

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.22-008**

APPLICATION: Application of Aaron Van Ordstrand on behalf of the property owners Richard and Susan Haener for a conditional use permit for a farm implement sales and service business as a commercial activity in conjunction with farm use on an 80-acre parcel in an EFU (Exclusive Farm Use) zone located at 11693 Ehlen Road NE, Aurora. (T4S, R1W, Section 9, Tax Lot 600).

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 **March 31, 2024**. 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. 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 application for building permits, submit a Transportation Assessment Letter detailing the anticipated proposed additional traffic to be generated from the facility.

Condition B – Prior to issuance of a building certificate of occupancy, remit a proportional share contribution in an amount commensurate with the calculated amount of traffic and trip distribution toward the following projects identified in the Marion County TSP:

- *Ehlen Road Exit 278 I-5 Interchange/Ehlen Road Improvements - Ph 2*
- *Ehlen Road / Butteville Road Signalization and additional turn lanes, or other suitable improvement*
- *Yergen Road / Ehlen Road / Donald Road Realignment*

Nexus is the anticipated offsite impacts of the development to these intersections that have identified State and County projects.

3. Any repair of vehicles associated with the truck sales business shall take place indoors.
4. The business shall be operated as set forth in the applicant's statement and as conditioned in this decision. Any signs placed for the business shall comply with MCRZO Chapter 191.060. Any expansion or alteration of the business requires a new conditional use application.

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. 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:

7. The applicants should contact the Aurora 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.
8. 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) based on 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 **March 31, 2022**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 1, 2022**, 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 northern side of Ehlen Rd, approximately 0.45 miles from its intersection with Bents Rd. The property is currently vacant farmland that is in farm production. The property was the subject of LLA97-17 and P/CU07-067 and is therefore considered legal for land use purposes.
3. Surrounding uses are agricultural in all directions, with adjacent land north of Ehlen road being used for commercial agriculture and parcels to the south being smaller and developed with homesites.
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 expand a farm implement sales and service business as a commercial activity in conjunction with farm use. This is an expansion of the existing Pape sales and service facility onto tax lot 600.

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

ENGINEERING CONDITIONS

Condition A – Prior to application for building permits, submit a Transportation Assessment Letter detailing the anticipated proposed additional traffic to be generated from the facility.

Condition B – Prior to issuance of a building certificate of occupancy, remit a proportional share contribution in an amount commensurate with the calculated amount of traffic and trip distribution toward the following projects identified in the Marion County TSP:

- *Ehlen Road Exit 278 I-5 Interchange/Ehlen Road Improvements - Ph 2*
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Nexus is the anticipated offsite impacts of the development to these intersections that have identified State and County projects.

ENGINEERING REQUIREMENTS

C. Driveways must meet sight distance, design, spacing, and safety standards. The following numbered sub-requirements pertain to access:

- 1) At the time of application for building permits an Access Permit will be required.*
- 2) Access to the expansion shall be shared with the existing Pape Machinery access.*

D. A civil-engineered site plan will be required.

E. Stormwater detention is required for development of 0.5-acre or more.

F. The subject property is within the unincorporated area of Marion County and will be assessed Transportation System Development Charges (SDCs).

G. Utility work within the Ehlen Road right-of-way requires permits from MCPW Engineering.

ENGINEERING ADVISORY

H. DEQ is the regulatory authority for ground disturbances of 1.0-acre or more.

Friends of French Prairie provided comments related to traffic concerns and scope of the sales facility.

Marion County Building Inspection commented that permits will be required for future development.

Marion County Septic Inspection commented “The commercial facility must apply for a septic site evaluation. The existing septic system for the dwelling must be decommissioned. Produce accurate figures for the number of employees working at the facility and types of waste produced. This use may require a WPCF permit with DEQ.

All other commenting agencies stated no objection to the proposal.

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.*

The proposed use is the sale and service of farm related tractors, trucks and implements that are vital to the farming economy in Marion County. Pape and John Deere are companies that make equipment for farming and farm uses. The criterion is met.

- (b) *The commercial activity must enhance the farming enterprises of the local agricultural community to which the land hosting that commercial activity relates.*

This activity enhances the local farming enterprises by offering a larger service and sales area, that can accommodate more equipment at one time and removes the need to truck equipment to Portland to be serviced. The criterion is met.

- (c) *The agricultural and commercial activities must occur together in the local community to satisfy the statute.*

This sales and service area directly serves the local community of farmers and agriculture companies by creating a centralized area to bring equipment for repair and to buy new equipment as technology advances. The criterion is met.

- (d) *The products and services provided must be essential to the practice of agriculture.*

Tractors, tills, sprayers, trucks and associated equipment are essential to farming as identified in the applicant statement finding 4. It would be impossible to cultivate hundreds of acres of land without them. 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.*

As described in the applicant statement, this expansion can lower the cost to farmers as it provides more streamlined sales and services but alleviating the need to drive to Portland for more intensive repairs and parts. The criterion is met.

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

The area is served by the Aurora Fire Department and has all adequate rural services that include police response. 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.*

There are no identified fish or wildlife habitats on the parcel as well as significant watersheds. The soils are stable and there is little to no slope on the land. This use is expected to be executed in such a way that adverse impacts would be mitigated through ventilation, cleaning procedures and collection and proper disposal of waste and wastewater. The criterion is met.

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

No noise will have an impact on nearby lands as this noise associated with the proposal will be regular sounds produced by farmers on their own tractors. 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.*

As stated in the applicant statement, all waste and wastewater will be dealt with according to county and state standards, including but not limited to DEQ. 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: March 17, 2022

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.