

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.

**NOTICE OF DECISION
CONDITIONAL USE CASE NO. 09-16**

APPLICATION: Application of Western Antique Powerland, Inc. and Albert and Loretta Spiegel for a conditional use to amend the master plan for Antique Powerland Museum, to allow use of the facility for certain special interest groups, and to allow parking on an adjacent property during special events on 80.31 acres in a P (PUBLIC) zone and EFU (Exclusive Farm Use) zone located at 3995 Brooklake Road NE, and 9330 River Road N, Salem. (T6S; R2W; Section 18; tax lots 200, 500).

DECISION: Notice is hereby given that the Planning Director for Marion County has **APPROVED** the above described Conditional Use application, subject to certain conditions.

This conditional use permit is valid only when exercised by JULY 1, 2011. The effective period of an approved application may be extended for an additional year subject to approval of an extension (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 division or use is for land use purposes only. Due to septic, well, and drain field replacement areas, these parcels may not be able to support a dwelling. To be sure the subject property can accommodate the proposed use the application needs to check with the Building Inspection Division, 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 any permits required from the Marion County Building Inspection Division.
2. Prior to obtaining a building permit the applicant's detailed master plan, including the existing facilities and proposed facilities, shall be reviewed and approved by the Planning Director.
3. Prior to obtaining a building permit, the applicant shall address the Marion County Public Works Development Engineering Division provisions outlined in item #5 of the Findings and Conclusions section below. The requirements shall be met to the Department's satisfaction.

4. Unless otherwise specified, only uses or activities related to the museums such as collecting, restoring, demonstrating, displaying, and interpreting heritage machines and vehicles are allowed at the facility.
5. Membership events such as member weddings, member meetings, banquets, and private meetings for members are permitted if the activity includes participation of individual members who provide assistance at the facilities.
6. Heritage shows that have historical significance and are related to period living are permitted and include canning, weaving, blacksmithing, glass blowing and similar activities.
7. Group activities that include churches, schools, corporations, labor unions, clubs, and RV organizations are permitted as long as the primary purpose of the group visits is to tour the museum or participation in museum activities. Groups can be provided with picnic facilities, catering, or other services by the museum. Group use of the museum shall not include activities unrelated to the museum facility and RV's are limited to one overnight stay.
8. Fund raising events, for the benefit of museum facility, are allowed subject to review and approval of the Planning Director. Events such as concerts, auctions, wine tasting, banquets, and similar activities could be considered for review. These events shall be advertised, planned, and marketed as a fundraiser and scheduled as short duration events.

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

9. Each year, one month prior to using the EFU zoned land for parking, the applicant, or his representatives, shall sign a agreement with the Marion County Planning Division regarding termination of the use after the Antique Powerland event.

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 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 # 5 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

10. The applicant should contact Marion County Fire District No. 1 and obtain a copy of the District's Recommended Building Access and Identification Guidelines. For personal and property safety it is recommended that the applicant follow these guidelines. Fire District access standards may be more restrictive than County standards. **Paula Blomquist at MCFD#1/588-6513 as the contact person).**

PROCEDURE: The Marion County Zoning Ordinance provides that certain Conditional Use 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. Any interested person who disagrees with the Director's decision may request that the application be considered by the Marion County Hearings Officer after a public hearing. The applicant may also request a 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 the Hearings Officer, must be in writing (Appeal Form available from the Planning Division) and be received in the Marion County Planning Division, 3150 Lancaster Dr. NE, Suite B, Salem, OR 97305 by 4:00 p.m. on **JUNE 30, 2009**. Please note an appeal directly to the Land Use Board of Appeals is not allowed under ORS 197.830. If you have any question about this application or the decision please call 588-5038 or visit the County Planning Office at the above address. This decision is effective **JULY 1, 2009** unless further consideration is requested.

FINDINGS AND CONCLUSIONS: The findings and conclusions on which the Director based his decision are noted below.

1. The properties are designated Public and Primary Agriculture in the Marion County Comprehensive Plan. The purpose of this designation and the corresponding P (Public) 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, and the corresponding EFU (Exclusive Farm Use) zone purpose is to encourage the continuation of commercial agricultural and forestry uses.
2. The property is located on the north side of Brooklake Road NE, approximately 1,500 feet west of its intersection with Interstate Highway 5. The property contains an exposition park specializing in steam equipment. The facility has been the subject of previous land use actions. Conditional Use Case 81-71 (CU81-71) allowed the facility to add permanent restrooms. Subsequent Conditional Use Cases 89-26 (CU89-26) and 97-7 (CU97-7) approved expansion of the facilities to allow up to 53 buildings on the site, Conditional Use 00-25 to expand the existing facility, and Conditional Use 04-22 to allow special event parking on an adjacent EFU zoned property.
3. Surrounding uses to the west, north, and northeast consist of large farm parcels all zoned EFU (EXCLUSIVE FARM USE). Property to the southeast is zoned ID (INTERCHANGE DISTRICT) and is a truck terminal. Property to the south, across Brooklake Road, is zoned IUC (UNINCORPORATED COMMUNITY INDUSTRIAL) and contains various small industrial uses.
4. The applicant is requesting to revise the master plan and expand the existing exposition park by adding 19 new buildings to the approved master plan while removing 7 structures from the previously approved master plan. The proposal would increase in the number of structures on the master plan by 12 structures and increase the number of items listed on the master plan from 80 to 85 assorted uses. Western Antique Powerland, Incorporated (WAPI)

is a publicly owned for-profit Oregon corporation, which provides infrastructure to support various not-for-profit educational corporations. The proposed buildings will be added, as needed, by each user organization once funding is available.

5. The Marion County Department of Public Works comments as follows:

STREETS

In accordance with Marion County Driveway Ordinance #651, the applicant will be required to obtain an “Access Review” of any existing or proposed accesses to either property. Existing driveways will be reviewed to ensure they meet current sight distance, design, spacing, and safety standards. If changes are required to bring accesses into conformance, an “Access Permit” will be required.

No additional access point(s) from the subject property to Brooklake Road NE will be allowed.

Access to 9330 River Road crosses the Portland and Western Railroad right-of-way, which is also governed by Oregon Department of Transportation – Rail Division. As a condition of approval for this land use application, Applicant shall provide evidence to Marion County that Portland and Western Railroad & ODOT Rail conditions for access, if any, have been met.

STORMWATER

The applicant is advised that construction of improvements on the property should not block historical or naturally occurring runoff from adjacent properties. Furthermore, site grading should not impact surrounding properties, roads, or drainage ways in a negative manner.

Applicant was required as a condition of approval for land use case CU00-025, to construct certain stormwater control features. To date, not all of the buildings and other impervious surfaces originally proposed for the subject property have been constructed. It is our understanding that as an alternative to Ponds #2 and #3 as originally shown on the 2000 Site Plan; linear ponds are being proposed alongside the west property line to maximize the buildable area of the site. As a condition of approval for this land use application, the applicant is required to submit preliminary (30%) engineering plans and calculations for the linear ponds. Upon application for future building permits and/or additional paved parking, the future linear stormwater ponds would have to be constructed, as needed.

GENERAL

The subject property is within the unincorporated area of Marion County. Per Marion County Ordinance # 00-10R, Transportation Systems Development Charges (SDCs) will be assessed upon application for building permits or change in land use. However, since the parking use is temporary in nature, Transportation and Parks Systems Development Charges shall **not** be assessed.

Any work in the public right-of-way will require a permit from Public Works. This may be

in addition to any Access Permits that may be required.

Marion County Tax Department provided tax information for the subject property.

All other contacted agencies either failed to respond, or stated no objection to the proposal at the time this report was written.

6. Under the provisions in Section 119.070 of the Marion County Rural Zoning Ordinance (MCRZO), before granting a conditional use, the Director shall determine:
 - (a) That it has the power to grant the conditional use;
 - (b) That such conditional use, as described by the applicant, will be in harmony with the purpose and intent of the zone;
 - (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.
7. Section 119.100 grants the Director the authority to approve those conditional uses their expansion or alteration, which are listed in the Ordinance. Under MCRZO 171.030(B), exposition and museum and related commercial uses are listed as conditional uses in the P zone subject to 171.040. The Director may review and determine this issue. The proposal meets 6(a).
8. According to MCRZO 171.010, the purpose and intent of the 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. It is clear from the previous conditional uses that the exposition center is an appropriate use for the P zone. However, as its size increases, the potential for adversely affecting surrounding uses is increased. In order assure the purpose and intent of the zone are met, these potential impacts must be addressed.
9. In the past, the adjacent nursery stated concerns with security of their nursery as WAPI expands. However, comments were not received from surrounding property owners for this proposal. Although the previous cases required a fence/vegetative buffer along the west property of the WAPI, the area is now a designated fire lane and no overnight parking is allowed. The measures taken by WAPI should ensure this proposed expansion is compatible with the nursery.
10. Marion County Department of Public Works provided comments on the effect that additional traffic generated by the proposal will have on the road system and storm water detention in the area. They have included a list of conditions to address the impacts that will be included with any approval.

11. Exposition and museum are listed as conditional uses in the P zone subject to 171.030(B). Criteria in Section 171.040 is stated as follows:
- (A) New commercial uses in conjunction with public uses may be established up to a maximum of 3,500 square feet of floor area.
 - (B) Lawfully established commercial uses existing as of the date of adoption of this ordinance may be expanded up to 3,500 square feet of floor area, or an additional 25% of the floor area that existed as of the date of adoption of this ordinance, whichever is greater.
 - (C) Airport related uses located at the Aurora Airport are not subject to the size limitations in (A) and (B) of this section.
 - (D) Except as established in (B), for a commercial use to exceed the square foot limitations requires taking an exception to Goal 14. Such exception shall be processed as an amendment to the Marion County Comprehensive Plan
12. In addition to revising the site plan and expanding the facility, Western Antique Powerland requests clarification on the activities, events, and groups that are permitted to use the facility. The applicant proposes that Powerland and partner museums can sponsor, host, and promote events traditionally used by museums to generate revenue. The guideline to determine if the use or activity is appropriate must be imposed as uses related to the museums corporate mission statement or to the collecting, restoring, demonstrating, displaying, and interpreting heritage machines and vehicles. The applicant proposes member events and meetings, heritage shows, group activities involving corporations, churches, clubs, and unions, and fund raising events

Membership Events:

Membership events such as member weddings, member meetings, banquets, and private meetings for members would be appropriate for the use if it includes participation of individual members who provide assistance to the facilities.

Heritage Shows:

The applicant also proposes event activities or shows that have historical significant and are related to period living such as canning, weaving, blacksmithing, glass blowing, and similar activities. Modern concerts, auto and RV sales, and non-related swap meets are not proposed in the applicant's statement.

Group Activities:

The applicant requests to market group activities that include churches, schools, corporations, labor unions, and clubs. RV organizations or club visits could be limited to

one overnight stay. The applicant agrees that the primary purpose of the group visits is to tour the museum or participation in museum activities. Groups could be provided with picnic facilities, catering, or other services. Group use of the museum shall not include activities unrelated to the museum facility.

Fund Raising Events:

The applicant also purposes to schedule fund raising events such as concerts, auctions, wine tasting, banquets, and similar activities. These events shall be advertised, planned, and marketed as a fundraiser and scheduled as short duration events.

13. The applicant's revision of the master plan for the facility included removal of some proposed buildings and addition of new buildings to the master plan. The applicant provided a revised copy of the master plan as well as a list of changes.

The following numbered items are replaced or removed from the master plan: numbers 18, 36, 50, 62, 63, 64, and 73.

The following numbered uses are changes or additions to the master plan: numbers 2, 4, 5, 7, 10, 21, 24, 25, 28, 29, 33, 35, 65, 75, 81, 82, 83, 84, and 85.

The proposal adds nineteen new buildings to the plan that and an increase of twelve buildings. The revised master plan reaches a total number of eighty-five buildings and various uses.

14. The revision and expansion of uses listed on the master plan and the activities discussed above shall meet criteria in Section 171.040 as stated in 11 above.

Under Section 171.030(B), the uses discussed under 12 above can be considered non-commercial uses related to the non-profit museum operation and are appropriate for the previously approved museum facility as well as the proposed expansion. The ability to organize events and activities, not to profit the organization, but to provide necessary finances to operate and improve the museum facility is appropriate as a non-commercial use. However, any commercial activity or use conducted at the facility must maintain a maximum 3,500 square foot of floor area in order to meet 11(A) above. The criteria listed in 11(B)(C) and (D) does not apply to this request.

15. The applicant also requested to use an adjacent property, located within an EFU zone, for temporary parking during special events.

The applicants, Albert and Loretta Spegel, propose to temporarily use a portion of their 18.67 acre property as overflow parking on a recurring basis during the annual Great Oregon Steam-Up and other events. A previous conditional use case (CU04-22) granted a similar request on another property and included RV parking. As in the previous case, RV parking would occur after crops are harvested, and no septic disposal facilities would be provided; the parking would constitute "dry camping."

16. In order to approve a temporary use in an EFU zone, the applicant must demonstrate compliance with criteria identified in Sections 136.060(a):
 - (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.
 - (b) Adequate fire protection and other rural services are, or will be, available when the use is established.
 - (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.
 - (d) Any noise associated with the use will not have a significant adverse impact on nearby land uses.
 - (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.
17. The proposed use will occur after crops have been harvested and will not take land out of farm production. Rural fire protection is provided by Marion County Fire District #1. Septic will not be required on site and water can be provided as needed. There is no evidence that the temporary use will have a significant adverse impact on the quality of natural occurring resources in the area. The use is located well away from the nearest residential uses and shouldn't have a significant adverse impact on nearby land uses. Also, the use is near Interstate 5, which is a major source of noise in the area, and the Antique Powerland site, which occasionally generates noise during events at the site throughout the year. Any noise from the RV parking should be less than the noise from other nearby sources. There are no identified water impoundments or significant mineral and aggregate sites in the vicinity. The proposal complies with the criteria in 16 above.
18. Compliance with criteria identified in Section 126.030(e) must also be demonstrated:
 - (1) The temporary use is compatible with the purpose of the zone and adjacent land uses.
 - (2) The temporary use will have adequate public services to maintain the public health and safety.
 - (3) The operator of the temporary use has signed an agreement with the Department of Community Development regarding termination of the use consistent with the time limitations established in the conditions of approval.

19. As demonstrated above, the use will be compatible with the purpose of the zone and adjacent land uses. Water will be provided as needed, septic disposal is not needed, and Marion County Fire District #1 will provide fire and medical services. The use will have adequate public services to maintain the public health and safety in the temporary parking area. It can be made a condition of any approval that the applicant signs a termination agreement with the Planning Division every year prior to the use of the site for parking.
20. Based on the above discussion, the applicants' request has adequately addressed all the applicable criteria for a temporary use of land zoned EFU, and for the proposal to expand the exposition/museum facility in the P zone and is **APPROVED** subject to meeting certain conditions.

Sterling Anderson
Director-Planning Division

Date: 6/15/09

If you have any questions please contact David Epling at 588-5038.