

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. 24-026**

APPLICATION: Application of Patrick and Denise Beggs for a conditional use permit to establish a personal-use airport on a 57.3-acre parcel in an EFU (Exclusive Farm Use) zone located in the 11000 block of Silver Falls Hwy SE, Aumsville (T8S; R1W; Section 17; Tax lot 1100).

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 **September 11, 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 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 any required permits from the Marion County Building Inspection Division.
2. The applicant shall follow all applicable state and federal laws.
3. Prior to establishing the personal use airport, the applicant shall receive approval for any necessary permits required by the Oregon Department of Aviation or the Federal Aviation Administration.
4. This approval is for the proposed unimproved use of the subject parcel. Improvements to the site, including a dedicated runway, will require additional Conditional Use approval for expansion.
5. Storage of the airplanes on site within a future structure is permitted so as long as the applicants submit a new site plan showing the proposed location of the structure on the subject property. This structure shall be assessed special 100-foot setback from all property lines. Use of an Agricultural Exempt structure for an airplane hangar is not permitted unless the plans are used for crop spraying or other aerial farm applications.
6. This approval is only for Patrick and Denise Beggs, and their two airplanes listed in the application: the X-Cub (N423PW) and the Cessna 180 (N3222D). No other airplanes or pilots are approved to land or take off from the subject parcel.
7. Landing, takeoff, or running of airplane engines may occur only between the hours of 8am and 8pm.

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

8. The use shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval of the Planning Director.

9. 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:

10. The applicants should contact the **Aumsville 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.
11. 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 **September 11, 2024**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **September 12, 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 EFU (Exclusive Farm Use) zone is to promote the continuation of commercial agricultural and forestry operations.
2. The subject property is located in the 11,000 block of Silver Falls Highway SE. It is approximately 2-miles northeast of Aumsville and 2.5-miles northwest of Sublimity. The parcel is entirely in commercial agricultural use for grass seed and straw production. The subject parcel was described in its current configuration as a discrete parcel in a 1963 deed recorded in Volume 578, Page 127 of the Book of Land Records for Marion County and is therefore a legal lot for land use purposes.
3. Surrounding uses include primarily agricultural land, with a few associated farm dwellings. Adjacent to the north and west are parcels growing Christmas trees. Adjacent to the east and south are other parcels in grass seed production. There is a residence south adjacent across Hwy 214, and on the west adjacent parcel approximately 1,000 feet from the subject parcel.
4. Soil Survey of Marion County Oregon indicates 100% of the subject property is composed of high-value farm soils.
5. The applicant is proposing to establish a personal-use airport without any improvements to the property. The proposal is to land on and takeoff from the subject parcel during the seasons where grass seed is not being actively farmed.
6. The following agencies responded with comments related to the case:

Marion County Building Department commented: “No Building Inspection concerns. Permit(s) are required to be obtained prior to any development and/or utilities installation on private property.”

Marion County Septic Division commented: “If there is any proposed development/plumbing, a site evaluation will be required.”

Marion County Land Development, Engineering and Permits requested the following be included:

ENGINEERING ADVISORY

A. Silver Falls Hwy SE is under ODOT jurisdiction for access.

Friends of Marion County commented that the applicant is not eligible for an airplane hangar on EFU. An airplane hangar is not a building designed for farm use. Also, the use may be conditioned on EFU but not permitted as a commercial application, i.e. the applicant is not permitted to use this airplane for the purpose of generating farm income. (IRS TAX FORM "F") and therefore may not claim a tax exemption. FOMC also suggested a 2000-acre study to support the applicant's claim that the use will not force significant change in, or significantly increase the cost of accepted farm or forest practices.

All other commenting agencies stated no objection to the proposal.

7. 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 applicant states that there will be no improvements made to the land in order to establish the personal use airport. The applicant owns an X-Cub (N423PW) and a Cessna 180 (N3222D), both equipped with bush landing gear for short takeoff and landing. No runway will be required for these two airplanes, and no other airplanes will be allowed to use the subject parcel.

The applicant is not applying for an airplane hangar as a part of this conditional use, and a future hangar would be contingent on approval of another conditional use for expansion of this personal use airport. Storage of airplanes in any future Agricultural Exempt structure is prohibited as a condition of approval.

The applicant states that the proposed use will not occur during the production time for the grass seed farm. During the off season, the applicant estimates that the maximum use of the airport will be twice a day.

The current proposal is for the applicant to be able to land and then take-off from the subject property. This use will not force any changes, or increase the cost of, the existing accepted farm practices on surrounding lands. Expansion of this use to include a runway and hangars may have deleterious effects on the area and therefore will require additional land use approval. 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 within the Marion County Fire District #1 and served by the Marion County Sheriff's Department. 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 proposed use will have no effect on watersheds, groundwater, fish and wildlife habitat, or soil and slope stability. The anticipated level of traffic increase is unlikely to affect air quality. The criterion is met.

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

The noise related to this use will occur at maximum twice per day. The surrounding uses are primarily agricultural and not likely to be adversely affected. The nearby dwellings do have the potential to be adversely impacted. The nearest residence is 1,000 feet to the west. To mitigate adverse impacts of the noise created by this use, landing and takeoff from the subject property will be limited to occurring between the hours of 8am and 6pm as a condition of approval. The criterion is met.

- (d) *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 no identified reservoirs in the vicinity of the subject parcel. There are no significant mineral and aggregate sites in the vicinity of the subject parcel either. The criterion is met.

9. 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: August 27, 2024

If you have any questions regarding this decision contact John Speckman 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.