

**NOTICE OF DECISION
FLOODPLAIN DEVELOPMENT PERMIT CASE NO. 20-005**

APPLICATION: Application of David & Sylvia Womack for a floodplain development permit to construct a shop in the identified 100 year floodplain of the North Santiam River on a 0.76 acre parcel in an EFU (Exclusive Farm Use) zone located at 17204 Harris Lane SE, Jefferson. (T10S; R3W; Section 13B; tax lot 00700).

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 **July 3, 2022**. 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: Following conditions must be met before building permits can be obtained or the use established:

1. The applicant shall obtain all permits required by the Marion County Building Inspection Division.
2. An Elevation Certificate shall be supplied for the shop at the following times during the construction process:
 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).
3. Prior to issuance of building permits for or beginning work on the shop a registered civil engineer shall certify the following standard of Marion County Code is met: MCC 17.178.050(D).
4. Prior to issuance of building permits for or beginning work on the shop, a registered civil engineer shall certify the following standards of Marion County Code are met: MCC 17.178.060(A)(1) and (6), (D)(1), (E) and (F).
5. Prior to issuance of building permits for or beginning work on the shop, 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.

6. Prior to issuance of building permits for or beginning work on the shop, the applicant shall record a declaratory statement requiring compliance with the standards in subsections 17.178.060(C)(3)(c) through (g) of the Marion County Code.

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.

7. 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.
8. The applicant should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirement and Advisory, listed in Finding #5 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 **July 3, 2020**. If you have any questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **July 4, 2020** 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 and correspondingly zoned EFU (Exclusive Farm Use). The property is within the identified 100 year floodplain of the North Santiam River.
2. The property is located at 17204 Harris Lane SE, Jefferson, approximately 700 feet south of Jefferson Scio Drive.
3. Surrounding properties in all directions consist of properties in an EFU zone developed with a dwelling, with some properties in farm use as well.
4. The applicant is proposing to construct a shop on their property. The shop is proposed to be used for personal use, accessory to the existing dwelling.
5. Marion County Building Inspection commented that permits would be required for new construction.

Public Works Land Development and Engineering Permits (LDEP) provided the following comments:

ENGINEERING REQUIREMENT

Prior to issuance of building permits, acquire an Access Permit from PW Engineering, and under the Permit, narrow the driveway approach width to within 24 feet for a residential access to meet PW Engineering standards. Review of aerial and ground imagery indicates the access was widened without a permit from approximately 12 feet to 52 feet sometime between 2014-2016.

ENGINEERING ADVISORY

A raingarden is depicted on the land use application engineered site plan. The county has no requirement for stormwater water quality treatment for this property, including for the shop addition. Furthermore, the level of development does not trigger stormwater detention either. LEI Engineering has been advised accordingly.

6. 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).
7. Marion County Flood Insurance Rate Map #41047C1000G indicates that the development site is within the floodplain of the North Santiam River in an AE zone, where the Base Flood Elevation (BFE) has been determined to be 229.5 feet.
8. MCC 17.178.050 (C) requires:
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 the declaratory statement can be made a condition of any approval.

9. MCC 17.178.050 (D) requires:
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. 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 (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 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 applicant provided an expired elevation certificate with no associated building plans. At the time of application for a building permit, a current elevation certificate with associated building plans shall be required. The provision of this certification can be made a condition of any approval.

11. MCC 17.178.060 contains standards for development in the floodplain. If buildings are constructed on natural grade that is above the Base Flood Elevation prior to any development or fill being placed on the property, and the lowest floor of the building will remain above the BFE the standards below do not apply. Evidence of the ground elevation, lowest floor elevation and BFE shall be provided through an Elevation Certificate.

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

1. *Residential structures shall have the top of the lowest floor, including basement, elevated on a permanent foundation to two feet above base flood elevation. Where the base flood elevation is not available, the top of the lowest floor including basement shall be elevated on a permanent foundation to two feet above the highest adjacent natural grade (within five feet) of the building site and the bottom of the lowest floor elevated to one foot above the highest adjacent natural grade (within five feet) of the building site;*

The provisions of these certifications for the shop can be made a condition of approval.

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);*

This criterion can be made a condition of 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.*

The provision of the certification for the shop can be made a condition of any approval.

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.*

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

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 shall be designed to minimize or eliminate infiltration of flood waters in the systems and discharge from the systems into flood waters.*

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 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.

This criterion 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: June 18, 2020

If you have any questions regarding this decision contact Alyssa Schrems 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.