

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. CU 25-007**

**APPLICATION:** Application of Tri-Prop LLC and Tim Kerr for a conditional use permit to establish two aircraft hangers on a 6.20-acre parcel in the P (Public) zone located at 23215 Airport Rd NE, Aurora (T4S; R1W; Section 2A; Tax lot 400).

**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 **February 26<sup>th</sup>, 2027**. 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 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 including all required permits from Marion County Septic.
2. The applicant shall comply with all DEQ, ODAV and FAA requirements.
3. 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.
4. Failure to continuously comply with the conditions of approval may result in this approval being revoked. Any revocation could be appealed to a County hearings officer for a public hearing.
5. The development shall comply with the development standards listed in MCC 17.171.060.

**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 the agencies mentioned in Finding # under Findings and Conclusions be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

6. The applicants should contact the Aurora 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. (staff: if this is MCFD #1 please include the following: Paula Smith at MCFD#1/(503) 588-6513 as the contact person).
7. 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 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 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 Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on **February 26<sup>th</sup>, 2025**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **February 27<sup>th</sup>, 2025**, 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 Public in the Marion County Comprehensive Plan. The major purpose of this designation and the corresponding Public (P) zone is to provide regulations governing the development of lands appropriate for specific public and semi-public uses and to ensure their compatibility with adjacent uses.
2. The subject parcel is located at 23215 Airport Rd NE, within the Aurora Airport. The parcel is mostly flat and vacant except for a structure on the eastern side of the parcel adjacent to Airport Rd NE. The property was a subject of a property line adjustment in 2020 (PLA20-038) and has existed in its current configuration since then. The subject parcel is therefore legal for land use purposes.
3. Adjacent parcels north, west, and south of the subject parcel are zoned Public and part of the Aurora Airport. North and South of the subject parcel are other properties devoted to airport uses. Directly east is a field north of the Aurora Airport runway. To the east across Airport Rd NE is Exclusive Farm Use (EFU) zoned land in active farm use.
4. The applicant proposes to establish two new aircraft hangers on the subject parcel. Proposed Hanger A will be built as an addition to an existing structure on the property and will add 28,560 square feet to that structure. Proposed Hanger B will be built directly east of Hanger A, and 36,400 square feet in size.
5. Various agencies were contacted with requests for comments.

Marion County Septic submitted extensive comments that are included in the case file and have been sent to the applicant. Many items must be addressed before septic approval.

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

### **ENGINEERING REQUIREMENTS**

- A. Access work will be required in conjunction with development. Specifically, the middle access including graveled area (less 5-foot shoulder) leading up to the north access shall be removed and ditch cross-section restored. The south access shall be paved. The north access may remain as-is since it serves a 40-ft wide NWN utility access easement, but the gate is to remain secured when not in active use.
- B. Stormwater detention is required at 0.5-acre or more of development and/or redevelopment. Post-construction stormwater quality treatment is not required.
- C. Transportation System Development Charges will be assessed at the time of application for building permits.
- D. Utility service extension work in the Airport Road public R/W requires separate permitting with PW Engineering.

### **ENGINEERING ADVISORY**

- E. DEQ has jurisdiction through their NPDES 1200-C permitting program over construction stormwater erosion for 1.0 acre or more of ground disturbance.

Oregon Department of Aviation (ODAV) commented:

1. In accordance with FAR Part 77.9 and OAR 738-070-0060, the proposed development is required to undergo aeronautical evaluations by the FAA and ODAV. The applicant can use the FAA's Notice Criteria Tool to determine which proposed structures warrant a notice of construction (including any cranes or other tall construction equipment). They are required to provide separate notices of construction to both the FAA and ODAV. The applicant should receive the resulting aeronautical determination letters from the FAA and ODAV prior to approval of any building permits.
2. The height of any new structures, trees, and other planted vegetation shall not penetrate FAR Part 77 Imaginary Surfaces, as determined by the FAA and ODAV.
3. Any proposed external lights shall be designed as to not interfere with aircraft or airport operations.
4. Any commercial aeronautical activities conducted from this property, including fuel sales, commercial hangar storage, aircraft maintenance, avionics sales, flight training, etc., all require the applicant to comply with ODAV's Minimum Standards for the Aurora State Airport.
5. The Aurora State Airport is designed for C-II aircraft, and has a 30,000 pound single wheel, and 45,000 pound dual wheel weight limitation. Any overweight aircraft operations require ODAV's authorization and a signed waiver.
6. ODAV is currently in the middle of creating a new master plan for the Aurora State Airport. Depending on the final outcomes of the planning efforts, the new master plan may affect the proposed development, and could include improvements on state property that could affect the proposed uses/development.

Marion County Building Inspection commented: Permit(s) are required to be obtained prior to development of structures and/or utilities installation on private property.

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

6. Conditional use applications in the rural zones require compliance with MCC 17.119.070.

17.119.070 Findings of the director, planning commission or hearings officer.

Before granting a conditional use, the director, planning commission or hearings officer shall determine:

*A. That it has the power to grant the conditional use;*

The Planning Director has the power to grant conditional uses in the Public zone that comply with MCC 17.171.040. The criterion is met.

*B. That such conditional use, as described by the applicant, will be in harmony with the purpose and intent of the zone;*

Airport and airport-related commercial and industrial uses are a conditional use within the P zone as per MCC 17.171.030(A).

“When authorized under the procedure provided for conditional uses in this title, the following uses will be permitted in a P zone:

A. Airport and airport-related commercial and industrial uses;”

Airport-related uses located at the Aurora Airport are not subject to the size limitations in MCC 17.171.040 (A & B) as per MCC 17.171.040 (C). Currently there is one structure on the subject parcel. The applicant has discussed the possibility of removing this structure entirely, or adding on to it to construct one of the new proposed hangars. For the purpose of this application we consider the project with the existing structure intact. The criterion is met.

*C. That any condition imposed is necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood.*

The conditions imposed by this staff decision will ensure the safety of the people working within or around the proposed hangers. The conditions specifically to comply with all DEQ, ODAV, and FAA requirements ensures the health and safety of persons working or residing in the area around the subject parcel. The permits required by these agencies will address more specifically how to safely operate as a part of the Aurora Airport. The criterion is met.

7. The subject parcel is within the Aurora Airport, and the Airport Overlay Zone. Compliance with the procedures within MCC 17.177.040 for the Airport Overlay Zone is therefore required.

17.177.040 Procedure.

*A. An applicant seeking a building permit involving any use or structure regulated by the airport overlay zone shall provide the following information in addition to any other information required in the permit application:*

- 1. Property boundary lines as they relate to the airport approach and the end of the runway;*
- 2. Location and height of all existing and proposed buildings, structures, utility lines and roads.*

The applicant has provided a site plan and application statement for the purpose of the conditional use permit, with all required information for this conditional use approval. Additional information to meet all the standards in MCC 17.177.060 will be required during the building permit application process.

*B. Proposed buildings or structures shall be approved by the building inspector if it is determined that they will not extend above the airport surfaces as defined in MCC 17.177.020(C).*

This procedure will occur during the building permit process.

*C. An applicant seeking rezoning, a conditional use permit or a variance involving any use, building or structure regulated by the underlying zone or the airport overlay zone shall be reviewed in accordance with the applicable procedure in this title. During this review process, the State Aeronautics Division shall be notified of the proposal and any public hearing, be given an opportunity to comment and be notified of the decision.*

The applicant is seeking a conditional use permit to build two hangers for airport uses on the subject parcel. The proposal has been reviewed in accordance with the applicable procedures in MCC 17.177. ODAV was notified of the application, provided comments, and will be notified in the event of a public hearing if this staff decision is appealed. The criterion is met.

8. Development standards for the Public zone are found within MCC 17.171.060.

17.171.060 Property development standards.

*A. Height. No building or structure in a P zone shall exceed six stories or 70 feet; provided, that buildings or structures shall be set back from every street and lot line one foot for each foot of height of the building in excess of 35 feet in addition to all other yard and setback requirements herein specified.*

The proposal will comply with this standard. The criterion is met.

*B. Front Yard. Front yard shall be a minimum of 20 feet. No parking shall be permitted within the minimum front yard area.*

This standard will be assessed during the building permit review process. The site plan provided with this proposal shows the new hangers are in compliance with this standard. The criterion is met.

*C. Side Yards. Where the side of a lot in a P zone abuts upon the side of a lot in any R zone, there shall be a minimum side yard of 10 feet. Otherwise there shall be no minimum side yard setback. Where the side of a lot abuts upon a street there shall be a minimum side yard of 20 feet wherein no parking shall be permitted.*

The subject parcel does not abut any parcels in a residential zone. The existing structure may be within 20-feet of the edge of the right of way for Airport Rd NE, however no increase in non-conformity is proposed. No new structures will be built within the setbacks described in this standard. The criterion is met.

*D. Rear Yard. In a P zone there shall be a rear yard that shall have a minimum depth of 30 feet.*

This standard will be assessed during the building permit review process. The criterion is met.

*E. Lot Area and Coverage. The minimum requirements in P zones for dwellings shall be one acre except 6,000 square feet inside an unincorporated community boundary where public sewer and water service is provided. No main building, including dwellings, shall occupy more than 30 percent of the lot area.*

The proposal is not for a dwelling, the criterion does not apply.

*F. Open Storage.*

*1. All yard areas, exclusive of those required to be landscaped as provided in subsection (G) of this section, may be used for materials and equipment storage areas related to a use permitted in the P zone, provided such area is screened so it cannot be seen from public roads, or from dwellings on property in other zones.*

*2. The surface of open storage areas, including automobile and truck parking areas shall be paved or graveled and maintained at all times in a dust-free condition.*

This standard will be assessed during the building permit review process. The criterion shall be met.

*G. Landscaping. The area within 20 feet of a street shall be landscaped. As a condition of approval for a conditional use, additional landscaping may be required if necessary to make the use compatible with the area.*

This standard will be assessed during the building permit review process. The criterion shall be met.

*H. Performance Standards. No land or structure shall be used or occupied unless maintained and operated in continuing compliance with all applicable standards adopted by the Oregon Department of Environmental Quality.*

The applicant will be required to receive all applicable DEQ permits. The criterion shall be met.

*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.*

Marion County Septic has requirements that will need to be met prior to building permits being approved. Completion of these requirements will ensure compliance with this standard. The criterion shall be met.

*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.*

Marion County LDEP has not indicated in their comments that a TIA will be required. The criterion is met.

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: February 11<sup>th</sup>, 2025

If you have any questions regarding this decision contact John Speckman 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.