

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. 14-012**

APPLICATION: Application of Joel and Amanda Sloan for a conditional use to operate an internet sales business as a home occupation on a 3.21 acre parcel in a TC (Timber Conservation) zone located at 21832 Abiqua Road NE, Scotts Mills (T7; R2E; Section 19BD; tax lot 401).

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 **June 19, 2016**. 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 necessary building and septic permits from Marion County Building Inspection Division for any new structures.
2. Prior to obtaining any building permits or establishing the use, the property owner shall sign and submit a Farm/Forest Declaratory Statement (enclosed) to the Planning Division. The property owner shall record the statement with the Marion County Clerk after it has been reviewed and signed by the Planning Director.

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

3. The home occupation shall be operated in full compliance with the criteria in MCC 17.138.050(B) that are listed in #7 of the Findings and Conclusions section of this decision.
4. Failure to continuously comply with the conditions of approval may result in this approval being revoked. Any revocation can be appealed to a 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 #6 below be contacted to identify restrictions or necessary permits.

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 4:00 p.m. on **June 19, 2014**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the above address. This decision is effective **June 20, 2014** 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 Forest in the Marion County Comprehensive Plan. The intent of this designation and the corresponding TC (Timber Conservation) zone is to promote the continuation of resource uses in the area.
2. The property is located on the west side of Abiqua Rd NE approximately 1800 feet south of its intersection with Milk Ranch Rd NE. The property contains an existing dwelling, accessory structures, well and septic system. The property was created as a result of Partition Case #91-60 and is a lawfully created parcel.
3. Surround properties are zoned TC and consist of rural residential homesites and various sized farm parcels.
4. Soil Survey of Marion County Oregon indicates the subject property is composed of non-high-value farm soils.
5. The applicant is requesting to establish a retail internet based business as a home occupation in the existing dwelling on the subject property.
6. Marion County Tax Collector provided tax information for the property.
7. In order to approve a conditional home occupation in a TC zone, the applicant must satisfy the criteria in Section 17.138.050(B) of the Marion County Code (MCC) as follows:
 - A. *A home occupation or bed and breakfast inn shall be operated by a resident of the dwelling on the property on which the business is located. Including residents, no more than five full-time or part-time persons shall work in the home occupation ("person" includes volunteer, non-resident employee, partner or any other person).*
 - B. *It shall be operated substantially in:*
 1. *The dwelling; or*
 2. *Other buildings normally associated with uses permitted in the zone in which the property is located.*
 - C. *It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.*
 - D. *A home occupation shall not be authorized in structures accessory to resource use on high-value farmland.*
 - E. *A sign shall meet the standards in Chapter 17.191 MCC.*
 - F. *The property, dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.*
 - G. *Retail and wholesale sales that do not involve customers coming to the property, such as internet, telephone or mail order offsite 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.*
8. Information provided by the applicants, Joel and Amanda Sloan, indicates they will operate the internet business, are the residents of the dwelling, and propose to use the home office in the existing dwelling to operate the business. Retail sales to the public from the property are not part of the business operation. The applicants will be delivering their merchandise in their own vehicle and no additional vehicles would be used in the business. The applicants state that the internet sales activities will be conducted entirely within the dwelling. It appears that any noise or odors associated with the business would be limited to the property. The home occupation business

should not cause significant emissions including noise, odors, vibration, and fumes, smoke, fire hazard, or electronic, electrical, or electromagnetic interference. The proposal satisfies the criteria in #7 (A), (B) and (C).

There is no evidence that the business operation as proposed will interfere with other permitted uses in the area. Any sign would have to meet the requirements of Chapter 17.191 of the Marion County Code. There will be no dispatch of employees to or from the property. The operation is allowed one commercial vehicle in conjunction with the home occupation, and any other vehicles associated with the business must be stored inside. All equipment used with the business will be located inside the existing dwelling. The applicants are not requesting that retail sales from the property be allowed, such sales are not permitted as part of a home occupation; all sales will have to be by means of telephone, internet or off property sales in a zone that permits such sales. The proposal meets the criteria in #7(D)-(G).

9. In order to approve a home occupation in a TC zone, the applicant must also satisfy the criteria in MCC 17.138.050 (A), these include:
- 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. As outlined above, there is no evidence to indicate that the use will have a negative impact on nearby lands devoted to farm use. The applicant is proposing to operate an internet based business as a home occupation on the subject parcel. The property owner will be required to file a Declaratory Statement recorded with the County Clerk to serve as a reminder that there are farm operations nearby and that a compatible relationship is necessary to promote continuation of these activities. The proposal meets # 9(A).

Silverton Fire District serves the parcel and all other needed services are currently available to the site. The proposal satisfies the criterion in #9(B).

The property is not within a wildlife habitat area or geologically hazardous area. There is no evidence of significant odors or noxious matter emitted from the premises that would affect air or water quality. It appears that the operation will generate little or no noise heard off the property. The proposal meets #9(C) and (D).

There are no potential water impoundments 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 can meet all applicable criteria to establish an internet based business as a home occupation and meets all applicable criteria and is, therefore, **APPROVED** subject to conditions.

Warren Jackson
Director-Planning Division

Date: June 4, 2014

If you have any questions please contact Patty Dorr at (503) 588-5038