



# ***Marion County*** **OREGON**

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### **MEMORANDUM**

**TO:** Marion County Hearings Officer  
**FROM:** Marion County Planning Division/Austin Barnes  
**SUBJECT:** Conditional Use 22-041  
**DATE:** December 8, 2022

The Marion County Planning Division has reviewed the above-named case and offers the following comments:

### **FACTS:**

1. The subject property consists of 30.31 acres designated Farm/Timber in the Marion County Comprehensive Plan (MCCP) and zoned FT (Farm/Timber) in Chapter 17.139 of the Marion County Code (MCC).
2. The property is located on the north side of HWY 214, approximately 700 feet west of its intersection with Davis Creek Rd NE. The property is comprised of two tax lots, 200 and 1900. Tax lot 200 contains all of the acreage planted with Christmas trees, totaling 23.31 acres while tax lot 1900 contains the rest of the property consisting of a dwelling and two farm buildings, totaling 7 acres. The parcel contains no streams, geo-hazards, mapped wildlife habitats or aggregate sites.
3. Surrounding properties are FT and are developed with a mix of farm, forest and residential uses. The parcels grow larger and consist of more commercial farm operations as you move east whereas moving west, the zoning changes to AR (Acreage Residential) and the land use pattern becomes more residential with smaller parcels.
4. The applicant is requesting use to establish a photovoltaic solar power generating facility on a 10.00-acre portion of a 30.31-acre parcel.
5. Silverton Fire District commented "The facility will need to meet the requirements of the Oregon Fire Code."

Friends of Marion County submitted comments requesting denial of the conditional use. The comments are available in the case file.

Marion County Building Department commented “Electrical permit is required, plus an electrical plan review. A building or structural permit is not required for ground mounted solar arrays per ORS 455.020.”

At the time of this staff report all other contacted agencies contacted either failed to respond or stated no objection to the proposal.

**STAFF FINDINGS AND ANALYSIS:**

6. Applicant is requesting to install a photovoltaic solar array on a 10 acre portion of a 30.31 acre parcel to be connected to the power grid on property zoned FT. The subject parcel is zoned FT and as such, can implement the farm or timber code based on the predominant use of the property. The parcel is planted with rows of Christmas trees which falls under the state definition of farm use. Based on this information, the parcel has been determined to be a farm parcel.
7. Uses permitted on farmland are listed on statute and administrative rule. ORS 215.447 permits photovoltaic solar arrays as a conditional use. This is optional for the county to adopt and implement. If the county were to allow this use as a conditional use, it would have to apply the standards for development found in Administrative Rule 660-033-0130 (38).

Marion County previously adopted code to implement photovoltaic solar arrays as a conditional use in farm zones. The code criteria were contained in section 17.120.110 of the Marion County Code which applied to all farm zones in Marion County, this included EFU (Exclusive Farm Use), SA (Special Agriculture) and FT (Farm/Timber).

In March of 2018, the Marion County Board of Commissioners adopted Ordinance 1387, amending certain provisions in the rural zone code. This ordinance repealed code sections regarding photovoltaic solar and removed it as a specific conditional use. The code section mentioned earlier, 17.120.110, which is used to approve photovoltaic solar arrays, no longer contains any provisions for a solar array.

8. While the FT zone permits a power generating facility, this language pre-dates the amendments the Department of Land Conservation and Development made in 2017 which required specific standards to be applied to development of solar arrays on farmland. Since the County removed those standards from its code and removed the provisions for allowing solar arrays as a conditional use, there is not a means to permit solar arrays on farmland. Not allowing solar arrays on farmland was the intention of the board of commissioners at the time of the code amendment.
9. Based on the above discussion, staff cannot recommend approval of the described conditional use.