

**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.21-033**

**APPLICATION:** Application Ditchen Land Co., LLC for a conditional use to operate an agricultural equipment sale and service facility as a commercial activity in conjunction with farm use on a 38.14 acre parcel in an EFU (Exclusive Farm Use) zone located at 3735 Chemawa Road NE, Salem. (T6S; R2W; Section 31B; tax lot 600).

**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 **August 17, 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 proposal is for land use purposes only. Due to septic, well, and drain field replacement areas, these parcels 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 applicant shall obtain all required permits from the Marion County Building Inspection Division.

**ADDITIONAL CONDITIONS:** Once the approved use is established the following conditions must be continually satisfied:

2. The development shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval of 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 the 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 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 the Marion County 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.
5. A portion of this property has been identified as wetland on the statewide wetland's inventory. If the site is a jurisdictional wetland, this proposal may require a permit from the Division of State Lands and/or the Army Corps of Engineers. You must obtain any necessary state or federal permits before beginning your project. Marion County is not liable for any delays in the processing of a state or federal permit.

6. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #6 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 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 **August 17, 2021**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **August 18, 2021** 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 Primary Agriculture in the Marion County Comprehensive Plan. The major purpose of this designation and the corresponding Exclusive Farm Use (EFU) zone is to promote the continuation of commercial agricultural and forestry operations.
2. The property is located 0.25 miles east of the intersection of Chemawa Rd NE and Indian School Rd NE. The property contains a 1971 manufactured dwelling and at least three separate commercial buildings. The property was the subject of land use case CU94-097, LLA98-10, LLA/CU02-05 and is therefore considered a legal parcel for land use purposes.
3. Surrounding uses are predominately farm uses except directly adjacent parcels to the south, which are developed with dwellings. All adjacent parcels are zoned EFU that are in the County's jurisdiction, the adjacent parcel within the City of Salem is zoned Public and Private Educational Services (PE).
4. Soil Survey of Marion County Oregon indicates 100% of the subject property is composed of high-value farm soils.
5. The applicant is proposing to operate an agricultural equipment sale and service facility as a commercial activity in conjunction with farm use.
6. Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

#### **ENGINEERING REQUIREMENTS**

- A. Prior to or at the time of application for building permits, an Access Permit will be required to narrow, pave and potentially consolidate the access approaches.
- B. A portion of the property access appears to fall inside City of Salem city limits. City concurrence with access may also be required prior to issuance of building permits.
- C. Transportation System Development Charges will be assessed upon application for building permits, including alterations to existing buildings in support of the proposed change-in-use.
- D. Stormwater detention may be required for development of 0.5-acres or greater.
- E. The property is located within the County's Stormwater Management Area, including a swath of Hi-Risk Erosion area. Depending on the location and total area of new development, a County CN Erosion Permit may be required.

- F. Prior to or in conjunction with application for building permits, a civil engineered site plan will be required for 0.5-acre or more of development, which includes buildings, parking and drive isles.

### **ENGINEERING ADVISORIES**

- G. A portion of Chemawa Road subject property frontage is under City of Salem jurisdiction.
- H. DEQ may require an NPDES 1200-C Construction Stormwater Erosion Permit for ground disturbances of 5-acres or greater.

Marion County Building commented: “Building permits will be required for any proposed structural changes to the buildings and/or any proposed change of use or occupancy if changing from residential use to commercial use. Plus any proposed underground utilities on private property.”

All other commenting agencies stated no objection to the proposal.

7. In order to approve a commercial activity in conjunction with farm use the applicant must demonstrate compliance with the specific criteria listed in Chapter 17.136.060(D) of the Marion County Code (MCC). These include:
- (a) *The commercial activity must be primarily a customer or supplier of farm uses.*
- The proposed activity is an agriculture equipment sales and service facility that will sell and service tractors, combines, mowers and various other pieces of agricultural equipment. This use is both a customer and supplier of farm equipment. The criterion is met.
- (b) *The commercial activity must enhance the farming enterprises of the local agricultural community to which the land hosting that commercial activity relates.*
- The use will enhance the local agriculture land by giving farmers a convenient space to buy and service equipment, located close to Chemawa Road and Interstate5 for access. This will allow local farmers to drive less and spend less time when buying new equipment and allow them to quickly get their equipment in for repairs without navigating winding county roads when loading their equipment in and out of the site. The criterion is met.
- (c) *The agricultural and commercial activities must occur together in the local community to satisfy the statute.*
- The service center is to be located on an active farm and in very close proximity to other active, large scale farms. The equipment bought and serviced will be used locally for agriculture production. The criterion is met.
- (d) *The products and services provided must be essential to the practice of agriculture.*
- Tractors, combines, mowers and other equipment used in commercial agricultural and to be sold on the subject property are absolutely essential to the practice of agriculture. The criterion is met.
8. In addition to the specific criteria above, the proposal must also satisfy the conditional use criteria in MCC 17.136.060(A). Those requirements are:
- (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. Land devoted to farm or forest use does not include farm or forest use on lots or parcels upon which a non-farm or non-forest dwelling has been approved and established, in exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.*

This use is not expected to not force a significant change in or increase the cost of farm or forest practices. This may in fact, reduce costs due to the short distance nearby farms will need to transport equipment for service. The use is proposed as an asset to farmers in the area. The criterion is met.

- (b) *Adequate fire protection and other rural services are, or will be, available when the use is established.*

Fire protection services are supplied to the site by MCFD #1 and other improvements will be required during the building permit process. The criterion is met.

- (c) *The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.*

This use is not expected to not force a significant change in watersheds, groundwater or wildlife habitat. With proper building and septic permits the groundwater will be protected from septic runoff and the service center will be located indoors, keeping oil, gas or others spills out of groundwater. The criterion is met.

- (d) *Any noise associated with the use will not have a significant adverse impact on nearby land uses.*

Any noise associated will be consistent with farm use which is allowed on the property and surrounding properties. The criterion is met.

- (e) *The use will not have a significant adverse impact on potential water impoundments identified in the Comprehensive Plan, and not create significant conflicts with operations included in the Comprehensive Plan inventory of significant mineral and aggregate sites.*

The use will not conflict with the statements above as it will be taking place in an already developed farm and will use the footprint of the existing developed structures.as stated before, the service taking place indoors will keep the use from having a significant adverse impact on potential water impoundments.

9. Based on the above findings it has been determined that the applicant's request meets all applicable criteria for a commercial activity in conjunction with farm use and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore  
Planning Director

Date: August 2, 2021

If you have any questions regarding this decision contact Austin Barnes 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.