

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. 20-006**

APPLICATION: Application of GWM Trucking LLC for a floodplain development permit to replace an existing single family dwelling in the identified 100 year floodplain of the Willamette River on a 36.17 acre parcel in an EFU (Exclusive Farm Use) zone located at 4963 Buena Vista Road S, Jefferson (T9S; R4W; Section 23; tax lot 00100).

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 31, 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 signed by a licensed surveyor or civil engineer shall be supplied for the dwelling 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 dwelling 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 dwelling, a registered civil engineer shall certify the following standards of Marion County Code are met: MCC 17.178.060(C)(3)(b)-(e), (D)(1), and (F).
5. Prior to issuance of building permits for or beginning work on the dwelling, 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 dwelling, 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 Requirements and Advisories, 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 31, 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 **August 1, 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 floodplain of the Willamette River.
2. The property is located at 4963 Buena Vista Rd. S, approximately one mile west of the intersection of Buena Vista Rd., and Gilmour Rd.
3. Surrounding properties in all directions consist of properties in an EFU zone being farmed with some residential home sites.
4. The applicant is proposing to replace a single family dwelling on their property.
5. Marion County Building Inspection commented that permits would be required for new construction.

Jefferson Fire District commented that an approved fire turnaround is required as the driveway is longer than 150'.

Public Works Land Development and Engineering Permits (LDEP) requested that the following conditions be included in the land use decision:

“ENGINEERING REQUIREMENTS

- A. In the event an access easement is needed from the neighbor but cannot be obtained and/or if the physical access were to be restricted at some point in the future, then construction of any new individual access connection to Buena Vista serving the subject property would require an Access Permit.

ENGINEERING ADVISORIES

- B. Review of county GIS mapping and imagery depicts the apparent shared driveway serving the subject property off Buena Vista Road lying on adjacent #4973 Buena Vista Road property to the east. If in fact the driveway is partially or wholly on the neighboring property, and if no access easement exists, it is advised to obtain an easement, as necessary.
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 #41047C0650G indicates that the development site is within the floodplain of the Willamette River in an unnumbered A zone, an area of the floodplain where the Base Flood Elevation has not been determined.
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 provision of this certification 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.

Joe Fennimore, Planning Director

Date: July 16, 2020

If you have any questions regarding this decision contact Lindsey King 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.