

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. 20-008**

APPLICATION: Application of the City of Salem for a floodplain development permit to construct a groundwater collection facility in the identified 100 year floodplain of the Santiam River in a P (Public) zone located in the 15,000 block of Old Mehama Road, Stayton (T9S; R1W; Section 13; tax lot 400).

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 **October 29, 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 pump station, electrical building and ozone facility at the following times during the construction 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).
3. For buildings that the natural grade is below the Base Flood Elevation or the lowest floor will be constructed below the BFE, prior to issuance of building permits for or beginning work on the pump station, electrical building or ozone facility, a registered civil engineer shall certify the following standards of Marion County Code are met: MCC 17.178.060(C) (1), (D) (1), and (F).
4. For buildings that the natural grade is below the Base Flood Elevation or the lowest floor will be constructed below the BFE, a registered civil engineer shall certify the construction will meet the standard of MCC 17.178.060(J) (3), where the area below the lowest floor remains open and unenclosed to allow the unrestricted flow of floodwaters beneath the structure

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.

5. 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.

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 **October 29, 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 **October 30, 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 Public and correspondingly zoned P (Public). The property is within the floodway of the North Santiam River.
2. The property is located south of Minten Lane in the 15,000 block of Old Mehama Road. The property has received approval for floodplain permits in past years; the most recent approval was to construct an ozone facility for water treatment pursuant to Floodplain Case 20-001.
3. Surrounding properties to the north and west are within the urban growth boundary of Stayton. The North Santiam River is to the south. Property to the east is zoned EFU (Exclusive Farm Use) zone and is either being farmed or is wooded.
4. The applicant is proposing to construct a groundwater collection facility at the existing water treatment facility. The groundwater collection facility will consist of a pump station, electrical building, groundwater well, and roadway improvements.
5. Marion County Building Inspection commented that permits would be required for new construction. Oregon Division of State Lands commented that local government coordination and permitting may be required.
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. Linn County Flood Insurance Rate Map #41043C0070G indicates that the development site is within the floodway of the North Santiam River. Based on information provided by the applicant's surveyor, the Base Flood Elevation (BFE) at the development site is 478.9 feet mean sea level.
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 applicant has recorded a declaratory statement previously in Floodplain Case 16-005. This criterion is met.

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 applicant's engineer provided this certification. This criterion is met.

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).*

It appears the structures requiring an elevation certificate are the pump station and electrical building. The provision of these elevation certificates can be made a condition of any approval. This condition is met.

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 those 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.

C. Nonresidential Development.

1. *New construction and substantial improvement of any commercial, industrial or other nonresidential structures shall either have the lowest floor, including basement, elevated to two feet above the level of the base flood elevation, and where the base flood elevation is not available, the lowest floor, including basement, shall be elevated to two feet above the highest adjacent natural grade (within five feet) of the building site, or together with attendant utility and sanitary facilities, shall:*
 - a. *Be flood proofed to an elevation of two feet above base flood elevation or, where base flood elevation has not been established, two feet above the highest adjacent grade, so that the structure is watertight with walls substantially impermeable to the passage of water.*
 - b. *Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.*
 - c. *Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans. This certificate shall include the specific elevation (in relation to mean sea level) to which such structures are floodproofed and shall be provided to the Floodplain Administrator.*
 - d. *Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsections (A) (5) and (6) of this section.*
 - e. *Applicants floodproofing nonresidential buildings shall be notified by the zoning administrator that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level).*

The provision of these certifications for the pump station and electrical facility can be made a condition of any approval.

2. *New construction of any commercial, industrial or other nonresidential structures is prohibited in the floodway. An exception to this prohibition may be granted if a floodplain development permit and variance consistent with MCC 17.178.080 are obtained. This prohibition does not apply to functionally dependent uses.*

This prohibition does not apply to uses that are functionally development that is required to be located on or near water, such as this water treatment facility.

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 pump station and electrical building 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, ~~and~~ 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 for the pump station and electrical building 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.

J. Floodways. Located within areas of floodplain established in MCC 17.178.030 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential the following provisions shall apply in addition to the requirement in subsection (I) of this section:

- 1. Prohibit encroachments, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge.*
- 2. If subsection (J)(1) of this section is satisfied, all new construction, substantial improvements, and other development shall comply with all applicable flood hazard reduction provisions of this section.*
- 3. The area below the lowest floor shall remain open and unenclosed to allow the unrestricted flow of floodwaters beneath the structure.*

The applicant's engineer provide a certification and engineering evidence that the criterion in J(1) are met. The criteria in J (2) and (3) can be made a condition of any approval. Structures with a lowest floor must remain open and unenclosed to allow the unrestricted flow of floodwaters beneath the structure. The code defines "Lowest floor" as "the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this title."

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: October 14, 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.