

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 DEVELOPMENT PERMIT CASE NO. 24-003**

**APPLICATION:** Application of Scott and April Palmer for a floodplain development permit to construct an RV carport within the 100-year floodplain on a 0.53-acre parcel in the SA (Special Agriculture) zone located 11922 Riverhaven Ln SE, Stayton (T9S; R1E; Section 14DC; Tax Lot 1000).

**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 **June 5, 2026**. 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 began 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.**

**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. Prior to development, the applicant shall develop a Base Flood Elevation for the development on the property.
2. Prior to development, the applicant shall sign and submit to the Planning Division a Floodplain 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 development, the applicant shall sign and submit to the Planning Division a Floodplain Accessory Structure Non-Conversion Agreement (enclosed) acknowledging the use of the structure and standards for development in the floodplain. The applicant shall record this statement with the Marion County Clerk after it has been reviewed and signed by the Planning Director.

4. Prior to development, a registered civil engineer shall certify the metal building meets the requirements of Marion County Code: MCC 17.178.050(D) and MCC 17.178.060(A)(8), (D)(1), (E) and (F)
5. An Elevation Certificate shall be supplied at the following times during the permitting process:
  - (a) Prior to construction (based on construction drawings)
  - (b) Once the floor elevation can be determined (based on the building under construction)
  - (c) Prior to occupancy (based on finished construction)

**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.

6. The applicants should contact the Stayton Fire District to obtain a copy of the District's Recommended Building Access, water supply and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.
7. 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 **June 5, 2024**. If you have any questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **June 6, 2024**, 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 Special Agriculture in the Marion County Comprehensive Plan and correspondingly zoned SA (Special Agriculture). The property is located within the identified 100-year floodplain of the North Santiam River.
2. The subject parcel is lot 9 of the Riverhaven Addition, located on the south side of Riverhaven Ln SE, on the bank of the North Santiam River. The property is entirely within the 100-year floodplain of the North Santiam. It was the subject of a Floodplain Development permit in 1997 (FP97-019), and a lot line adjustment in 1997 (LLA97-017). The parcel has remained in the configuration created by LLA97-017 and is therefore a legal lot for land use purposes.
3. Properties in all directions are zoned SA and developed with a mix of farming and residential uses. All directly adjacent parcels are in rural residential use. Agricultural uses exist to the west of this cluster of rural residential uses, and to the east of these properties is approximately 50-acres of naturally forested area with wetlands owned by the State of Oregon. Timber uses exist across the river in Linn County.
4. Soil Survey for Marion County, Oregon indicates 100% of the soils on the property are high-value soils.

5. The applicant proposes to build a metal RV/Carport with a 10' x 20' footprint.
6. Various agencies were contacted for comment on the application.

Marion County Building Inspection commented: "According to the 2023 Oregon Residential Specialty Code, Section R105.2, Item #1, a building permit is not required to be obtained for this accessory structure since the proposed size is 200 square feet in area. This section limits the height of the structure to an average roof height of 15 feet, meaning 10 foot high to the lower end of the roof and up to 20 feet at the ridge, which would create a 15 foot average roof height. However, if any electrical, plumbing, or mechanical systems are intended to be installed on or in this structure, then separate permits would be required for these systems."

All other agencies either indicated no concerns or did not provide comments on the application.

7. 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 17.178.050 and 17.178.060 of the Marion County Code (MCC).
8. Marion County Flood Insurance Rate Map #41047C0750G indicates that the development site is in an unnumbered A zone. The applicant will be required to work with a surveyor to develop a Base Flood Elevation (BFE) at the development site.
9. Marion County Code 17.178.050 requires prior to 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 declaratory statement 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.*

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

*E. The applicant shall provide an elevation certificate signed by a licensed surveyor or civil engineer certifying that the actual elevations (in relation to mean sea level) of the lowest floor (including basement) and all attendant utilities of all new or substantially improved residential structures including manufactured dwellings meet the requirements of MCC 17.178.050(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 this certification can be made a condition of any approval.

10. Additionally, MCC 17.178.060 provides standards for development in a floodplain:

*A. Residential Structures, Including Manufactured Dwellings and Related Structures. New residential construction, substantial improvement of any residential structures, location of a manufactured dwelling on a lot or in a manufactured dwelling park or park expansion shall:*

8. *A detached residential accessory structure may be constructed to wet floodproofing standards; with relief from elevation or floodproofing requirements for residential and nonresidential structures in riverine (non-coastal) flood zones provided that the following requirements are met:*

a. *Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in subsection (J) of this section;*

The structure is not proposed to be located in a floodway. This criterion does not apply.

b. *Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation;*

The applicants are proposing to use the building only for parking. This criterion is met.

c. *In compliance with State of Oregon Specialty Codes, appurtenant structures on properties that are zoned residential are limited to one-story structures less than 200 square feet, or 400 square feet if the property is greater than two acres in area and the proposed appurtenant structure will be located a minimum of 20 feet from all property lines. Appurtenant structures on properties that are zoned as nonresidential are limited in size to 120 square feet;*

The subject property is in residential use. The proposed structure will be a maximum of 200 square feet. This criterion is met.

d. *The portions of the appurtenant structure located below two feet above the base flood elevation, or where no BFE has been established, below two feet above the highest adjacent grade shall be built using flood resistant materials;*

e. *The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;*

f. *The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in subsection (A) of this section;*

g. *Appurtenant structures shall be located and constructed to have low damage potential;*

h. *Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with subsection (L) of this section;*

i. *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 or shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood;*

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

j. *A declaratory statement is recorded requiring compliance with the standards in subsections (A)(8)(b) through (i) of this section.*

The recording of this 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 resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.*

*E. Construction Materials and Methods.*

1. *All new construction and substantial improvements 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 floodwaters into the system as approved by the State Health Division.*
2. *New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters in the systems and discharge from the systems into floodwaters.*
3. *On-site waste disposal systems shall be designed and located to avoid impairment to them or contamination from them during flooding consistent with the requirements of the Oregon State Department of Environmental Quality.*
4. *Electrical, heating, ventilation, plumbing, duct systems, air-conditioning and other equipment and service facilities not installed so as to prevent water from entering or accumulating within the components during conditions of the base flood 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. If replaced as part of a substantial improvement the utility equipment and service facilities shall meet all the requirements of this subsection.*

The provision of these certifications 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 criterion can be made a condition of any approval.

11. 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.

Brandon Reich  
Planning Director/Zoning Administrator

Date: May 21, 2024

If you have any questions regarding this decision, contact John Speckman 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.