

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.22-032**

**APPLICATION:** Application of Thomas and Patricia Henry for a conditional use permit to operate a car detail and repair shop in conjunction with automotive dealership on three parcels consisting of 0.44 acres, 0.17 acres, and 0.27 acres in a CR (Commercial Retail) zone located at 264 Lancaster Drive SE, Salem (T7S; R2W; Section 30CD; Tax Lots 6500, 6600, and 6700).

**DECISION:** The Zoning Administrator 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 **October 8, 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 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. Prior to development of the property the applicant shall submit, for review and approval by the Zoning Administrator, a detailed site plan showing how the development will comply with all applicable development standards contained in the Ordinance (MCC 16.40.020 and MCC 16.26.580 and MCC 16.06.200-250).
3. The applicant shall ensure that all automotive detailing takes place on a hard surface made of concrete or asphalt.
4. A sight-obscuring fence, wall or hedge shall be provided along lot lines abutting residential zones.
5. Repair of vehicles and any storage of merchandise or supplies not in retail packaging or display racks shall occur entirely within an enclosed building.
6. Landscaping shall be provided in any yard abutting a residential zone and in any required front or side yard. Such yard shall be contained by a sight-obscuring fence, wall or hedge at least six feet high.
7. A landscaped area at least three feet wide shall be provided between any parking or loading spaces or driveway, and a lot in a residential zone or a street.
8. All outdoor areas used in conjunction with the development or use that are not landscaped shall be paved and drainage provided in accordance with Marion County department of public works standards.
9. All required landscape areas shall be landscaped as provided in Chapter 16.29 MCC.

10. Outdoor storage facilities shall be screened by a sight-obscuring fence, wall or hedge from view of the public road and from adjacent residential property.
11. Exterior lighting shall be designed to illuminate the site and be directed away from public streets and residential properties.
12. 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.
13. Failure to continuously comply with the conditions of approval may result in this approval being revoked. Any revocation could be appealed to a Marion 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 any restrictions or conditions thereon. It is recommended that the agencies mentioned in Finding #8, 9 and 5 under Findings and Conclusions below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

14. The applicants should contact the Marion County No.1 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: Paula Smith at MCFD#1 (503) 588-6513
15. 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 with 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 **October 10, 2022**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 8, 2022**, 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 Salem Area Comprehensive Plan. The purpose of this designation and the corresponding Commercial Retail zone is to provide areas suitable for professional and general commercial offices, retail sales within a building, eating and drinking places, commercial accommodations and commercial services.
2. The property is located approximately 150 feet north of the intersection of Lancaster Dr SE and Mahrt Ave SE. Additionally, the property contains a commercial structure. The parcel was created as a part of the Leo N Childs Subdivision and is therefore considered legal for land use purposes.
3. The surrounding zoning to the subject parcel consists of Commercial Retail and Commercial Office to the north. To the south, the zoning consists of Commercial Retail and Commercial General – Limited Use. To the west, the zoning consists of Commercial Retail, while to the east the zoning consists of Multiple Family Residential.

4. The applicant is proposing to operate an automotive repair shop and an automotive detailing business in conjunction with an automotive dealership.
5. Public Works Land Development and Engineering Permits (LDEP) commented:

### **ENGINEERING REQUIREMENT**

If cars will be washed using soap products (as opposed to simply water-only rinse) then the gray water effluent byproduct must be collected and routed to the sanitary sewer system. If washing will take place, Applicant should consult with the County Building Dept and City of Salem Utility Dept for any related requirements such as permitting and oil-water separator.

Marion County Building Department commented: original building constructed as furniture storage building (see attached application). According to the current 2019 Oregon Structural Specialty Code, this would be an S-1 occupancy. The change in tenant but continued use as storage building or same S-1 occupancy would not require a building permit. A portion of the building can be used as a repair garage and still maintain the S-1 occupancy IF the maximum allowable quantities of hazardous materials according to the 2019 OSSC are not exceeded. The local fire district is the authority to determine the MAQ's for existing businesses. No building permit is required for the continued use of the storage building with motor vehicle repair unless the local fire district determines MAQ's are exceeded.

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

6. All conditional uses are subject to the general criteria in MCC 16.40.020, these include:
  - (a) *The use is listed as a conditional use in the zone, or is otherwise identified as a conditional use and is consistent with the intent and purpose of the zone and the provisions that authorized consideration as a conditional use.*

The proposed automotive repair shop and an automotive detailing business is listed as a conditional use in this zoning code. Specifically, the automotive repair shop conditional use is found in 16.06.020(A)(8), while the automotive detailing business conditional use is found in 16.06.020(A)(9). Therefore, this criterion is met.
  - (b) *The parcel is suitable for the proposed use considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features.*

The parcel size is approximately the same size as surrounding, compatible uses that are zoned the same. Additionally, the parcel is generally flat and has no streams or natural resources on it. Drainage requirements will be made a condition of approval and will be properly addresses by LDEP's comments. The property is served by Salem Sanitary Sewer. Therefore, the criterion is met.
  - (c) *The proposed use, as conditioned, will not substantially limit, impair, or preclude the use of surrounding properties for the uses permitted in the applicable zone.*

Most of the surrounding zones are commercial related with the majority of them being zoned Commercial Retail. There is one parcel abutting the east side of the parcel that is not zoned commercial and is zoned Multiple Family Residential. The proposed use would not substantially limit, impair, or preclude the use of surrounding properties, especially the ones zoned for commercial uses. As part of the requirements found in 16.26.580, the applicant will need to install a sight-obscuring fence, wall or hedge along the area zoned Multiple Family Residential. Therefore, the criterion is met.
  - (d) *The proposed use, as conditioned, will not have a significant adverse effect on air or water quality.*

The auto repair and detailing business is not expected to have an adverse effect on air quality as no evidence has been submitted as to any negative effects that this use has on air quality or noxious airborne chemicals that are used. The criterion is met.

- (e) *Adequate public and utility facilities and services to serve the use are available or will be made available prior to establishment of the use.*

The property is served by Salem sewer and County storm drain. LDEP has commented that the gray water byproduct from cars being washed using soap products must be collected and routed to the sanitary sewer system. The criterion is met.

7. In addition to these general criteria, in order to approve an Automotive Service Shop in a CR zone the use standards criteria in MCC 16.26.580 must be satisfied:

- A. *The lot shall be paved with a concrete or asphalt hard surface.*

The proposal has been conditioned to meet this standard. The use as conditioned can meet the criterion.

- B. *A sight-obscuring fence, wall or hedge shall be provided along lot lines abutting residential zones.*

This will be made a condition of approval. The criterion is met.

- C. *Repair of vehicles and any storage of merchandise or supplies not in retail packaging or display racks shall occur entirely within an enclosed building.*

This will be a condition of approval. The criterion is met.

8. In addition to these specific criteria, the use must also meet the landscaping requirements in MCC 16.06.200 and the special requirements adjacent to residential zone in MCC 16.06.250.

***16.06.200 Landscaping.***

***Within a CR zone:***

- A. *Landscaping shall be provided in any yard abutting a residential zone and in any required front or side yard. Such yard shall be contained by a sight-obscuring fence, wall or hedge at least six feet high.*

Only the rear yard abuts a residential zone and this will be made a conditional of approval. The criterion is met.

- B. *A landscaped area at least three feet wide shall be provided between any parking or loading spaces or driveway, and a lot in a residential zone or a street.*

The subject parcel abuts a residential zone in the rear of the property. The applicant has not indicated if this area and the spaces between the parking and loading spaces have been landscaped to satisfy this criterion. However, this will be made a condition of approval. The criterion is met.

- C. *All outdoor areas used in conjunction with the development or use that are not landscaped shall be paved and drainage provided in accordance with Marion County department of public works standards.*

Some of the area is already paved and the proposal is conditioned in such a way that, any auto detailing use will need to be done on a hard surface described above. This has been made a condition of approval. The criterion is met.

D. All required landscape areas shall be landscaped as provided in Chapter 16.29 MCC.

The criterion can be conditioned to be met.

***16.06.250 Special requirements adjacent to residential zones.***

***Any nonresidential development established after the adoption of this title abutting a residential, UD or UT zone shall meet the following requirements:***

A. *Outdoor storage facilities shall be screened by a sight-obscuring fence, wall or hedge from view of the public road and from adjacent residential property.*

This will be made a condition of approval. The criterion is met.

B. *Exterior lighting shall be designed to illuminate the site and be directed away from public streets and residential properties.*

This will be made a condition of any approval. The criterion is met.

C. *Roof equipment shall be screened from view of nearby residential property.*

No roof equipment is proposed as a part of this proposal. The criterion does not apply.

D. *Special setback and height standards in MCC 16.06.110 and 16.06.140(A).*

No new structures are being proposed. The criteria does not apply.

9. 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: September 23, 2022

If you have any questions regarding this decision contact Jared Bradford at (503) 566-4173

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.