

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. 22-003**

APPLICATION: Application of the City of Salem for a floodplain development permit to make improvements to the existing Geren Island Water Treatment Plant Filter No. 2 on a 121.30-acre parcel in a P (Public) zone located at 2700 North Santiam Street, Stayton (T9S, R1W, Section 13, Tax Lot 400).

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 9, 2024**. 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. Prior to issuance of building permits, a registered civil engineer or architect shall certify the proposal meets the requirements of MCC 17.178.060(D-F) if applicable.

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.

8. The applicants should contact North Santiam Fire Department to obtain a copy of the District’s Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.
9. 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) based on 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 9, 2022**. 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 10, 2022**, 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 Semi Public in the Marion County Comprehensive Plan and correspondingly zoned P (Public). It is also located entirely within the identified 100-year Floodplain and Floodway of The Santiam River, FIRM ID: 41043C; Zone AE.
2. The subject property is located approximately 1.10 miles west from State Highway 22, off Old Mahama Road SE. The property currently is being used as a Water Treatment Facility and constitutes multiple City owned parcels within the area. The parcel was the subject of multiple previous land use cases; FP96-28, FP99-24, FP92-5, FP16-005, CU/FP04-28, FP20-001, and FP20-008 and is considered legal for land use purposes.
3. Surrounding lands to the north and west are all zoned UT-20 and within the Stayton UGB and in agricultural use with some dwellings. Lands to the east are zoned Public and EFU (Exclusive Farm Use) and developed with farm operations and small homesites.
4. A soil survey indicates that the parcel is predominately non-high value soils:

<u>High Value Soils</u>	<u>7.6</u>	<u>6.3%</u>
<u>Non-High Value Soils</u>	<u>113.7</u>	<u>93.7%</u>
<u>Total</u>	<u>121.3</u>	<u>100%</u>

5. The applicant(s) propose to do some necessary improvements to the Water Treatment Plant within the 100-year floodplain of The Santiam River. The application included a detailed analysis of the proposal and the impacts, if any on the floodplain/floodway. The proposed work will be done entirely within the existing roadway which has

an elevation of 482 feet. According to FEMA elevation maps the BFE for this specific area is 478.3, therefore all work proposed will be conducted above the BFE.

6. All contacted agencies failed to comment or stated no objection to proposal.
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. The criteria and standards which must be satisfied are listed in Section 17.178.050 and 17.178.060 of the Marion County Code (MCC).
8. Flood Insurance Rate Map #41043C0070G indicates that the development is within the floodplain of The Santiam River in the AE zone where the base floodplain elevation has been determined. It appears based on FEMA FIRMette that the base flood elevation is approximately 477 feet on or around the proposed development site. An elevation certificate would confirm the base flood elevation.
9. MCC 17.178.050 (A) requires:
Except as provided in MCC [17.178.040](#) a conditional use permit (floodplain development permit) shall be obtained before construction or development begins within any area horizontally within the floodplain overlay zone (which includes the area of special flood hazard). The floodplain development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in MCC [17.178.020](#). The conditional use permit shall include conditions ensuring that the flood protection standards in MCC [17.178.060](#) are met.

This criterion has been met.

10. MCC 17.178.050 (B) requires:
When base flood elevation data and floodway data have not been provided in accordance with MCC [17.178.030](#), the applicant, with the assistance of the floodplain administrator, shall obtain and reasonably utilize any base flood elevation data or evidence available from a federal, state or other source in order to determine compliance with the flood protection standards. If data are insufficient, the floodplain administrator may require that the applicant provide data derived by standard engineering methods.

The base flood elevation has been established. This criterion has been met.

11. 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. This criterion is met.

12. 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 certificate has been provided. This criterion is met.

13. 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 proposal is for pumps not structures and this criterion does not apply.

14. MCC 17.178.050 (G) requires:

G. In addition to other information required in a conditional use application, the application shall include:

1. Land elevation in mean sea level data at development site and topographic characteristics of the site.
2. Base flood level expressed in mean sea level data on the site, if available.
3. Plot plan showing property location, floodplain, and floodway boundaries where applicable, boundaries and the location and floor elevations of existing and proposed development, or the location of grading or filling where ground surface modifications are to be undertaken.
4. Any additional statements and maps providing information demonstrating existing or historical flooding conditions or characteristics which may aid in determining compliance with the flood protection standards of this overlay zone.
5. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed.
6. Certification by a registered professional engineer or architect licensed in the state of Oregon that the floodproofing methods proposed for any nonresidential structure meet the floodproofing criteria for nonresidential structures in this chapter.
7. A description of the extent to which any watercourse will be altered or relocated.
8. Base flood elevation data for any subdivision proposals or other development when required per MCC [17.178.060](#)(G).
9. Substantial improvement calculation(s) for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.
10. The amount and location of any fill or excavation activities proposed.

This criterion has been met.

15. MCC 17.178.060 contains additional standards for development in the floodplain:

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 floodproofed 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).*

Since the natural ground elevation is above base flood elevation, none of these standards apply.

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.*

The proposal is to upgrade pumps at an existing water treatment plant, which is an established critical facility and functionally dependent use. The criterion is not applicable.

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.*
2. *All manufactured dwellings must likewise be anchored to prevent flotation, collapse, or lateral movements, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Anchoring methods shall be consistent with the standards contained in the Oregon Manufactured Dwelling Installation Specialty Code.*

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 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.*

To the extent that any anchoring or utilities go below the base flood elevation, these certifications can be made a condition of 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.*

Since the natural ground elevation is above base flood elevation, this criterion does not apply.

17. The applicant's proposal does not constitute a residential development, which is prohibited in the Floodway, this proposal is a critical facility and a functionally dependent use which is exempt from this prohibition. The location of the Water Treatment Plant is dependent on the Santiam River. No alteration to the watercourse is proposed and there will be no adverse effect on downstream velocities. As stated, the intent of this application is to show compliance with the MCC floodplain regulations and based on all evidence provided the applicant has met all minimum requirements subject to conditions listed above.
18. 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**.

Brandon Reich
Planning Director/Zoning Administrator

Date: May 25, 2022

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.