

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. 23-038**

**APPLICATION:** Application of the Oregon Department of Transportation for a conditional use permit to realign Ehlen Road and expand a portion of the road from one lane to two lanes at the I-5 Donald Interchange on land zoned EFU located in the 12500 block of Ehlen Road NE (T4S; R1W; Section 10).

**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 **October 31, 2025** (two years). 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 any required permits from the Marion County Building Inspection Division.
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.

**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 **October 31, 2023**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **November 1, 2023**, 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 EFU zone is to promote the continuation of commercial agricultural and forestry operations.
2. The property is located on the northeast side of Ehlen Rd NE, directly east of its intersection with Interstate 5. The property is a commercial farm planted with Hazelnuts and a portion is being acquired as right of way and will no longer be privately owned property.
3. Surrounding uses are farm uses to the north and east, while the uses are commercial to the west and south. Those areas are developed with an RV park and gas station used by Interstate 5 traffic. Across the highway to the west is further commercial development related to the interchange.
4. The applicant is proposing to realign Ehlen Road and expand a portion of the road from one lane to two lanes at the I-5 Donald Interchange.
5. All commenting agencies stated no objection to the proposal.
6. In order to approve a conditional sue in the EFU zone, 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.*

Approximately 1% of the farm operation or around 64 hazelnut trees will be converted to roadway for this project, ODOT states there are 11,000 trees on the subject property. ODOT will be paying for a new well for the farm operation so that it may continue in the same fashion it operates in now. The area not affected by the road expansion will remain in farm production. This is not expected to increase the cost of farming or significantly change it in this area. The criterion is met.

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

The area is served by the Aurora Fire Department and Marion County Sheriff's Office. 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.*

No surface water resources are found on the site and the site will not produce any outputs that are harmful to fish or wildlife, as it is a roadway. There will be storm water treatment facilities, flow control and conveyance facilities. This is not expected to affect soil or air quality. 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 that of typical car noise which is already present at the site, a busy freeway interchange. 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.*

There are no water impoundments found on the site. The criterion is met.

7. The following criteria apply to all conditional uses, found in MCC 17.136.060 (I):

- a) *No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved within three miles of an urban growth boundary unless an exception is approved pursuant to OAR Chapter 660, Division 004.*
- b) *Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract. For the purposes of this subsection, "tract" means a tract as defined in MCC 17.136.140(F) in existence on May 5, 2010.*
- c) *Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, but existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits of this subsection.*

No structures are proposed with this application. No structures currently exist in relation to this permit and this does not involve a facility in a farm zone. The criteria does not apply.

8. Based on the above findings it has been determined that the applicant's request meets all applicable criteria for a and is, therefore, **APPROVED**, subject to conditions.

Brandon Reich  
Planning Director/Zoning Administrator

Date: October 16, 2023

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.