils.
5. The applicant is proposing to operate an event business as a home occupation consisting of weddings, music events, fundraisers and other gathering type events.
6. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

ENGINEERING REQUIREMENT

- a. The subject property may be assessed Transportation System Development Charges (SDCs) upon potential application for building permits for utilization of two existing personal use accessory structures for the proposed business. The potential fee would be prorated (adjusted downward) based upon the maximum allowable number of event days per calendar year.

Marion County Building Department commented:

Permit(s) are required for the change of occupancy of existing agricultural structures to commercial use assembly buildings. This may involve obtaining an engineered structural analysis to determine any necessary alterations to establish these as Risk Category II or III structures, as well as other plans and documents to verify compliance with the provisions of the 2022 Oregon Structural Specialty Code. Discussion with a Marion County Building Plans Examiner is recommended prior to obtaining and submitting these documents for permit(s) application.

Marion County Septic commented:

We will require a septic site evaluation initially. Must come up with a total gallons produced per day for event – based on food type and max number of people attending events – use attached sizing chart. Will require installer and may require consultant.

All other commenting agencies stated no objection to the proposal.

7. In order to approve an event business as a home occupation, the specific criteria listed in MCC 17.136.060 (C)(2) must be satisfied. Those requirements are:

Notwithstanding MCC 17.110.270 and 17.120.075, an event business hosting weddings, family reunions, class reunions, company picnics, memorials, and similar gatherings, may be established as a home occupation subject to the following criteria:

A. Farm Assessment: All or a portion of the subject property where the event business will operate shall be subject to special assessment for farm use.

The property currently receives farm tax deferral and was verified using tax assessor information. The criterion is met.

B. Owner: The property owner of the property upon which the event business is located shall be the operator of the event business and shall reside full-time in the dwelling on the property.

The owners, Sue and Mark Nichols, live on the property and will be the operators of the business. The criterion is met.

C. Employees: The property owner shall employ on the site no more than five full-time or part-time persons per ORS 215.448(1)(b).

The applicants state that they are aided by two family members which brings their employee total to four. They state certain events will require an additional employee to bring the total number to five employees, and they will not exceed this number. The criterion is met.

D. Number of events: A maximum of 18 events per calendar year may be held on the property.

The applicant states that they will not exceed 18 events per calendar year. The criterion is met.

E. Frequency: No more than three events a week shall occur from May 1 to September 30 and one event a week from October 1 to April 30.

The applicants state that they understand this and will hold no more than one event a week. The criterion is met.

F. Duration: No event shall exceed three consecutive days including setup and take down.

The applicants state that their events do not exceed one day. The criterion is met.

G. Hours of operation: No event shall take place before the hour of 7:00 a.m. or after the hour of 10:00 p.m. Setup and takedown shall occur as well between the hours of 7:00 a.m. and 10:00 p.m.

The applicants state that they understand this provision and will comply with it, including turning any amplified music or sound off by 10pm. The criterion is met.

H. Guests: The property owner shall ensure that the maximum occupancy approved by the Marion County Building Official and local fire district is not exceeded in structures on the property at any time. A lower limit may be imposed based on the number of employees able to provide services to the guests. The applicant shall demonstrate how the employees of the business are able to provide services to all the guests at the event. All events shall be conducted in such a way as to comply with conditions of approval placed on the event business operation.

The change of use permits have not been obtained yet, but the applicants believe that the maximum number of people that will attend any one event will be no more than 175 persons. They have had preliminary talks with the building department and are developing their maximum allowed occupancy. Submitting the maximum occupancy allowed by the Marion County Building Department shall be made a condition of approval. The criterion is met.

I. Structures: The event business shall be operated substantially in the dwelling, or other buildings normally associated with uses permitted in the zone in which the property is located. New structures shall obtain a building permit for the use. Existing structures shall obtain a change of use from Building Inspection. In either case, System Development Charges applied for the additional traffic impacts anticipated shall be paid prior to building permit issuance. Any changes to a structure shall not render the structure a building not normally associated with uses permitted in the zone.

That applicant intends to use two existing structures on the western side of the property. One of the structures already contains a bathroom built to ADA standards, the applicant states. The applicant understands the SDC

chargers that may occur and they state they will not render the structure a building not normally associated in an EFU zone. The criterion is met.

J. Tents: Tents may be used in conjunction with the event business. Tents shall be considered outdoor areas for the purposes of this code.

The applicant does not intend to use tents at this time, but if they do in the future, they will adhere to this section of code. The criterion is met.

K. Outdoor area: For events which take place both indoors and outdoors, at least 80 percent of the area of the property dedicated to the event business shall be indoors and at most 20 percent of the area of the property dedicated to the event business may be outdoors, exclusive of parking.

The applicant understands this provision and intends to follow it. The outdoor area shown to be used is 1,000 sq ft. the indoor area to be used totals 5,800 sq ft. This calculates to 17% of the event taking place outside. The criterion is met.

L. Parking: A parking and traffic circulation plan shall be provided demonstrating adequate parking being provided on-site to accommodate all traffic associated with the event business subject to the following:

- 1. No parking in rights-of-way or roadway easements shall be permitted.*
- 2. Parking may be provided on a different parcel subject to evidence of an agreement with that property for the use.*
- 3. Adequate internal circulation shall be provided to ensure that traffic does not cause a significant adverse impact to local roadways.*
- 4. The parking and traffic circulation plan shall also provide for fire and emergency ingress and egress.*
- 5. Events that take place between October 1 and April 30 shall have parking provided with an all-weather surface consisting of gravel, asphalt, or concrete.*
- 6. Events that take place between May 1 and September 30 shall either have parking provided with an all-weather surface consisting of gravel, asphalt, or concrete or provided by an earthen or organic surface maintained to minimize fire hazards.*
- 7. The property owner shall obtain all necessary permits for access and egress, as well as provide a traffic control plan if required by Marion County Public Works.*
- 8. The use will not require new driveway access to the street unless approved by Public Works Director. The property owner shall obtain all necessary driveway access permits from the roadway authority to bring the new or existing access into conformance with county standards.*

The applicant states that no parking in the right-of-way will be allowed. There is a large gravel area on the subject property that will be designated as the parking area. The applicants have shown an internal circulation diagram that allows traffic to move in and out of the subject property. This does not require new driveway access. Marion County Land Development Engineering and Permits have reviewed the plan and proposal and did not comment with any additional requirements. The criterion is met.

M. Minimum setbacks: New structures and outdoor areas associated with the event business, including generators and other ancillary uses, but not including parking, shall be setback a minimum of 50 feet from public rights-of-way and adjoining parcels with an existing residence within 50 feet of the site of the event business or approved for a residence within 50 feet of the site of the event business, or zoned Acreage Residential.

The proposed structure appears to sit 30 feet away from the nearest property line and over 800 feet from any public right-of-way. There is a dwelling on tax lot 100, directly to the east. That dwelling sits over 4,000 feet from the structures used in the event business. The criterion is met.

N. Fencing: Property lines adjacent to a property with an existing residence within 50 feet of the site of the event business or approved for a residence within 50 feet of the site of the event business, or zoned Acreage Residential shall be provided with a solid fence, wall, or hedge. A 15-foot-wide vegetative buffer consisting of trees, which will attain at least eight feet in height within five years, and shrubs, which will provide a complete visual sight buffer within five years may be substituted for the fence, wall, or hedge.

As stated above, there is a dwelling to the east, but this dwelling is over 4,000 feet away from the event area. Therefore no additional screening or buffering will be required. The criterion is met.

O. Lighting: Parking lots shall have lighting capable of providing adequate illumination for security and safety. All light sources shall be constructed, down shielded and used so as not to illuminate directly on or create glare visible from adjacent properties or public rights of way.

Applicant states that the parking lot will be lit and will be faced downwards to not shine onto other properties or roads. The criterion is met.

P. Noise: The event business shall comply with Marion County Code Chapter 8.45 related to noise except that no amplified sound or use of a generator shall occur outside of a building before the hour of 7:00 a.m. or after the hour of 10:00 p.m.

The applicant states that they understand this provision and will abide by it. The criterion is met.

Q. Signs: In addition to the signs permitted in Chapter 17.191 of this code:

- 1. One unlighted sign not exceeding 32 square feet related to the event business may be placed on a fence or structure subject to the height, setback, and illumination standards in Chapter 17.191.*
- 2. Three unlighted temporary signs not exceeding 32 square feet each may be placed on the property or nearby properties subject to the height, setback, and illumination standards in Chapter 17.191.*
- 3. Any temporary sign shall be removed no more than 24 hours after an event.*

The applicant understands and will adhere to this section of code. The criterion is met.

R. Water source: If a well is used in conjunction with the business, the property owner shall consult with Marion County Health and Human Services to determine if compliance with a state public water system is required. Any identified public water systems must comply with drinking water quality standards as administered by the Oregon Health Authority Drinking Water Services. The property owner also shall obtain any necessary permits from the Oregon Department of Water Resources. Evidence that required permits were obtained shall be provided to Marion County Planning.

The applicant understands this standard and already has a domestic well on site. They will consult with the applicable agencies on its use. The Oregon Water Resources Department policy allows a property owner to use up to 5,000 gallons per day for a single commercial or industrial use. Therefore, the applicants should fall into this category. The criterion is met.

S. On-Site Wastewater: The property owner shall obtain all necessary permits for on-site wastewater disposal. In the event that portable restroom facilities, including hand-sanitizing or hand-washing stations, are used, these shall be screened from adjacent lots and rights-of-way by sight-obscuring fences or plantings and be located a minimum of 50 feet from the property lines of all adjoining properties.

The applicant already has restrooms indoors onsite. If they find that they require more, they will adhere to this section of code. The criterion is met.

T. Kitchen: Any kitchen shall obtain necessary permits from Marion County Building Inspection and from Marion County Health and Human Services. Evidence that required permits were obtained shall be provided to Marion County Planning.

The applicants are not proposing to operate a kitchen. This section does not apply.

U. Alcohol: If alcohol is served, the property owner shall obtain all necessary permits, or ensure that all necessary permits have been obtained from the Oregon Liquor and Cannabis Commission.

The applicants are not proposing to serve alcohol but understand permitting will be through OLCC. The criterion is met.

V. Other uses: The event business shall not unreasonably interfere with other uses permitted in the zone in which the property is located. The property owner shall provide evidence that all contracts include the requirement that the customer has signed and agreed to the following statement:

This event business is situated in or near a farm or forest zone or area in Marion County, Oregon, where the intent is to encourage, and minimize conflicts with, farm and forest use. Specifically, residents, property owners, and visitors may be subjected to common, customary and accepted farm or forest management practices conducted in accordance with federal and state laws that ordinarily and necessarily produce noise, dust, smoke and other impacts. I do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of using this venue. I acknowledge the need to avoid activities that conflict with nearby farm and forest uses and practices, signatories will not pursue a claim for relief or course of action alleging injury from farming or forest practice for which no action is allowed under ORS 30.936 or 30.937.

This shall be made a condition of approval and evidence will be required of this prior to the first event being hosted. The criterion is met.

W. Dispatch of employees: The property, dwelling, or other buildings shall not be used for assembly or dispatch of employees to other locations.

The applicant understands this and does not intend to dispatch any employees, all employees will only be working on the subject property. The criterion is met.

X. Sales: 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.

No sales, aside from those related to events bookings will occur. The criterion is met.

Y. Alteration of property: No other alteration of land shall occur other than that approved in conjunction with an approval for an event business subject to the following:

- 1. On days when events are not occurring, the property shall not take on characteristics of an event business, aside from structures and parking areas approved as part of this permit.*
- 2. When events are not taking place, any equipment, furniture, or other items related to the event business shall be stored indoors.*

Applicant states that there will be no event related activities on non-event days as this would interfere with their working farm. All materials will be stored indoors. The criterion is met.

Z. Transfer of property: Any approval is only for the property owner at the time of application. If the property is subsequently sold or transferred to another person or entity, the new property owner must indicate review and acceptance of the conditions of the land use approval prior to operating the business.

The applicant understands and acknowledges this. The criterion is met.

AA. Annual submittal: Event business approvals must be renewed every year subject to the property owner providing the following information:

- 5. Evidence of the annual renewal of permits required by other agencies and departments.*
- 6. A log of events held the prior calendar year.*
- 7. Any revisions to the site plan or parking and traffic circulation plan or both. Such revisions may be subject to review and approval by the Planning Director and Public Works Director for consistency with the home occupation event business approval.*
- 8. Evidence that the property continues to be subject to special assessment for farm use.*

The applicant understands and acknowledges the need to renew this permit each year subject to the above criteria. They state they will provide a log of events each year, provide any site plan updates that are necessary and evidence that the property is still receiving farm tax deferral. The criterion is met.

8. In addition to the specific criteria above, the proposal must also 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 use is not expected to force any change in the above characteristics as it will be buffered to the farmland and is taking place in existing structures that will further buffer the use, including sound and lights. The events are self-contained on the property as is the parking limiting impacts to neighboring parcels. The area is predominately grass seed, hay and Christmas tree crop, which are not labor intensive farm uses and will be less susceptible to conflicts with the proposed event business. The applicants are farmers themselves and have an understanding of the area and farm practices and should be able to hold the events in a manner that is not disruptive to the neighbors and farm operations. The criterion is met.

(b) Adequate fire protection and other rural services are, or will be, available when the use is established.

The property is served by the Stayton Fire Department and the Marion County Sheriff. 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 use is primarily contained inside and does not produce outputs (chemicals, substances) that are harmful to the above categories. The criterion is met.

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

The applicant does proposed to use sound amplification but with the events primarily happening inside and thousands of feet away from other dwellings, there does not appear to be potential for adverse effects due to noise. Additionally, it will need to be shut off by 10pm each event. 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 is a pond on the subject property, but using the same reasoning in #9(c), the criterion is met.

9. 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.
10. 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: January 21, 2025

If you have any questions regarding this decision contact Austin Barnes 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.



ZONING MAP

Input Taxlot(s): 091E100000200

Owner Name: NICHOLS FAM TR NICHOLS, MARK A
NICHOLS, SUSAN M

Situs Address: 10067 SIEGMUND RD SE

City/State/Zip: STAYTON, OR, 97383

Land Use Zone: EFU

School District: NORTH SANTIAM

Fire District: STAYTON

Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



scale: 1 in = 479 ft

DISCLAIMER: This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.