

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. 25-015**

**APPLICATION:** Application of Rosalio Sanchez and Silvia Rojas for a conditional use permit to operate a landscaping business in conjunction with a nursery 4-acre parcel on an EFU (Exclusive Farm Use) zone located in the 16000 Block of Front St NE, Woodburn (T5S; R1W; Section 5D; Tax lot 1200).

**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 **May 14<sup>th</sup>, 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, including any septic permits required for commercial operations.
2. The applicant shall sign and submit a Farm/Forest 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. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use until the following conditions have been satisfied:

**Condition A** – Prior to establishment of the business on the subject property, under an Access Permit from MCPW Engineering pave the Front Street driveway approach with hot mix asphalt for a distance of 20 feet measured from the roadway edge of pavement.

**Condition B** – Prior to establishment of the business on the subject property, provide evidence of an agreement with or waiver from UPRR as to the intended use of the existing private rail crossing.

4. All gas and diesel powered motor devices and equipment, with the exception of cars and pickup trucks, shall not operate after 8pm, and the operations of the landscape contracting business shall adhere to the noise ordinance section of the Marion County Comprehensive Plan (MCC 8.45).

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

5. 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.

6. The applicant shall continue to utilize the property in compliance with the Exclusive Farm Use (EFU) zone code. This includes the continued operation of the nursery farm use in conjunction with the landscaping business.
7. 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:

8. 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.
9. 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 **May 14<sup>th</sup>, 2025**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **May 15<sup>th</sup>, 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 and forestry operations.
2. The property is located on the southeast side of Front St NE 100 feet south of where Front St and Crosby Rd intersect and on across the railroad tracks that run parallel to Front St. The parcel currently contains no structures and was as recently as 2023 planted with evergreen trees. The parcel has existed in its current configuration since at least April 30<sup>th</sup>, 1964 when it was described in a deed on Vol 585 Page 531. Therefore the parcel is considered legal for land use purposes.
3. Surrounding uses include various industrial and commercial uses located in the city of Woodburn urban growth boundary to the south, parcels utilized as large acreage residences with some small scale agricultural practices to the east, a Union Pacific railroad line running along the full western property line, and an electric substation to the north at the intersection of Front St and Crosby Rd.
4. Soil Survey of Marion County Oregon indicates 99.5% of the subject property is composed of high-value farm soils.
5. The applicant is proposing to operate a landscape contracting business in conjunction with a nursery operation on a 4.00-acre parcel in an EFU zone.

6. Various agencies were contacted about the proposal and given an opportunity to comment:

Woodburn Fire District commented: “Please provide measurements for the gate and fire access width and turnaround for fire apparatus. Please provide additional information on any building on the premise and any other hazard activity to determine the required fire flow.”

The applicant reached out to the Woodburn Fire District to address some of these initial comments. Afterwards the Woodburn Fire District provided additional comments:

“We met the morning of 4/28/2025 with Mr. Sanchez (at) the property. We asked that access lane be 20’ wide and to clear an area for fire apparatus turn around. Additionally, he will widen the access crossing over the railroad. Nothing further at this time.”

City of Woodburn Community Development commented: “The City has no concerns related to the new additional use in this location. We echo the concerns of Woodburn Fire District regarding fire access. Additionally, we advise that appropriate rail authorities be consulted regarding the existing rail crossing to ensure compliance.”

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

Conditions:

**Condition A** – Prior to establishment of the business on the subject property, under an Access Permit from MCPW Engineering pave the Front Street driveway approach with hot mix asphalt for a distance of 20 feet measured from the roadway edge of pavement.

**Condition B** – Prior to establishment of the business on the subject property, provide evidence of an agreement with or waiver from UPRR as to the intended use of the existing private rail crossing.

Requirements:

**Requirement A** – Transportation System Development Charges (SDCs) will be assessed upon application for building permits or agricultural exemption for the proposed pole barn.

Marion County Building commented: “Permit(s) are required to be obtained prior to development of structure(s) and/or utilities on private property. If any structure is proposed to be open to the public for potential sales of product, additional code requirements, such as accessibility and restrooms, may be required. Discussion with a building plans examiner is recommended prior to making application for structural permit(s).”

Marion County Septic commented: “A site evaluation for this property was approved to serve a 5BDRM single family dwelling under permit number 555-24-000108. No septic system currently exists on-site. To proceed with installation, a construction installation permit, including a full proposal outlining number of employees, if restrooms are available to the public, etc. is required.”

All other commenting agencies stated no objection to the proposal.

7. MCC 17.136.050 (D)(6) allows a landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.

The applicant is proposing to operate a landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, providing services such as mowing and planting of decorative plants. The applicant’s proposed operation meets the definition of a landscape contracting business.

8. In addition to the specific criteria below, the proposal must also satisfy the conditional use criteria which are being applied directly from state law. Those requirements are:

1. *Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*
2. *Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.*
3. *For purposes of subsection (a) and (b), a determination of forcing a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use or a determination of whether the use will significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use requires:*

*(A) Identification and description of the surrounding lands, the farm and forest operations on those lands, and the accepted farm practices on each farm operation and the accepted forest practices on each forest operation;*

The applicant provided a list of the different uses on surrounding lands. Several of the surrounding properties are located within the UGB of the city of Woodburn and are already annexed into the city. To the south is UFP Woodburn LLC, a building materials supplier, and PalletOne Inc, a pallet supplier. The property on the other side of the railroad and Front St to the northwest is a PGE electrical substation, another non-farm use. On that same side is a residential property which has surrounding oak trees. This parcel does have some agricultural practices in the form of row crops, but these are located on the western edge of the parcel and are buffered by the residence and oak savanna. Lastly, the parcel adjacent to the east contains a residence and the applicant claims there is no identifiable agricultural practices on the parcel. Satellite imagery does seem to refute this claim slightly, as the southern part of the property is more than just a residential lawn, but also does not seem to be more than pasture or grass. The applicant has sufficiently described and identified agricultural uses in the immediate area.

*(B) An assessment of the individual impacts to each farm and forest practice, and whether the proposed use is likely to have an important influence or effect on any of those practices. This assessment applies practice by practice and farm by farm; and*

The applicant states that the main impacts of their proposed operation are noise, watering, spraying and dust. The applicant addresses each of these issues by proposing methods through which these impacts can be mitigated. Through this, the applicant demonstrates how none of the potential impacts will have an important influences on local farm or forest practices, particularly through the use of mitigation strategies. The criterion is met.

*(C) An assessment of whether all identified impacts of the proposed use when considered together could have a significant impact to any farm or forest operation in the surrounding area in a manner that is likely to have an important influence or effect on that operation.*

*(D) For purposes of this subsection, examples of potential impacts for consideration may include but are not limited to traffic, water availability and delivery, introduction of weeds or pests, damage to crops or livestock, litter, trespass, reduction in crop yields, or flooding.*

The applicant claims that due to the limited amount of farming or forestry activities in the local area the impacts of the proposed landscape contracting business will be limited. In addition, they claim that through their proposed mitigation strategies they can limit the cumulative impact of the operation on these local farm and forest uses. The applicant explains that they will implement measures to help mitigate these impacts on any neighboring farm uses. Specifically, they mention limiting vehicle speed to reduce dust and noise, mindful watering practices to mitigate draws on the local water table, and using targeted spraying practices to reduce the risk of drift and limit overall use of chemicals. Additionally, the activity of employees can have its effects mitigated through the limiting of hours of operation for small motor tools and equipment in conditions of approval, as well as conditioning the operation to adhere to the noise ordinance section of the Marion County Code (MCC 8.45). The criterion is met or can be met through imposed conditions.

*(E) For purposes of subsection (a) and (b), potential impacts to farm and forest practices or the cost of farm and forest practices, impacts relating to the construction or installation of the proposed use shall be deemed part of the use itself for the purpose of conducting a review under subsection (a) and (b).*

This section outlines considerations for the previous criteria sections.

*(F) In the consideration of potentially mitigating conditions of approval under ORS215.296(2), the governing body may not impose such a condition upon the owner of the affected farm or forest land or on such land itself, nor compel said owner to accept payment to compensate for the significant changes or significant increases in costs described in subsection (a) and (b).*

This section outlines limitations on jurisdictions to impose conditions upon affected farm or forest landowners. No conditions are being assessed to neighboring affected farm or forest landowners.

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: April 29<sup>th</sup>, 2025

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.



## ZONING MAP

Input Taxlot(s): 051W05D001200

Owner Name: SANCHEZ, ROSALIO ROJAS SANCHEZ,  
SILVIA

Situs Address: ( No Situs Address )

City/State/Zip:

Land Use Zone: EFU

School District: WOODBURN

Fire District: WOODBURN

### Legend

 Input Taxlots

 Lakes & Rivers

 Highways

 Cities



scale: 1 in = 427 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.