

**BEFORE THE LAND USE HEARINGS OFFICER
OF CLACKAMAS COUNTY, OREGON**

Regarding an Appeal of a Planning Director)	Case File No.
Decision Approving an Application for Design)	Z0387-18-D Appeal
Review for an Industrial Warehouse.)	(Clackamas Warehouse)

A. REISSUED DECISION

The decision in this case was issued on February 6, 2019. ZDO 1307.16(J) provides:

“Reissuing a Decision: The review authority may reissue a Type I, II, or III decision as a result of a clerical error, a misstatement of facts, or the erroneous imposition or omission of conditions of approval. A decision may not be reissued after the expiration of the appeal period, if any, or after the filing of an appeal. Notice of the reissued decision shall be given in the same manner as notice of the original decision. A new appeal period equal to that of the original decision shall be provided from the date of mailing of the amended decision.”

The decision approved design review for the construction of a warehouse on property along the Clackamas River. ZDO 1009.04(D) requires buffering between certain adjoining uses.¹ Opponents argued that such buffering was required in this case. The decision explains that because the opponents are on the other side of the river from the proposed warehouse that their rural residential use is not an adjoining use that requires buffering, and therefore ZDO 1009.04(D) is not applicable. The applicant, however, agreed to a voluntary additional condition of approval to provide an additional 9500 square feet of landscaping. That condition of approval was included in the decision using the language provided by the applicant.² I misunderstood the applicant’s offer to provide landscaping at the level of the warehouse which is significantly higher than the river, but instead it provides for more landscaping at the level of the retaining wall closer to river level down a slope from the site of the warehouse.

¹ ZDO 1009.04(D) provides: “Buffering shall be used to mitigate adverse visual impacts, dust, noise, or pollution, and to provide for compatibility between dissimilar adjoining uses. Special consideration shall be given to buffering between residential uses and commercial or industrial uses, and in visually sensitive areas.”

² That condition of approval is located at Planning and Zoning Conditions of Approval II. (7).

The condition of approval in the decision accurately describes the voluntary additional landscaping the applicant agreed to perform, but the description of that condition of approval in the body of the decision is misstated. ZDO 1307.16(J) provides for reissuing a decision when there is, among other things, a “misstatement of facts.” That is what occurred in the decision. Therefore, the decision is being reissued to correct the misstatement of facts in the body of the decision. The condition of approval remains unchanged. I apologize for the confusion.

DATED this 25th day of February, 2019.


Fred Wilson
Clackamas County Hearings Officer