

**NOTICE OF DECISION
FLOODPLAIN DEVELOPMENT PERMIT CASE NO. 19-002**

APPLICATION: Application of Leo Dibala for a floodplain permit to replace a dwelling in the 100-year floodplain of the North Santiam River on a 1.19 acre property in an SA (Special Agriculture) zone located at 11815 Riverhaven Lane SE, Stayton (T9S; R1E; Section 14DC; tax lot 100).

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

EXPIRATION DATE: This Floodplain Development Permit is valid only when exercised by **April 11, 2021**. 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 work on an existing permit that has begun prior to September 15, 2016 and is completed prior to March 15, 2017. Work begun after September 15, 2016 or completed 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 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.
3. Prior to issuance of building permits for the residence, a registered civil engineer shall certify the replacement dwelling meets the requirements of Marion County Code:
 - MCC 17.178.050(D)
 - MCC 17.178.060(A)(2) and (3)
 - MCC 17.178.060(A)(5) or (6)

- MCC 17.178.060(A)(7) (if applicable)
 - MCC 17.178.060(D), (E) and (F)
4. Prior to issuance of building permits for a garage, a registered civil engineer shall certify the replacement dwelling meets the requirements of Marion County Code:
 - MCC 17.178.050(D)
 - MCC 17.178.060(A)(7) or (8)
 - MCC 17.178.060(D), (E) and (F)
 5. An Elevation Certificate for the residence and any garage shall be supplied for the addition at the following times during the permitting process:
 - (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).
 6. If a garage is constructed, the applicant shall record a declaratory statement as required in MCC 17.178.060(A)(7) or (A)(8).
 7. The dwelling and any garage shall be located as indicated in the applicant's statement and shall maintain 20 foot setbacks from the property lines proposed by Property Line Adjustment Case #18-040.

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. It is recommended that the agencies mentioned in Finding #6 below be contacted to identify restrictions or necessary permits.

8. The applicants should contact the Stayton Fire District 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.
9. 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.
10. The applicant is 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).
11. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #6 below, that may be required.

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 **April 11, 2019**. If you have any questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 12, 2019** 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). It is located within the identified 100 year floodplain of the North Santiam River.
2. The subject property is located in the 11800 block of Riverhaven Lane SE, Stayton. The property contains a dwelling, accessory buildings, well, and septic system. The property was the subject of Property Line Adjustment Case #PLA18-040 which approved a reconfiguration of this property with its neighboring property. The parcel is considered a legal lot for land use purposes.
3. Surrounding lands consist of properties being farmed, native stands of timber, and rural homesites in a SA (Special Agriculture) zone.
4. Soil Survey for Marion County, Oregon indicates that 98% of the soils on the subject parcel are high-value soil.
5. The applicant proposes to replace a manufactured dwelling with a new manufactured dwelling.
6. Public Works Land Development and Engineering Permits commented as follows: "A. Credit for any previously paid SDCs will be given. Should a replacement dwelling be determined to be replacing an existing approved use that was established prior to year 2000, then no SDCs will be assessed if a complete building permit application is submitted within 12 months from the last verifiable date of occupation of the dwelling to be replaced."

Marion County Building Inspection commented that permits will be required for new construction or the placement of a manufactured dwelling.

Marion County Building Inspection Onsite Wastewater Specialist commented that a septic authorization or septic permits are required. Contact at (503) 588-5147 for more information.

Marion County Tax Office provided information regarding taxes on the subject properties.

Federal Emergency Management Administration commented that a Marion County Floodplain Development Permit is required to comply with National Flood Insurance Program criteria.

7. Because the proposal is to replace a dwelling in the floodplain, a floodplain permit is required. 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. In order to ensure that the development is reasonably safe from flooding, the County requires the development comply with the criteria and standards listed in Section 17.178.060 of the Marion County Code (MCC).
8. The property is shown on Marion County Flood Insurance Rate Map #41047C0750G, dated January 19, 2000 in a flood zone 'A' where the Base Flood Elevation (BFE) has not been determined.
9. Marion County Code (MCC) 17.178.050 requires:
 - 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.*

This can be made a condition 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.*

This can be made a condition of any approval.

10. MCC 17.178.050 (E) requires:

“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:

- 1. Prior to construction (based on construction drawings), and*
- 2. Once the floor elevation can be determined (based on the building under construction), and*
- 3. Prior to occupancy (based on finished construction).”*

The provision of elevation certificates for the dwelling and a garage if constructed can be made a condition of any approval.

11. MCC 17.178.060 contains additional standards for development in the floodplain:

- A. Dwellings, Manufactured Homes and Related Accessory Structures. New residential construction, substantial improvement of any residential structures, location of a manufactured home on a lot or in a manufactured home park or park expansion approved after adoption of this title shall:*
- 2. Manufactured homes shall have the bottom of the longitudinal chassis frame beam, including basement, elevated on a permanent foundation to two feet above base flood elevation. Where the base flood elevation is not available, the finished floor, including basement, shall be elevated on a permanent foundation to two feet above highest adjacent natural grade (within five feet) of the building site;*
 - 3. Manufactured homes shall be anchored in accordance with subsection (D) of this section;*
 - 5. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must comply with the following standards:*
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;*
 - b. The bottom of all openings shall be no higher than one foot above grade;*
 - c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters;*
 - 6. Construction where the crawlspace is below grade on all sides may be used. Designs for meeting these requirements must either be certified by a registered professional engineer or architect, or must meet the following standards, consistent with FEMA Technical Bulletin 11-01 for crawlspace construction:*
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;*
 - b. The bottom of all openings shall be no higher than one foot above grade;*
 - c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters;*
 - d. Interior grade of the crawlspace shall not exceed two feet below the lowest adjacent exterior grade;*
 - e. The height of the crawlspace when measured from the interior grade of the crawlspace (at any point on grade) to the bottom of the lowest horizontal structural member of the lowest floor shall not exceed four feet;*
 - f. An adequate drainage system that removes floodwaters from the interior area of the crawlspace shall be provided;*
 - g. The velocity of floodwaters at the site shall not exceed five feet per second for any crawlspace. For velocities in excess of five feet per second, other foundation types shall be used; and*
 - h. Below-grade crawlspace construction in accordance with the requirements listed above will not be considered basements for flood insurance purposes. However, below-grade crawlspace construction in the special flood hazard area is not the recommended construction method because of the increased likelihood of problems with foundation damage, water accumulation, moisture damage, and drainage. Applicants shall be*

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);

Requiring these certifications for the dwelling can be made a condition of any approval.

7. *A garage attached to a residential structure, constructed with the garage floor slab below the base flood elevation, or a fully enclosed space beneath a dwelling that does not constitute a basement may be constructed to wet floodproofing standards; provided, that:*
 - a. *The garage or enclosed space shall be constructed with unfinished materials, acceptable for wet floodproofing to two feet above the base flood elevation or, where no BFE has been established, to two feet above the highest adjacent grade;*
 - b. *The garage or enclosed space shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must comply with the following standards:*
 - i. *A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;*
 - ii. *The bottom of all openings shall be no higher than one foot above grade;*
 - iii. *Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters;*
 - c. *Electrical, heating, ventilation, plumbing, and air-conditioning equipment shall be elevated to one foot above the level of the base flood elevation. Where the base flood elevation is not available, the electrical, heating, ventilation, plumbing and air-conditioning equipment shall be elevated to one foot above the highest adjacent natural grade (within five feet) of the building site;*
 - d. *The garage or enclosed space shall be limited to vehicle parking, building access, and storage of items having low damage potential when submerged by water (no workshops, offices, recreation rooms, etc.);*
 - e. *The garage or enclosed space shall not be used for human habitation;*
 - f. *A declaratory statement is recorded requiring compliance with the standards in subsections (A)(7)(a) through (e) of this section;*
8. *A detached residential accessory structure may be constructed to wet floodproofing standards; provided, that:*
 - a. *The accessory structure shall be located on a property with a dwelling;*
 - b. *The accessory structure shall meet the criteria for a variance in MCC 17.178.090;*
 - c. *The accessory structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;*
 - d. *The accessory structure shall be constructed with unfinished materials, acceptable for wet floodproofing to two feet above the base flood elevation or, where no BFE has been established, to two feet above the highest adjacent grade;*
 - e. *The accessory structure shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must comply with the following standards:*
 - i. *A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;*
 - ii. *The bottom of all openings shall be no higher than one foot above grade;*
 - iii. *Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters;*
 - f. *Electrical, heating, ventilation, plumbing, and air-conditioning equipment shall be elevated to one foot above the level of the base flood elevation. Where the base flood elevation is not available, the electrical, heating, ventilation, plumbing and air-conditioning equipment shall be elevated to one foot above the highest adjacent natural grade (within five feet) of the building site;*

- g. *The accessory structure shall be limited to vehicle parking and storage of items having low damage potential when submerged by water (no workshops, offices, recreation rooms, etc.);*
- h. *The accessory structure shall not be used for human habitation;*
- i. *A declaratory statement is recorded requiring compliance with the standards in subsections (A)(8)(d) through (h) of this section.*

Requiring these certifications for any garage, and the recording of a declaratory statement, can be made a condition of any approval.

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.*

F. Utilities.

- 1. *All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system as approved by the State Health Division.*
- 2. *New and replacement sanitary sewage systems including on-site waste disposal systems shall be designed and located to minimize floodwater contamination consistent with the requirements of the Oregon State Department of Environmental Quality.*
- 3. *Electrical, heating, ventilation, plumbing and air-conditioning equipment shall be elevated to one foot above the level of the base flood elevation. Where the base flood elevation is not available, the electrical, heating, ventilation, plumbing and air-conditioning equipment shall be elevated to one foot above the highest adjacent natural grade (within five feet) of the building site.*

Requiring these certifications for any development can be made a condition of any approval.

- H. Storage of Materials and Equipment. Materials that are buoyant, flammable, obnoxious, toxic or otherwise injurious to persons or property, if transported by floodwaters, are prohibited. 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.*

Compliance with this standard can be made a condition of any approval.

- 12. Based on the above findings, it has been determined that the proposal complies, or can be conditioned to comply, with the criteria in the Marion County Code and is, therefore, APPROVED, subject to conditions.

Joe Fennimore
Planning Director

Date: April 1, 2019

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.