

Attention Property Owner: A land use proposal has been submitted for property near where you live or property you own elsewhere. State law requires 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 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. 18-027**

APPLICATION: Application of Paul W. Buchheit/Pensco Trust Co. for a conditional use to establish a wholesale art studio and traveling museum exhibit wholesale and warehouse, on a 2.13 acre parcel in an ID (Interchange District) zone located in the 7,900 block of Squirrel Hill Road SE, Salem. (T8S; R3W; Section 25C; Tax lot 2600).

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 **April 23, 2020**. 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 proposed use. To ensure 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 approval for all required permits from the Marion County Building Inspection Division.
2. The applicant shall obtain from the Oregon Department of Transportation a permit for any driveway access off Squirrel Hill Road or for work in the Squirrel Hill Road right-of-way.
3. The property is approved for an art dealer consisting of production, warehousing, transportation, display and sales. Each of the separate uses of production, warehousing, transportation, display and sales are approved for a maximum enclosed floor space of 4,000 square feet.
4. The applicant shall enclose all outdoor storage areas with an ornamental, sight-obscuring fence or wall placed at a height of six feet or a compact evergreen hedge planted at three feet and capable of attaining a minimum of six feet; provided that, in no case, shall any fence or hedge be placed in vision clearance area (see MCC 17.110.770). Any fence, wall or hedge shall be located on the property at the required setback line in the same manner as if said fence or wall were a building.
5. Prior to establishing a structure on the property, the applicant shall provide a site plan demonstrating how the use will comply with the development standards in the ID zone including, but not limited to, landscaping requirements.

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 be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

6. The applicant should contact Turner 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.

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 5:00 p.m. on **April 23, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 24, 2018** 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. The purpose of this designation and the corresponding ID (Interchange District) zone is to provide for the location of needed highway service facilities at the interchanges between the controlled access highways and the intersecting arterial roads.
2. The property is located at the east side of Squirrel Hill Road SE in the 7,900 block. The property is undeveloped. The property was previously approved to operate a log home sales office in Conditional Use Case #99-28.
3. Adjacent properties to the west, north and east are zoned ID and developed with services that serve the traveling public (coffee shop and park and ride lot). Properties to the southwest are zoned SA (Special Agriculture) and developed with residences and farm uses. Property to the south is zoned AR (Acreage Residential) and developed with residences.
4. The applicant proposes to establish an art dealer consisting of production, warehousing, transportation, display and sales.
5. Marion County Building Inspection commented that permits would be required.

Marion County Public Works Engineering commented on requirements that are not part of the land use decision and they are available for review in the planning file.

Oregon Department of Transportation commented that a permit would be required for driveway access off Squirrel Hill Road. Contact Gerry Juster at the Oregon Department of Transportation for more information: 503-986-2732.

6. The Marion County Code (MCC) 17.150.040(B)(1) specifies commercial uses that are permitted conditionally in a rural service center: Rural Service Center. Retail, wholesale, and service uses not listed in MCC 17.150.030 and not exceeding 4,000 square feet of floor space (SIC 50 through 89 except 70 and 88).

The subject property is located in the Turner Interchange rural service center. An Art Dealer is listed as SIC 5999 in the Standard Industrial Classification. SIC 59 is a conditional use in a rural service center. The use consists of a number of related sub-uses: production, warehousing, transportation, display and sales. Each of the separate sub-uses of production, warehousing, transportation, display and sales can be approved for a maximum enclosed floor space of 4,000 square feet, consistent with the zoning.

7. The proposal must also meet the standards in MCC 17.150.150 which include:

- A. *Access. New and expanded uses shall obtain an access permit from Marion County Public Works or the Oregon Department of Transportation.*
- B. *Landscaping and Screening Requirements:*
 - 1. *There shall be provided a 10 foot landscaped yard adjacent to every street exclusive of driveways.*
 - 2. *All required side and rear yards shall be landscaped exclusive of driveways,*
 - 3. *Landscaping of yards shall be done as an integral part of the development.*
 - 4. *All rear and side yards adjacent to property used or zoned for residential purposes shall be contained by an ornamental sight-obscuring fence, wall or hedge six feet in height. If a hedge is used, it may be planted at the three foot level provided it is capable of attaining a height of at least six feet.*
- C. *Open Storage Yards. All yard areas, exclusive of those required to be landscaped, may be used for materials and equipment storage yards or areas provided such yard area is enclosed with an ornamental, sight-obscuring fence or wall placed at a height of six feet or a compact evergreen hedge planted at three feet and capable of attaining a minimum of six feet; provided that, in no case, shall any fence or hedge be placed in vision clearance area (see MCC 17.110.770). Any fence, wall or hedge shall be located on the property at the required setback line in the same manner as if said fence or wall were a building. Open storage yards shall be placed or graveled and maintained in a dust free condition.*
- D. *Loading and Parking Facilities. Every vehicle loading and parking area shall be clearly designated as such and paved as provided in MCC 17.118.060 and 17.118.070. Parking requirements shall be provided as set forth in MCC 17.118.050.*
- E. *Utilities. All on-premise utility services shall be installed underground.*
- F. *Lights. Outdoor lighting is permitted provided all lights or group of lights used for the purpose of illuminating a structure, sign, storage yard or outdoor sales and parking area shall be directed away from a public street or highway and any adjacent residential structures.*
- G. *Removal Agreements. In the event that any landscaped yard, structure or sign is allowed to extend into the special setback, a removal agreement must be first signed by the property owner.*
- H. *Lot Area. No minimum lot area is required.*
- I. *Sewage Disposal. Demonstrate that the development will not exceed the existing carrying capacity of the local sewage disposal system or has an on-site sewage disposal site approved by Marion County or the Department of Environmental Quality.*
- J. *Traffic Analysis. Demonstrate that the development will be consistent with the identified function, capacity, and level of service of transportation facilities serving the site. A transportation impact analysis, approved by the Marion County department of public works, may be required prior to building permit approval.*
- K. *Signage. All signs shall meet the standards in Chapter 17.191 MCC*

It can be made a condition of approval that the applicant provides a site plan demonstrating how compliance with the standards above can be achieved.

- 8. The proposal must also meet the standards in MCC 17.150.160 which states that any new use permitted in MCC 17.150.040 or 17.150.095 shall be allowed only upon demonstration of satisfaction of 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;*
 - 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;*
 - 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;*
 - 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; and*
 - 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.*
 - F. *The proposed use is intended to directly serve the traveling public or trucking industry, or both.*

9. The business is performed indoors; therefore, no impact to farming is expected from development of this property with a use permitted in the ID zone. Any outdoor storage can be fenced and site development standards in the ID zone will have to be met for the proposed structures. The amount of water and septic required for the proposed development is minimal and it appears there will be adequate services available on site (septic, for instance). Marion County Public Works has requested specific conditions of approval that will maintain or improve the capacity of transportation facilities used by the property. The applicant states that traffic to the site will be minimal because of the number of employees. The applicant describes how the use depends on access to the highway. The business ships heavy pallets and crates and large items (as big as 20 feet x 5 feet x 10 feet). They also receive large shipments of wood. The business depends on large trucks to move products and raw components to and from the site. As such, the business depends on close access to the highway. Being near the highway also reduces the amount of heavy traffic traveling on local roads. The applicant intends to pave the parking area on the property. The amount of noise, dust and odors generated by the use would be minimal and consistent with other surrounding uses in the ID zone and traffic on nearby Interstate Highway 5. The proposal meets, or can be conditioned to meet, the criteria in 8 above.
10. Based on the above findings and conclusions the proposal meets the conditional use criteria to establish an art dealer and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Director-Planning Division

Date: April 6, 2018

If you have any questions please contact Brandon Reich 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.