

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. 24-005

APPLICATION: Application of the Confederated Tribes of the Grand Ronde for a floodplain development permit to replace an existing concrete culvert and remove two existing tributary stream crossings in the identified 100-year floodplain of the Santiam River on a 58.85-acre parcel, a 90.86-acre parcel, and a 154.88-acre parcel in an EFU (Exclusive Farm Use) zone located at 12291 & 12492 Dieckman Ln SE, Aumsville. (T9S; R1W; Section 20; Tax lot 300, 400 & 600).

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 **September 4, 2026**. 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 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.

4. The applicant shall provide engineer certification that all applicable criteria located in MCC Chapter 17.178.060 (D)(1), (E), (F), and (H) are met.

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 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) 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, **September 4, 2024**. If you have any questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **September 5, 2024**, unless further consideration is requested.

1. The subject areas are on parcels designated Primary Agriculture in the Marion County Comprehensive Plan and correspondingly zoned EFU (Exclusive Farm Use). The primary intent of both this designation and zone is to promote and protect commercial agricultural operations. The EFU zone is also intended to allow other uses compatible with agricultural activities such as protection of fish and wildlife habitat.
2. The subject areas are located southwest of Stayton city limits on parcels owned by the Confederated Tribes of Grande Ronde at the southern end of Dieckman Ln SE, adjacent to the North Santiam River. The parcels are a total of 429-acres known as the Chahalpam Property which means "place of the Santiam Kalapuya people". The majority of the parcels included within the proposed development area are within the 100-year mapped floodplain of the North Santiam River. Dieckman creek and both a perennial and intermittent tributary stream (Dieckman North Tributary and Dieckman South Tributary) cross and meet in the Chahalpam Property before entering the North Santiam River on the southeastern corner of the west-adjacent property.

The proposed new river crossing is on public Road NCR 3382 where it crosses Dieckman North Tributary. NCR 3382 heads east into the subject parcels from the southern terminus of Dieckman Ln SE. The proposed crossing removals are located on Dieckman South Tributary running roughly parallel with NCR 3382 on the southern side of the road. These projects are intended to improve fish passage and fish access to floodplain habitats on the North Santiam River.

This is a continuation of a restoration project by the Confederated Tribes of Grande Ronde that involved a 2022 Floodplain Development Permit (FP22-005) in which the applicant replaced a multi-culvert crossing with an open span bridge across Dieckman Creek on NCR 3382. Also approved by FP22-005 was work on the Chahalpam chub pond and inlet increasing water flow to displace non-native warm water fish that compete with native Oregon chub.

Every parcel involved in this proposal has been the subject of previous land use cases and are therefore considered legal lots for land use purposes.

3. All surrounding properties to the north, east, and west consist primarily of commercial farm operations in an EFU (Exclusive Farm Use) zone within Marion County. To the south of the subject parcels is the North Santiam River and County Boundary. Properties to the south of the river in Linn County are also primarily in agricultural use.
4. The applicant is proposing to remove two stream crossings over a tributary of Diekman Creek and rebuild another crossing in order to replace an existing 36-inch culvert with a 15x8-foot box culvert for the purpose of stream habitat restoration, permanently affecting an area of approximately 0.17-acres.
5. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Land Development and Engineering requested the following be included in the decision:

Engineering Requirement

- A Work in Right-of-Way Permit is required to work in Dieckman Road

Engineering Advisory

- Coordinate with State (DSL) & Federal (ACOE) agencies for any necessary permits to work within Waters of the State.

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

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 Marion County Code (MCC).
7. The property is on Flood Insurance Rate Map #41047C0725G in an unnumbered “A” floodplain zone. If a BFE is required for the project, it will be required to be developed by the applicant.
8. Marion County Code 17.178.050 C & D pertain to this project:

- C. *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.*

This declaratory statement shall be a condition of approval.

- D. *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.*

A no-rise certification from River Design Group was provided showing that the proposed project will not produce a rise in base flood elevations or increase inundation area. This certification also confirms that the project will not increase the floodplain area on other properties and will not result in an increase of erosive velocity of the stream that may cause channel scouring or reduce slope stability downstream. The criterion is met.

9. Marion County Code 17.178.060 D, E, F, & H pertain to this project and engineer certification that these criteria are met will 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.
- 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 floodwaters 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 floodwaters in the systems and discharge from the systems into floodwaters.
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 not installed so as to prevent water from entering or accumulating within the components during conditions of the base flood 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.
- 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.
10. 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.

Brandon Reich,
Planning Director/Zoning Administrator

Date: August 20, 2024

If you have any questions regarding this decision contact John Speckman 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.