

**NOTICE OF DECISION
GREENWAY CASE NO. 19-001**

APPLICATION: Application of Ira Rafei for a greenway permit for a dwelling on a 0.40 acre property in an AR (Acreage Residential) zone located at 23717 1st Street NE, Aurora (T3W; R1W; Section 32CC; tax lot 600).

DECISION: The Planning Director for Marion County has **APPROVED** the above-described Greenway Development application subject to certain conditions.

EXPIRATION DATE: This Greenway Development Permit is valid only when exercised by **April 11, 2021**. 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.

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 applicants shall obtain all permits required by the Marion County Building Inspection Division.
2. The applicant shall maintain the natural native vegetation and habitat on the subject property within the riparian area and greenway.

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.

3. The applicant shall maintain a landscape design between the proposed dwelling and the river that is as natural and native to the area as possible.
4. The applicants should contact Aurora Fire District 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.
5. The applicants should contact Marion County Land Development and Engineering at (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 **April 11, 2019**. If you have any questions about this decision contact

the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 12, 2019** unless further consideration is requested.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which the decision was based are noted below.

1. The property is designated Rural Residential in the Marion County Comprehensive Plan. The purpose of this designation and the corresponding AR (Acreage Residential) zone is to allow creation of acreage homesites at a density that maintains the character and environmental quality of rural residential areas. The property is also located within the Willamette River Greenway.
2. The subject property is located on the northwest corner of 1st St NE and Butte St NE. The property is currently undeveloped. The property was created in its current configuration by deed recorded prior to September of 1977.
3. Surrounding land in all directions consist of rural homesites in an AR zone.
4. The applicant proposes to obtain a greenway permit for a new dwelling to replace the dwelling that was previously removed from the property.
5. Public Works Land Development and Engineering Permits provided the following
 - “A. Access work will to be completed prior to final building inspection in accordance with Access Permit 555-19-000860-DA-01, issued in mid-February 2019 for the replacement dwelling.
 - B. The subject property is within the unincorporated area of Marion County and will be assessed Transportation & Parks System Development Charges (SDCs) upon application for building permits, per Marion County Ordinances #00-10R and #98-40R, respectively. Assessment of SDCs is applicable in this case since the prior dwelling was removed more than 12 months ago.
 - C. Upon application for building permits, the Applicant or their Agent may be required to sign a Construction Erosion & Sediment Control Ordinance Acknowledgement Form, which assigns responsibility and liability for failure thereof to implement Best Management Practices in order to minimize the potential for a sediment release into the public storm drainage and surface water systems.”

Marion County Building Inspection commented that building permits are required.

Marion County On-Site Sewage commented that septic permits/authorization may be required at the time the dwelling is applied for.

All contacted agencies failed to comment or stated no objection to proposal.

6. The purpose of the Greenway Management Overlay Zone is to protect the natural, scenic and recreational qualities of lands along the Willamette River in Marion County. In reviewing a request for a Greenway Development Permit the proposal is reviewed to ensure compliance with certain considerations and criteria, those that apply to this type of request are listed in Section 17.179.050 of the Marion County Code (MCC).
 - A. *Agricultural lands shall be preserved and maintained for farm use.*

The subject property is in a residential zone and surrounded by residential use. Agricultural practices would not be impacted.
 - B. *Significant fish and wildlife habitats shall be protected.*

The subject parcel is located approximately 230 feet east of the River. Therefore this does not apply.
 - C. *Significant natural and scenic areas, viewpoints and vistas shall be preserved.*

The natural and scenic areas and viewpoints are not impacted by the proposal. Therefore, this criterion does not apply.

D. Areas of ecological, scientific, historical or archeological significance shall be protected, preserved, restored, or enhanced to the maximum extent possible.

There is no evidence of areas of ecological, scientific, historical or archeological significance in the vicinity of the proposal. Therefore, this criterion does not apply.

E. The quality of the air, water and land resources in and adjacent to the greenway shall be preserved in the development, change of use or intensification of use of land within the greenway management zone.

Since the applicants' proposal is to replace a dwelling that previously existed on the property in the same location, the dwelling would not impact the quality of the air, water and land resources in and adjacent to the greenway.

F. Areas of annual flooding, floodplains and wetlands shall be preserved in their natural state to the maximum possible extent to protect water retention, overflow and other natural functions.

The subject property is not located within the 100 year floodplain.

G. The natural vegetative fringe along the river shall be maintained to the maximum extent that is practical in order to assure scenic quality, protection of wildlife, protection from erosion and screening of uses from the river.

The subject parcel is located approximately 230 feet from the River. The applicants' proposal will comply with the criteria above.

H. The commercial harvesting of timber shall be done in a manner which will ensure that wildlife habitat and the natural scenic qualities of the Greenway will be maintained or will be restored. Only partial harvesting shall be permitted beyond the vegetative fringes. Limitations on the extent or type of harvest shall be those necessary to satisfy the appropriate use management consideration and criteria in this section.

No harvest of timber is proposed.

I. The proposed development, change or intensification of use is compatible with existing uses on the site and the surrounding area.

The proposed dwelling is not an intensification of the residential use on the subject property. It is in a residential zone, surrounded by residential uses, and is therefore compatible with the existing and neighboring uses. The applicants' proposal complies with the criteria above.

J. Areas considered for development, change or intensification of use which have erosion potential shall be protected from loss by appropriate means which are compatible with the provisions of the greenway management zone.

The area of the proposed dwelling is not on steep slopes and not in the riparian area. Erosion is not an issue so the applicants' proposal complies with the criteria above.

K. Extraction of aggregate deposits shall be conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization stream flow, visual quality, noise and safety and to guarantee necessary reclamation.

The subject property is not in a mineral/aggregate overlay zone. This criterion does not apply.

L. Any public recreational use or facility shall not substantially interfere with the established uses on adjoining property.

The proposed use is not a public recreational facility. Therefore, the criterion would not apply.

M. Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practical.

The maintenance or public safety and protection of public and private property do not seem to be an issue in the proposal. The applicants' proposed dwelling with comply with the criteria above.

N. A minimum building setback line of 30 feet from the ordinary high water line of the Willamette River will be specified that will minimize adverse impacts upon the scenic qualities of lands along the river except for buildings and structures in conjunction with a water-related or a water-dependent use.

The current standard indicates a 30 foot setback from the high water line of the Willamette River is required. The applicants' property is over 200 feet from the high water line. Therefore, the applicants' dwelling complies with the above criteria.

O. Public access to and along the river be considered in conjunction with subdivision, commercial and industrial development and public lands acquisition where appropriate. This access should be located and designed to minimize trespass and other adverse affects on adjoining property.

No public access is proposed.

P. The development shall be directed away from the river to the greatest possible extent.

The subject property is over 200 feet from the river. The applicants' proposal complies with the above criteria.

Q. The development, change or intensification of use shall provide the maximum possible landscaped area, open space or vegetation between the activity and the river.

The subject property is located over 200 feet east of the river with an existing dwelling located between the subject parcel and the river. The proposal complies with the above criteria.

R. Private docks, wharfs, and covered storage shall be limited to one per property ownership, shall not extend more than ten feet above water level, and shall be limited to 300 square feet of gross area. Walkways to the dock, wharf or covered storage shall be not more than five feet wide.

The proposal is not for docks, wharfs, or any structure near the river. The criterion above does not apply.

7. 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.

Joe Fennimore
Director-Planning Division

Date: March 27, 2019

If you have any questions please contact Patty Dorr at (503) 588-5038.