

# **NOTICE PUBLIC HEARING AFFECTING THIS AREA**

## **Administrative Review 21-038**

**PURPOSE OF HEARING:** for an administrative review to determine whether a Measure 49 Order remains valid on a 13.53 acre property consisting of two tax lots in an EFU (Exclusive Farm Use) zone located in the 14300 block of Evans Valley Road NE, Silverton (T6S; R1W; Section 35D; tax lots 1400 and 1600).

**APPLICANTS:** Joshua N. Fogarty

**DATE AND TIME OF HEARING:** February 3, 2022; 2:00 p.m.

**LOCATION OF HEARING:** Senator Hearing Room, 1st floor, Courthouse Square Building, 555 Court St. NE, Salem

**HOW TO PARTICIPATE:** Any interested person (or representative) may comment at the hearing or submit written comments. Written comments may be submitted at the hearing or, if submitted prior to the hearing, must be received at the Planning Division office by 5:00 p.m. the day before this public hearing. The Planning Director's decision, application, documents and applicable criteria are available for review at no cost and copies are available. The decision can also be viewed on the Planning Division website at: <http://www.co.marion.or.us/PW/Planning/Pages/Public%20Hearings.aspx>. Before the close of the initial evidentiary hearing any party may request an opportunity to present additional evidence, argument or testimony. The hearings officer shall grant the request by continuing the hearing or leaving the written record open for at least seven days.

Testimony presented at land use hearings conducted by the Hearings Officer must be under oath. Witnesses giving oral testimony will be sworn in at the time testimony is given. Corporations, including governmental bodies that are the applicant must appear through an attorney (ORS 9.320). Licensed Oregon attorneys may make legal argument without being sworn, as long as facts on which the argument is based are supported by sworn oral testimony or written affidavit. After the close of the hearing the Hearings Officer may approve or deny the application, remand to the Planning Division, or approve a modified proposal. Failure to raise an issue, in person or by letter, or failure to provide sufficient specificity to afford the Hearings Officer an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA) based on that issue. 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.

**LAND USE DECISION CRITERIA:** The criteria upon which the decision on this application will be based include:

- The terms contained in Final Order and Home Site Authorization E133582

For information regarding this application contact Alyssa Schrems; [aschrems@co.marion.or.us](mailto:aschrems@co.marion.or.us); (503) 566-4165; Marion County Planning Division; (503) 588-5038; 5155 Silverton Rd NE, Salem Oregon 97305

**NOTE:** The scheduling of a hearing and the mailing of this notice should not be construed in any way as a determination that the application has been deemed complete under the provisions of ORS 215.428.

In order to accommodate persons with physical impairments, please notify the Planning Division of any accommodations you may need as far in advance of the hearing as possible.

## **LAND USE HEARINGS – FREQUENTLY ASKED QUESTIONS**

### **Why did I receive this notice?**

You received this public hearing notice because a property owner in your area filed a land use application that requires a hearing OR the decision of a land use application for property in your area has been appealed. State law requires that we provide notice of land use hearings to the applicant(s) and property owners within a certain distance of the subject property.

### **If I attend, do I have to testify? And what if I cannot attend?**

We encourage interested citizens to participate in the land use and hearing process. You may come and simply observe. You may also send comments in writing (hard copy or electronic mail) prior to the hearing or submit them during the hearing as noted below. Written comments will be included in the record.

### **What will happen at the public hearing?**

Planning Division staff will present their report and recommendation. The hearings officer will then take testimony from the applicant, those in support, in opposition, and any general comments. The applicant will then be given an opportunity to present rebuttal. After all of the testimony, the hearings officer will close the hearing. However, anyone may request additional time to present more evidence, argument or testimony. The hearings officer will grant the request by continuing the hearing or leaving the written record open for at least seven days. Once the hearing and record is closed no further testimony or comments will be allowed, and the hearings officer will take the case under advisement. Please note that Marion County hearing rules prohibit the hearings officer from discussing a case with interested parties after the close of the hearing.

### **How do I testify?**

In the hearing room you will find a sign-up sheet for those wishing to testify and/or receive notice of the decision. If you have written comments that were not submitted prior to the hearing, sign up to speak and submit them at that time. When it is your turn, you will be called to the table. State your name and address and remember to speak clearly into the microphone as your testimony will be recorded as part of the public record. Please be concise and limit your testimony to approximately three minutes. The hearings officer may ask questions to clarify your comments. Please note if the hearing is the result of an appeal by someone other than the applicant, the order of testimony may be altered to require that the appellant present testimony first.

### **When is a decision made?**

Approximately 4-6 weeks after the public hearing and record is closed, depending on the complexity of the case, the hearings officer will issue a decision. She may approve or deny the case, may remand it to the Planning Division, or approve a modified proposal. For zone change applications she will issue a recommendation to the Board of Commissioners.

### **How will I be notified of the decision?**

If you attended the public hearing and/or requested a copy of the decision one will be mailed to you. Please note the hearings officer's decision can be appealed to the Marion County Board of Commissioners. Details of the appeal process are included in the decision or available from the Planning Division.

For more information, please contact the Planning Division at (503) 588-5038 or [planning@co.marion.or.us](mailto:planning@co.marion.or.us)