

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. 24-003**

APPLICATION: Application of Curry LLC for a conditional use permit to operate a cement storage and processing business on a 0.7-acre parcel in an IUC (Unincorporated Community Industrial) zone located at 8765 Pueblo Ave NE, Salem (T6S; R2W; Section 17CA; Tax Lot 2400).

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 2, 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 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 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 approval for any required permits from the Marion County Building Inspection Division.
2. The applicant shall obtain approval for any required permits from other government agencies such as DEQ.
3. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use until the following conditions have been satisfied:

Condition A – With 60 calendar days from the date of a fully-approved Notice of Decision, acquire a Work in R/W Permit from PW Engineering to remove the concrete trough within the Pueblo Avenue R/W.

4. 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.
5. 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.

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 the agencies mentioned in Finding # under Findings and Conclusions be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

6. The applicants should contact the Paula Smith (503) 588-6513 at Marion County Fire District #1 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.
7. 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 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 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 Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on **March 4, 2024**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **March 5, 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 Industrial in the Marion County Comprehensive Plan. The major purpose of this designation and the corresponding IUC (Unincorporated Community Industrial) zone is to implement the rural development policies of the Comprehensive Plan by committing this land for industrial uses within urban unincorporated communities and rural communities.
2. The property is located at 8765 Pueblo Ave NE in the Brooks/Hopmere community. The parcel is 0.7-acres and consists of an open lot with some retaining wall structures separating piles of rock and sand, as well as silos containing cement powder. The subject parcel also houses a water tank, a water heater and a generator all involved in the cement preparation. The subject parcel was Platted in the Rail Road Addition To Brooks and is therefore a legal lot for land use purposes.
3. The subject parcel is within a tract of IUC zoned properties south of Brooklake Rd NE and east of Richland Ave NE, bordered on the East by Pueblo Ave NE. Across Pueblo Ave NE and South of Brooklake Rd NE is a similarly sized tract of P (Public) zoned parcels owned by Chemeketa Community College. The adjacent properties to the subject parcel, other than the one owned by Chemeketa, are all in industrial use. The Union Pacific Railroad runs along the western side of the IUC zoned tract.
4. Marion County Soil Analysis shows the subject parcel contains 99.6% high value soils, however the entire property is either graveled or paved.
5. Various agencies were contacted for comment on the application.

Marion County Building Inspection commented: Based on the application, site plan, statement, and owner provided responses to Building Inspection's need for specifics, Marion County Building Inspection has no concerns with proposed use and/or operations at the subject address. If any structures, whether existing or proposed, are to be used for employees to occupy for business matters, or if any utilities are proposed to be installed on site, permit(s) may be required to be obtained prior to initiating construction, installation, or occupancy. Consultation with a Marion County Building Inspection Building Plans Examiner is suggested prior to this work.

Marion county Fire District No. 1 commented:

This project must meet the following code requirements per Marion County Fire District No. 1:

1. **Fire apparatus road distance from buildings and turnarounds:** Access roads shall be within 150' of all portions of the exterior wall of the building as measured by and approve route around the exterior of the building. An approved turnaround is required if the remaining distance to an approve intersection roadway, as measured along the fire apparatus access road, is greater than 150'. 2022 Oregon Fire Code 503.1.1

2. **Fire apparatus access road width and vertical clearance:** Fire apparatus access roads shall have an unobstructed driving surface width of not less than 20 feet; 26 feet adjacent to fire hydrants 2022 Oregon Fire Code (OFC) Appendix D 103.1 and an unobstructed vertical clearance of not less than 13 feet 6 inches. 2022 Oregon Fire Code (OFC) Section 503.2.1 and Appendix D103.1

3. **Turning Radius:** The inside turning radius and outside turning radius shall be not less than 28 feet and 48 feet respectively, measured from the same center point. (2022 OFC 503.2.4 & Appendix D)

4. **No parking signs:** Where fire apparatus roadways are not of sufficient width to accommodate parked vehicles and 20 feet of unobstructed driving surface, "No Parking" signs shall be installed on one or both sides of the roadway and in turnarounds as needed. Roads 26 feet wide or less shall be posted on both sides as a fire lane. Roads more than 26 feet wide to 32 feet wide shall be posted on one side as a fire lane. Signs shall read "NO PARKING _ FIRE LANE" and shall be installed with a clear space above grade level of 7 feet. Signs shall be 12 inches wide by 18 inches high and shall have red letters on a white reflective background. (2022 OFC D103.6)

5. **Premise Identification:** Buildings shall have address numbers or approved identification placed in a position that is plainly legible and visible from the access road fronting the property. Numbers shall contrast with their background and shall be a minimum of 4 inches height with a minimum stroke width or ½ inch. (2022 OFC 505.1)

6. **Gates:** Gates securing fire apparatus roads shall comply with all of the following: (2022 OFC D103.5)

-Minimum unobstructed width shall be 16 feet.

-Gates shall be set back a minimum of 30 feet from the intersecting roadway.

-Gates shall be of the swinging type or sliding type.

-Manual operation shall be capable by one person.

-Electric gates shall be equipped with a means for operation fire department personnel.

-Locking devices shall be approved.

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

ENGINEERING CONDITION

Condition A – With 60 calendar days from the date of a fully-approved Notice of Decision, acquire a Work in R/W Permit from PW Engineering to remove the concrete trough within the Pueblo Avenue R/W.

ENGINEERING REQUIREMENTS

B. Discharge of unfiltered cement dust-laden stormwater to the Pueblo Road public R/W, including via onsite storm drain catch basins, is not permissible. A concrete-sided, rectangular trough along the Pueblo Avenue frontage is estimated to be situated at least partially within the public R/W, and therefore is not a viable repository, even temporarily, for tainted onsite runoff. The property is situated within the County's Stormwater Management Area.

C. Upon application for building permits, if any such permits are required, a PW Engineering stormwater permit may also be required.

ENGINEERING ADVISORY

D. The State DOGAMI agency o.b.o. DEQ regulates processing of cementitious materials through the NPDES 1200-A Permitting process.

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

6. As per MCC 17.164.030, in order for Marion County to approve a business involved in processing that is not outlined in MCC 17.164.020 (A) or (E) the applicant must demonstrate compliance with the specific criteria for conditional uses in the IUC zone listed in MCC 17.164.040.

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 adjacent parcels are not engaged in farm or forest use. There are EFU zoned parcels to the South, East, and West of the subject parcel, outside of the Brooks/Hopmere community. The adjacent parcels containing structures involved in industrial use provide a buffer between any activities related to loading concrete trucks on the subject parcel. Even without the surrounding buffer, the sounds of machinery and production of mineral dust are both side effects that are also created by standard farm practices. The use will not force any change or significant increase in cost for nearby lands devoted to agriculture, therefore the 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 Oregon Department of Geology and Mineral Industries (DOGAMI) requires an NPDES 1200-A permit for the processing of cementitious materials. Part of this permit process is a Stormwater Pollution Control Plan (SWPCP). The applicant will obtain all necessary permits as a condition of approval, and therefore be in compliance with all state and local regulations that will ensure the proposed use will not result in health hazards or adverse environmental impacts. The 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 maintains a water tank on site necessary for the cement mixing trucks. The soil is already paved with gravel and concrete. The 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; or improvements are imposed that maintain the existing level of service;

The parcel is located on a non-county road which is itself off of Brooklake Road, an arterial road through the Brooks/Hopmere community. For daily trips to collect inputs into the cement trucks, and drive them to the jobsite, the existing infrastructure is sufficient, and traffic generated will not exceed existing capacity. As per the condition set by LDEP, slight road improvements adjacent to the site as a result of the removal of the cement trough in the right-of-way will be carried out as a condition of approval. The 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; and

The adjacent parcels are primarily engaged in industrial use. The noise created by this conditional use will only be during business hours. The loudest piece of equipment is the generator, and the applicant has insulated it to decrease the volume of noise created. The creation of dust is minimal and only while the trucks are being loaded. The activity involved in the proposed use will not create significant adverse effects on adjacent uses. The criterion is met.

F. The proposed use shall not have industrial or manufacturing processes that require water or discharges of wastewater except upon demonstration that the use has an on-site sewage disposal site approved by Marion County or the Oregon Department of Environmental Quality.

Water required as an input to the cement mixing trucks is stored onsite in a water tank. The Stormwater Pollution Control Plan (SWPCP) created in the process of acquiring the NPDES 1200-A permit will ensure no wastewater is being improperly discharged. The 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/Zoning Administrator

Date: February 16, 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.