

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  
ADJUSTMENT CASE NO. 19-004**

**APPLICATION:** Application of Hans and Eugene LLC for an adjustment to reduce the required 20 foot front yard setback for expansion of an existing building to 5 feet on a 0.32 acre parcel in a CO (COMMERCIAL OFFICE) zone located at 436 Lancaster Dr NE, Salem (T7S; R2W; Sec 30BD; tax lot 8201).

**DECISION:** The Planning Director for Marion County has **APPROVED** the above-described Adjustment, subject to certain conditions.

**EXPIRATION DATE:** This decision is valid only when exercised by **July 5, 2021** unless an extension is granted. The effective period may be extended for one year subject to approval of an extension. Request for an extension must be submitted to the Planning Division prior to expiration of the approval (form available from the Planning Division).

**WARNING:** A decision approving the proposal is for land use purposes only. Due to septic, well and drainfield replacement areas, this parcel 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 applicants shall obtain all permits required by the Marion County Building Inspection Division.
2. Public Works Land Development Engineering indicates that the following conditions are required for approval of this land use case:

***Condition A** – Prior to issuance of a Certificate of Occupancy for the proposed expansion, Applicant shall dedicate sufficient right-of-way along the Lancaster Drive frontage to achieve a half-width of 48 feet in accordance with City of Salem standard for a Principal Arterial.*

***Condition B** – Prior to building permit issuance, Applicant shall provide evidence that the existing stormwater detention facility, including orifice sizing, is appropriate for the additional impervious surfaces to be added. If modifications are needed to the system, then an On-Site Stormwater Permit shall be obtained from Marion County Public Works and the modifications implemented prior to final inspection of the building addition.*

3. The structure shall maintain a five-foot front yard setback.

**OTHER PERMITS, FEES AND RESTRICTIONS:** This approval does not remove or affect any 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 #6 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

4. 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 deny the application. Anyone who disagrees with the Director's decision may appeal the decision

to a Marion County hearings officer. The applicant may also request reconsideration (one time only and a \$200.00 fee) 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. Appeals 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 **July 5, 2019**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective on **July 6, 2019** unless appealed.

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

1. The property is designated Commercial in the Salem Area Comprehensive Plan and correspondingly zoned CO (Commercial Office) under the jurisdiction of Marion County.
2. The property is located on the east side of Lancaster Drive NE approximately 345 feet north of Monroe Avenue NE. The property contains an existing dental office building. The property was the subject of Adjustment Case #ADJ00-2 that approved a reduction of the required setbacks from property lines for the existing building.
3. Surrounding properties to the south and east are zoned CO and in office use. Properties to the north and west are zoned CR (Commercial Retail) and in various retail uses.
4. The applicant proposes an adjustment to reduce the required 20 foot front yard setback to five feet.
5. Public Works Land Development and Engineering Permits (LDEP) requested the following be included in the land use decision:

Conditions:

***“Condition A – Prior to issuance of a Certificate of Occupancy for the proposed expansion, Applicant shall dedicate sufficient right-of-way along the Lancaster Drive frontage to achieve a half-width of 48 feet in accordance with City of Salem standard for a Principal Arterial.***

Nexus for the above Condition is in accordance with Marion County Code (MCC) 11.20.050 whereby the expansion of the existing use is cause for right-of-way (R/W) dedication. The purpose of this dedication is for the eventual improvement of Lancaster Drive to the full urban standard. According to Marion County GIS records, this will require an additional 8 feet. MCPW Engineering defers to the City standard for R/W width in accordance with MCC 16.27.210 (E) (7). MCPW Engineering will need a sketch and legal description from the Applicant’s Surveyor for review and approval to initiate this process.

***Condition B – Prior to building permit issuance, Applicant shall provide evidence that the existing stormwater detention facility, including orifice sizing, is appropriate for the additional impervious surfaces to be added. If modifications are needed to the system, then an On-Site Stormwater Permit shall be obtained from Marion County Public Works and the modifications implemented prior to final inspection of the building addition.***

Per the prior Access Permit D02-017 a detention system exists on site in which an orifice was to be added to a catch basin as part of the access permit. A final inspection was not conducted for this permit per our records and no separate On-Site Stormwater permit is on file for said system.”

Requirements:

“C. The subject property is within the City of Salem Urban Growth Boundary and will be assessed Transportation System Development Charges (SDCs) upon application for building permits, per Marion County Ordinance #97-39R.”

Marion County Building Inspection commented that a building permit is required for new construction.

All other commenting agencies stated no objection to the proposal.

6. In order to approve the adjustment, the criteria found in 16.41.030 MCC must be satisfied. These include:

- (a) *The proposed development will not have a significant adverse impact upon adjacent existing or planned uses and development; and*
- (b) *The adjustment will not have a significant adverse affect upon the health or safety of persons working or residing in the vicinity; and*
- (c) *The adjustment is the minimum necessary to achieve the purpose of the adjustment and is the minimum necessary to permit development of the property for the proposed use; and*
- (d) *The intent and purpose of the specific provision to be adjusted is clearly inapplicable under the circumstances; or, the proposed development maintains the intent and purpose of the provision to be adjusted.*

7. There is no evidence that the adjustment will have any significant adverse impact on adjacent existing or planned uses and development. The applicant proposes to add onto the existing building in a landscaped area between the building and Lancaster Drive NE. With dedication of additional right-of-way width for future expansion of Lancaster Drive, the setback applies to the front property line after the dedication of additional right-of-way width. The proposed expansion of the building will not displace any parking currently on the property. The expansion will be in compliance with the established five-foot side yard setback on the property. There is no indication that the proposal would create health and safety issues in the vicinity. Based on available information the proposal can comply with the criteria listed in #6(A) and (B).

The applicant proposes to reduce the required 20 foot front yard setback to five feet. Therefore, the degree of adjustment requested appears to be the minimum necessary to allow construction of an addition that meets the property owner's desired development needs. The adjustment will allow the building expansion to be located in the only part of the property that is not already developed or in use for parking and access. In addition, the addition will meet the five-foot side yard setback to the north that was approved in ADJ00-2. Therefore, it appears that the adjustment would maintain the intent and purpose of the provision in 16.41.030 MCC, which is to ensure adequate setbacks from development on surrounding properties, to ensure adequate fire access to the parcel, and to ensure the development does not block sunlight or otherwise interfere with the enjoyable use of neighboring residential properties. For these reasons, the proposal meets the criteria listed in #6(C) and (D).

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

Joe Fennimore  
Planning Director

Date: June 19, 2019

If you have any questions regarding this decision contact Lisa Milliman 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.