

Attention Property Owner: A land use proposal has been submitted for property near where you live or 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
VARIANCE CASE NO. 15-006**

APPLICATION: Application of Mark Lewis Farms/IRA Ag for a variance to reduce the required 20 foot rear yard setback to 5 feet to reduce the required 20 foot side yard setback to 0 feet for solar photo voltaic equipment on an 18.92 and an 18.94 acre parcel in an EFU (Exclusive Farm Use) zone located at 8441 Little Road, Aumsville. (T8S; R2W; Section 35; tax lots 1100 and 1200).

DECISION: The Planning Director for Marion County has **APPROVED** the above-described Variance application subject to certain conditions.

EXPIRATION: This Variance is valid only when exercised by **NOVEMBER 21, 2017**. 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, this parcel may not be able to support the proposal. To be sure 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 all permits required by the Marion County Building Inspection Division.
2. The development shall significantly conform to the size, shape and height outlined by the applicant in this review. Minor variations are permitted upon review and approval by the Planning Director. However, a five (5) foot setback must be maintained from the north property line for the solar photo voltaic equipment.

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.

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 fee of \$200.00) 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 **NOVEMBER 20, 2015**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **NOVEMBER 21, 2015** unless appealed.

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 (EXCLUSIVE FARM USE) zone is to promote the continuation of commercial agricultural and forestry operations.

2. The subject property is located on the north side of Little Rd SE approximately 1880 feet west of Lewis Dr SE. The property contains a dwelling, farm structures, well and septic system. The property was described in its current configuration by deed (Reel 41, page 44) recorded on April 5, 1976, and considered a legally created parcel for land use purposes.
3. Surrounding properties in every direction consist of various sized parcels in the EFU zone.
4. Soil Survey of Marion County Oregon indicates 100% of the subject property is high-value farm soils.
5. The applicant is installing new ground mount solar photo voltaic equipment on the northern portion of tax lots 1100 and 1200 and requesting to reduce the required 20 foot rear yard setback to 5 feet and reduce the required 20 foot side yard setback between tax lots 1100 and 1200 to 0 feet.
6. Marion County Tax provided comments regarding taxes on the subject property.

All other contacted agencies either failed to comment or stated no objection to proposal.
7. In order to obtain a variance the proposal must meet the criteria in found in Section 17.122.020 of the Marion County Rural Zone Code (MCC). These criteria are:
 - (a) *There are unnecessary, unreasonable hardships or practical difficulties which can be relieved only by modifying the literal requirements of the ordinance; and*
 - (b) *There are unusual circumstances or conditions applying to the land, buildings, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings, or uses in the same zone; however, nonconforming land uses or structures in the vicinity or violations of land use regulations or standards on the subject property shall not in themselves constitute such circumstances or conditions; and*
 - (c) *The degree of variance from the standard is the minimum necessary to permit development of the property for the proposed use; and*
 - (d) *The variance will not have a significant adverse affect on property or improvements in the neighborhood of the subject property; and*
 - (e) *The variance will not have a significant adverse affect upon the health or safety of persons working or residing in the vicinity; and*
 - (f) *The variance will maintain the intent and purpose of the provision being varied.*
8. The applicants are proposing to install ground mount solar array structures on the northern portion of tax lots 1100 and 1200. The new array will feed the pump house used to irrigate the farm. The proposed location is most suitable maximizing the amount of farmable area. No significant adverse effects on property improvements in the neighborhood are expected from granting a reduced setback. The requested reduced setback from the north property line and from the common property lines between tax lots 1100 and 1200 appears to be the minimum necessary to permit the development and will not create noise, odor or vibrations that would impact surrounding properties or residences and would have no impact on the health or safety of persons working or residing in the vicinity.
9. Based on the above findings, the applicants' request meets all applicable criteria and is, therefore, **APPROVED**, subject to conditions.

Warren Jackson
Director-Planning Division

Date: 11/5/15

If you have any questions please contact Patty Dorr 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.