

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. 21-053**

**APPLICATION:** Application of the Don Brinlee Credit Shelter Trust for a conditional use permit to establish a tiny home sales lot, a tilt trailer sale and display area, a mobile food cart and a storage building sales area on a 4.76 acre parcel zoned Interchange District (ID) located at 2361 Delaney Road SE, Salem. (T8S, R3W, Section 26D, 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 **December 11, 2023**. 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 proposed use is for land use purposes only. Due to septic, well, and drain field replacement areas, this parcel may not be able to support the proposal. To ensure the subject property can accommodate the proposal the applicant should contact 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 approval for all permits required by the Marion County Building Inspection Division.
2. The development shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director.
3. Failure to continuously comply with the conditions of approval may result in this approval being revoked. Any revocation could be appealed to a County hearings officer for a public hearing.
4. Development shall adhere to zoning criteria in sections 17.150.100 - 17.150.150(A-L).

**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 any restrictions or conditions thereon. It is recommended that the agencies mentioned in Finding # 5 under Findings and Conclusions below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

5. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #5 below, that may be required.

**APPEAL PROCEDURE:** The Marion County Zone Code provides that certain applications be considered first by the County Zoning Administrator. If there is any doubt that the application conforms to the adopted land use policies and regulations the Zoning Administrator must condition or deny the application. Anyone who disagrees with the decision may request that the application be considered by a 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 120 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

Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on **December 11, 2021**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **December 13, 2021** unless further consideration is requested.

**FINDINGS AND CONCLUSIONS:** Findings and conclusions on which the decision was based are noted below.

1. The property is designated Commercial in the Marion County Comprehensive Plan and is zoned ID (Interchange District). The purpose and intent of the ID (Interchange District) is to provide for the location of needed highway service commercial facilities at the interchanges between the controlled access highways and the intersecting arterial roads.
2. The property is located at the northwest intersection of Interstate-5 and Delaney Road SE. The property contains two dwellings that appear to be established prior to statewide land-use laws went into effect; however, the legal status of the home sites was not reviewed as part of this application. The property also contains a drive through coffee shop, which is an outright permitted use in the ID zone per MCC 17.150.030(D). Staff located a deed filed with Marion County on October 16, 1950 that describes the parcel in its current configuration. It is therefore considered a legal parcel for land-use purposes.
3. The property is bordered on the east by Interstate-5. The property to the west is zoned Acreage Residential and developed with a home site and residential uses. The properties on the south side of Delaney Road are zoned ID and contain a mix of residential and commercial uses. Properties to the north are zoned Special Agriculture and are currently undeveloped.
4. The applicant is applying for a conditional-use to establish a retail sales lot on an ID zoned property where they will sell tiny-homes, tilt-trailers, portable food trucks, and modular storage sheds. The applicant is proposing to use a tiny-home structure as a sales office.

The ID zone states under MCC 17.150.040 (A) that, when authorized under the procedure provided for conditional uses in this title, all permitted and conditional uses set forth in the C (Commercial) zone are allowed provided the use does not exceed 3,500 square feet of floor space.

Letter O., under the conditional-use section of the Commercial zone (MCC 17.145.030) allows for retail and service uses not listed in MCC 17.145.020 and not exceeding 3,500 square feet of floor area. Therefore, to qualify for the proposed use, the applicant must satisfy the criteria in MCC 17.150.160.

5. Marion County Building Inspection commented that permits are required for any future development on the property.

Marion County Land Development and Engineering requested the following comments be included in the decision.

#### ENGINEERING REQUIREMENTS

- A. Any surfacing work (rock or pavement) must be reviewed and approved by PW Engineering for grading and potential stormwater detention.
- B. Transportation System Development Charges may be assessed at the time of application for building permits and/or for change-in-use.

#### ENGINEERING ADVISORY

- C. ODOT has jurisdiction over the portion of Delaney Road where the middle access point for the proposed uses lies. Any revisions to that access would require an ODOT Approach Permit or Waiver.

All other contacted agencies either failed to comment or stated no objection to the proposal.

6. Marion County Code 17.150.160 states that any new use permitted in MCC 17.150.040 must comply with the following criteria.

(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.*

The proposed uses do not directly affect, significantly increase the cost of or disrupt farm/forest practices. The applicant states that the configuration of proposed uses should not impact surrounding uses. This criterion is met.

(b). *The proposed use will not, by itself or in combination with existing uses in the community, result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.*

The proposed uses do not emit harmful smoke or other harmful emissions. Any drainage issues will be verified by Marion County Public works and mitigated appropriately. Any other environmental impacts should be addressed at time of site development. This criterion is met.

(c). *The proposed use will not, by itself or in combination with existing uses in the community, exceed the carrying capacity of the soil or of existing water supply resources and sewer services.*

The applicant states the existing restroom facilities will be used for the commercial business. The gravel lot area and driveway will meet all requirements by Marion County Public Works. The proposal will not adversely impact the carrying capacity of the soil or water supply. This criterion is met.

(d). *The traffic generated by the proposed use is consistent with the identified function, capacity, and level of service of transportation facilities serving the community.*

The applicant states that the proposed use will utilize the existing driveway and should not create an additional traffic issue on Delaney Rd. This criterion is met.

(e). *The proposed use will not create significant adverse effects on existing uses or permitted uses on adjacent land, considering such factors as noise, dust and odors.*

Applicant states that since the use is passive in nature the proposed uses should not create any additional noise, dust or odors. It is stated that the traffic noise from the interstate will be above any noise produced on site. This criterion is met.

(f). *The proposed use is intended to directly serve the traveling public or trucking industry, or both.*

The applicant states that the proposed uses rely on exposure from the interstate and the portable food truck and coffee shop will serve the traveling public. The location also allows for easy transport of RVs and tilt trailers. The applicant also states that other uses approved by the county are in operation or have been approved along the interstate. This criterion is met.

7. Based on the above findings, it has been determined that the request satisfies all applicable criteria and is, therefore, **APPROVED**.

Brandon Reich  
Planning Director

Date: November 26, 2021

If you have any questions regarding this decision contact Lindsey King 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.