

Attention Property Owner: A land use proposal has been submitted for property near where you live or near 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
FLOODPLAIN/GREENWAY DEVELOPMENT PERMIT CASE NO. 18-001**

APPLICATION: Application of Oregon Parks and Recreation Department for a floodplain development permit to install vegetative riprap bank stabilization in the identified 100 year floodplain of the Willamette River on a 677.5 acre parcel in an EFU (Exclusive Farm Use) zone located at 7679 Champoege Road NE, St. Paul. (T4S; R2W; (Section 01C; tax lot 100)(Section 01D; tax lots 100, 300, 400, and 500) and (Section 02; tax lots 100, 200, 300, 400, and 500).

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

EXPIRATION DATE: This Floodplain Development Permit is valid only when exercised by **March 9, 2018**. 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.

All development in the floodplain is subject to federal, local and state regulations and standards at the time development is begun. These regulations and standards are in the process of being revised and the development proposed in this application may be subject to additional regulations and standards at the time construction of structures or placement of fill on the property begins.

Based on preliminary information provided by the National Marine Fisheries Service on April 14, 2016, federal law might only recognize as legal under the county current floodplain ordinance building permits that are issued prior to September 15, 2016 and where the work is begun prior to March 15, 2017. Permits issued after September 15, 2016 or not begun until after March 15, 2017 may be in violation of federal law and thus invalidate this local permit.

Construction related to this permit is approved only within the existing developed area of the property. Construction of new structures, fill or other development of the property should not occur outside the existing developed area without prior consultation with the Marion County Planning Division. Federal regulations may require additional approvals for development outside the existing developed area of the property.

Applicants are further advised that buildings constructed with below-grade crawlspaces will have higher flood insurance premiums than buildings that have the preferred crawlspace construction (the interior grade of the crawlspace is at or above the adjacent exterior grade).

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. Prior to beginning the work, a registered civil engineer shall certify the proposal meets the requirements of MCC 17.178.050(D), and 17.178.060(D)(1), (E) and (J).

3. Prior to construction of the project, the applicant shall sign and submit to the Planning Division a Declaratory Statement (enclosed) acknowledging that the property and the approved development are located within a floodplain. The applicant shall record this statement with the Marion County Clerk after it has been reviewed and signed by the Planning Director.

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/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 any restrictions or conditions thereon.

4. The applicants should contact the St. Paul and Aurora Fire Districts to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.
5. Materials that are buoyant, flammable, obnoxious, toxic or otherwise injurious to persons or property, if transported by floodwaters, are prohibited unless stored within a structure or on land elevated above the base flood level. Storage of materials and equipment not having these characteristics is permissible only if the materials and equipment have low-damage potential and are anchored or are readily removable from the area within the time available after forecasting and warning.

APPEAL PROCEDURE: The Marion County Zone Code provides that certain applications be considered first by the 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. Anyone who disagrees with the Director's decision may request that the application be considered by a Marion County hearings officer after a public hearing. The applicant may also request 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 a hearings officer, must be in writing and received in the Marion County Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on **March 9, 2018**. If you have any questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **March 10, 2018** unless further consideration is requested.

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 and correspondingly zoned EFU (Exclusive Farm Use). The property is Champoeg State Park and the development sites are located within the identified floodway and the 100 year floodplain of the Willamette River. The site is also located within the Greenway of the Willamette River.
2. The subject property is located within Champoeg State Park north of Champoeg Road NE in the 8,300 block.
3. Surrounding land in all directions consist of rural homesites and properties being farmed in an EFU zone.
4. Soil Report for Marion County Oregon indicates the soils on the subject property are 97% high-value soil.
5. The applicant proposes to construct a bank stabilization project at Champoeg State Park - one associated with an existing dock and one associated with an existing stormwater outflow.
6. Marion County Code (MCC) 17.179.030 exempts the following activities from requiring a greenway development permit:
 - D. *Activities to protect, conserve, enhance and maintain public recreational, scenic, historical and natural uses of public lands, except that a substantial increase in the level of development of existing public recreational, scenic, historical or natural uses on public lands shall require review as provided by this chapter;*

- H. Maintenance and repair usual and necessary for the continuance of an existing use;*
- I. Landscaping, construction of driveways, repair or maintenance of existing structures, and the construction or placement of accessory structures other than guest houses; provided, that such activities are conducted in conjunction with uses already existing on the same property and that they are accomplished in a manner compatible with the purpose of this chapter;*

The proposed repairs are to maintain and enhance existing structures for use by the public at the state park. The proposed activities are exempt from requiring a greenway development permit.

- 7. All contacted agencies failed to comment or stated no objection to the proposal.
- 8. The purpose of the Floodplain Overlay Zone is to promote public health, safety and general welfare to minimize public and private losses due to flood conditions. The criteria and standards which must be satisfied are listed in Section 17.178.060 of the Marion County Code (MCC).
- 9. The sites are on Flood Insurance Rate Map #41047C0025G in an AE floodplain zone. The structures do not contain first floors therefore will not have to be elevated above a base flood elevation.
- 10. MCC 17.178.050 requires for any development in the floodplain:

C. Prior to obtaining a building permit the owner shall be required to sign and record in the deed records for the county a declaratory statement binding the landowner, and the landowner's successors in interest, acknowledging that the property and the approved development are located in a floodplain.

The recording of this statement can be made a requirement of any approval.

D. Prior to obtaining a building permit, commencing development or placing fill in the floodplain the applicant shall submit a certification from a registered civil engineer demonstrating that a development or fill will not result in an increase in floodplain area on other properties and will not result in an increase in erosive velocity of the stream that may cause channel scouring or reduce slope stability downstream of the development or fill.

The provision of this engineering certification can be made a requirement of any approval.

E. 1. The applicant shall provide an elevation certificate signed by a licensed surveyor or civil engineer certifying that the actual elevations of all new or substantially improved manufactured homes, dwellings and structures meet the requirements of MCC 17.178.060(A), (B) and (C), where applicable, as follows:

- a. Prior to construction (based on construction drawings); and*
- b. Once the floor elevation can be determined (based on the building under construction); and*
- c. Prior to occupancy (based on finished construction).*
- 2. Unless requested by FEMA, elevation certificates shall not be required for the following uses:*
 - a. Water dependent uses, such as boat ramps, docks, wells and well covers.*
 - b. Improvements resulting from cut or fill operations, such as berms, bank improvements, ponds and dams.*
 - c. Small scale facilities necessary to serve other uses, such as kiosks and open picnic shelters.*
 - d. Grading, such as for roadways, even where alteration of topography occurs.*

Because these are bank improvement projects, elevation certificates will not be required.

- 11. MCC 17.178.060 requires the project demonstrate compliance with the following flood protection standards:

D. Anchoring.

- 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.*

E. Construction Materials and Methods.

- 1. All new construction and substantial improvements below base flood level shall be constructed with materials and utility equipment resistant to flood damage, and the design and methods of construction are in accord with accepted standards of practice based on an engineer's or architect's review of the plans and specifications.*
- 2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damages.*

J. Floodways. Located within areas of floodplain established in MCC 17.178.030 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential the following provisions shall apply in addition to the requirement in subsection (I) of this section:

- 1. Prohibit encroachments, including fill, new construction, substantial improvements and other development unless a certified technical evaluation is provided by a registered professional engineer or architect demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. This evaluation may be submitted to the Federal Emergency Management Agency for technical review.*
- 2. If subsection (J)(1) of this section is satisfied all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.*
- 3. The area below the lowest floor shall remain open and unenclosed to allow the unrestricted flow of floodwaters beneath the structure.*

The provision of these engineering certifications can be made a requirement of any approval.

12. Based on the above findings, it has been determined that the proposal complies with the criteria in the Marion County Code and is, therefore, **APPROVED**.

Joe Fennimore
Planning Director

Date: February 22, 2018

If you have any questions regarding this decision contact Brandon Reich 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.