

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. 24-004**

**APPLICATION:** Application of the Zielinski Living Trust and Windsor Island Company, LLC for a floodplain development permit to place fill in the identified 100-year floodplain of the Willamette River on a 56.94-acre parcel and 106.13-acre parcel in an EFU (Exclusive Farm Use) zone located at 6770 & 6820 Windsor Island Road, N, Keizer. (T6S; R3W; Section 28; Tax lot 100 & Section 28D; 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 **June 8, 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 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, if applicable.
2. Marion County Land Development Engineering and Permits requires the following condition be met before approval:

**Condition A** – Over the course hauling fill materials into the mine pit site, conduct daily end-of-workday monitoring of the driveway approach connection at Windsor Island Road for strewn gravel on the public road and sweep clean, as necessary.

3. Prior to placing fill, the applicant shall submit a certification from a registered civil engineer demonstrating that the 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 project.
4. Prior to placing fill, the applicant shall sign and submit to the Planning Division a Declaratory Statement 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.
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.
6. The applicant is advised that 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.
7. Construction related to this permit is approved only in the area of the property identified in the application. Construction of new structures, placement of fill or other development of the property shall 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 identified in the application.
8. The applicant shall obtain all necessary permits from the Oregon Division of State Lands and the Army Corps of Engineers for development in wetlands.
9. The applicants shall obtain all necessary permits, and stay in compliance with all permits, from the Oregon Department of Environmental Quality for transportation and placement of fill.

**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.

**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 8, 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 9, 2024**, unless further consideration is requested.

1. The subject property is designated Primary Agriculture in the Marion County Comprehensive Plan and correspondingly zoned EFU (Exclusive Farm Use). Portions of the property are within the 100-year and 500-year floodplain of the Willamette River.
2. The subject property is located at the site of an old gravel extraction site east of Windsor Island Road NE in the 6,900 block. The proposed fill area for this permit is located on tax lot 100 of section 28D. Previous fill authorized by FP18-003 was primarily on tax lot 100 of section 28 of the subject property.
3. All surrounding properties to the north, south, east, and west consist primarily of commercial farm operations in an EFU (Exclusive Farm Use) zone within Marion County.
4. The applicant proposes to restore to grade a former gravel extraction site. This would allow for an additional 4-acres of land to put into agricultural use on the property. This process began after an approval of FP18-003 in 2018 and would continue with approval of this permit.
5. Marion County Soil Survey indicates that soils on tax lot 100 of section 28D of the subject property consists of 99.9% high value soils, and tax lot 100 of section 28 of the subject property consists of 97.7% high value soils.
6. Various agencies were contacted for comment on the application.

Oregon Department of Fish and Wildlife commented: “Within the proposed work area the National Wetland Inventory has identified a freshwater pond. For activities that will result in fill being placed in the area, it is highly recommended that the applicant coordinate with DSL [Department of State Lands] to determine if a Removal-Fill permit is required”

Marion County Land Development Engineering and Permits requested the following be included:

**ENGINEERING CONDITION**

***Condition A*** – Over the course hauling fill materials into the mine pit site, conduct daily end-of-workday monitoring of the driveway approach connection at Windsor Island Road for strewn gravel on the public road and sweep clean, as necessary.

Marion County Code Enforcement provided a comment about the project that is included in the case file.

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 Marion County Code (MCC).
8. The property is on Flood Insurance Rate Map #41047C0193G in a 100-year floodplain AE zone. Portions are also within the Shaded X zone (orange color on the aerial photograph), a 500-year floodplain. The proposed fill will be within the 100-year floodplain. No development requirements apply within the Shaded X zone.
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 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 certification can be made a condition of any approval.

10. 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**, subject to conditions.

Brandon Reich,  
Planning Director/Zoning Administrator

Date: May 24, 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.