

**NOTICE OF DECISION
VARIANCE CASE NO. 18-004**

APPLICATION: Application of Sentry Storage Solutions LLC for a variance to reduce the required 20 foot front yard setback to 7 feet on a 3.1 acre parcel in an I (Industrial) zone located at 10566 Sunnyside Rd SE, Jefferson. (T9S; R3W; Section 10D; tax lot 200).

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 **October 30, 2020**. 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 structure shall maintain a 7 foot minimum setback from the front (west) property line.
2. Prior to any development of Phase II, the applicant shall provide evidence that a site plan has been reviewed and approved by ODOT.

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 **October 30, 2018**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **October 31, 2018** unless appealed.

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

1. The subject property is designated Rural Industrial in the Marion County Comprehensive Plan. The major purpose of this designation and the corresponding I (Industrial) zone is to provide for the location, in rural areas, of needed industrial uses which are not dependent upon urban services.
2. The property is located on the east side of Sunnyside Rd SE approximately 160 feet north of its intersection with South View Lp SE. The property is currently undeveloped. The subject parcel was recognized as a legal parcel through review and approval of the 1978 land use application, Zone Change #78-38.

3. Surrounding properties to the north and south are zoned I (Industrial). Properties to the west are in the AR (Acreage Residential) zone and in rural residential use. Interstate 5 runs along the east property line and farther to the east are properties zoned SA (Special Agriculture).
4. The applicant received approval, through Conditional Use (CU) Case 17-021, to establish a recreational vehicle (RV) storage facility on the property. They are now proposing to reduce the required 20 foot front yard setback to 7 feet to accommodate some of the buildings on the property.
5. Oregon Department of Transportation (ODOT) commented that there is an issue regarding the emergency access gate shown between Phase I and Phase II - there is no highway connection shown for Phase II. ODOT recommends the County condition the applicant to revise the site plan correcting this omission. In a follow-up email, ODOT agreed that a condition of approval, requiring the applicant to submit a site plan for review and approval by their office prior to any development in Phase II, would satisfy their concerns.

All other contacted agencies either failed to respond or stated no objections to the proposal.

6. In order to obtain a variance the proposal must meet the criteria in found in Section 17.122.020 of the Marion County 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.*
7. The applicant indicates that the property drains to the east and due to the location of a culvert development location is limited. The project is designed to have a single access onto Sunnyside Road and the storage buildings will be accessed by an internal driveway loop with all of the buildings facing inward. In order to accommodate the size of vehicles expected to use the facility the buildings on the west side of the property need be located 7 feet from the front property line. There are practical difficulties to develop the property as intended without modify the setback as proposed. The proposed seven foot setback is the minimum necessary to accommodate safe use of the facility. The variance should have no effect on the neighborhood or the health and safety of persons working or residing in the area. The intent of the 20 foot setback requirement is to ensure that structures on the property do not affect traffic using the road. Since the facility is served by a single driveway and internal circulation, this intent is maintained with the variance request. The proposal meets the criteria above.
8. Based on the above findings, the applicants' request meets all applicable criteria for a variance and is, therefore, **APPROVED**, subject to conditions.

Joe Fennimore
Director-Planning Division

Date: October 15, 2018

If you have any questions please contact Joe Fennimore 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.