

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. 24-001**

APPLICATION: Application of USA Retail Mart LLC for an adjustment to reduce the required 20-foot front setback by 12-feet to 8-feet while maintaining the 50-foot special road setback on a 0.54-acre parcel in a CC (Community Commercial) zone located at 5848 Stayton Rd SE, Marion (T9S; R2W; Section 33BA; Tax lot 2800).

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 **August 21, 2026** (two years) 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:

1. The applicants shall obtain all permits required by the Marion County Building Inspection Division.
2. Prior to issuance of any permits, the applicant shall submit a site plan for review and approval by the Planning Director.
3. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use until the following conditions have been satisfied:

Condition A – Prior to issuance of a building certificate of occupancy for the store addition, dedicate a 30-foot property line NW corner radius. The intent is to provide additional space for a prospective future pedestrian intersection landing(s).

4. Applicants shall maintain a 58-foot setback from the center of the Stayton Rd right-of-way.

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. The applicant is advised of the following:

5. The applicants should contact the Stayton 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.
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 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 **August 21, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective on **August 22, 2024**, unless appealed.

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

1. The subject property is designated Commercial in the Marion County Comprehensive Plan. The major purpose of this designation and the corresponding CC (Community Commercial) zone is to promote the continuation and development of commercial uses within urban unincorporated communities, rural communities, and rural service centers.
2. The property is located at 5848 Stayton Rd SE, which is on the southeast corner of the intersection of Marion Rd SE and Stayton Rd SE in the unincorporated community of Marion. The subject property contains a manufactured home, a residential accessory structure, and an existing convenience store located on the north half of the lot. The parking area for the store is located on the north and west sides of the structure along Marion Rd and Stayton Rd respectively. The parcel is legal for land use purposes.
3. Surrounding uses are varied, but primarily consist of small community home sites and small businesses. Zoning is a mix of AR (Acreage Residential) and CC (Community Commercial), with some SA (Special Agriculture) and EFU (Exclusive Farm Use) zoned properties just outside of the unincorporated community boundary lines. Finally, some miscellaneous uses include the Marion Fire Station operated by the Stayton Fire District on the parcel to the east, a railroad line running parallel to Marion RD SE, and Marion Elementary School located 900-feet to the southeast.
4. The applicant is proposing to construct an addition onto the north side of the existing commercial structure. To accomplish this, the applicants are proposing to reduce the required road setback from 70-feet from the centerline of the Stayton Rd SE to 58-feet. The 70-foot setback from the centerline takes into account both the required zoning setback of 20-feet from the property line and the special 50-foot setback requirement for roads designated as "arterial" in the Rural Transportation System Plan.
5. Various agencies were contacted about the proposal and given an opportunity to comment.

Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

Conditions:

Condition A – Prior to issuance of a building certificate of occupancy for the store addition, dedicate a 30-foot property line NW corner radius. The intent is to provide additional space for a prospective future pedestrian intersection landing(s).

Requirements:

Requirement A – Transportation System Development Charges (TSDCs) will be assessed at the time of application for building permits that is based on square footage of the store addition.

Marion County Building commented: "No Building Inspection concerns with proposed setback adjustment. Permit(s) are required to be obtained prior to development and/or utilities installation on private property. A

setback of 10 feet to adjacent property lines and/or structures is recommended, unless additional fire resistive construction is proposed within construction plans.”

All other commenting agencies stated no objection to the proposal or failed to provide comments.

6. In order to approve the adjustment, the criteria found in Chapter 17.116.020(A) of the Marion County Code (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*

The applicants are proposing to build an addition onto the existing convenience store. This will result in an increase in the size of the store; however, the addition will not increase the amount of traffic generated by customers. Rather it would allow the business to better serve the community by offering more products and services in the increased area while not changing the use of the building as a store. Finally, there is sufficient room on the lot to relocate any parking that would be removed as part of an expansion of the commercial building. The criterion is met.

(b) *The adjustment will not have a significant adverse affect upon the health or safety of persons working or residing in the vicinity; and*

The only potential impact the proposed adjustment could have on health and safety of the persons working or residing in the vicinity of the store is potential sightline issues at the intersection of Stayton Rd and Marion Rd. Examining available on-ground imagery of the intersection, there is good visibility drivers and pedestrians for cars approaching the intersection from the south along Marion Rd and from the stop sign at the intersection on Stayton Rd. While an addition onto the building could reduce the visibility at the intersection, no concerns were raised by the contacted agencies and departments about visibility at the intersection. Additionally, the structure is a commercial structure and will not be occupied at night when the concern over visibility and proximity to the road is greatest. The criterion is met.

(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*

The applicants want to expand parts of the existing convenience store in the direction of Stayton Rd SE by 12-feet. According to the Marion County Rural Road Functional Classification, Stayton Rd SE and Marion Rd SE are both identified as Arterial and have an additional 50-foot setback from the centerline of the right of way along with the standard 20-foot setbacks for the community commercial zone. This results in a setback of 70-feet from the centerline of the Stayton Rd and Marion Rd right-of-way respectively. The existing commercial structure has a “year built” date of 1958 according to information from the Marion County Tax Assessor’s property details and part of the existing structure does not appear to meet this requirement. The applicant’s proposal is to square off the existing structure with the portion of the building that is closest to Stayton Rd and to reduce the required setback from Stayton Rd by the same distance as the proposed addition—12-feet in length. The requested adjustment to the setback will provide the applicants with the space to square off the building as wished and is not more than the amount of distance required to accomplish this. The criterion is met.

(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.*

The intent and purpose of the provision being adjusted, that being the required setback of the structure from the center of the road right-of-way, is to provide ample space for roadway expansions to allow for more traffic to flow through. The distance the applicants are requesting to adjust the setback would only involve the portion of the 70-foot centerline setback required for front yards in the CC zone, which is 20-feet from a public right-of-way. It would not encroach upon the required 50-foot setback for the arterial

road, which is the portion that accounts for future road expansions. As such, the proposed development would maintain the intent and purpose of the provision to be adjusted. The criterion is met.

7. Based on the above discussion, it has been determined that the request satisfies all applicable criteria and is, therefore, **APPROVED**.

Brandon Reich
Planning Director

Date: August 6, 2024

If you have any questions regarding this decision contact Alexander Seifer 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.