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CLACKAMAS COUNTY BOARD OF COMMISSIONERS

**LAND USE HEARING**  
**November 29, 2023**  
**10:00 AM**

This public hearing will be conducted in person *and* virtually using the Zoom platform. If you wish to attend in person, the address is:

**2051 Kaen Rd, BCC Hearing Room—4<sup>th</sup> Floor, Oregon City**

The Zoom link to the public hearing and details on how to observe and testify online or by telephone are available on our website: <https://www.clackamas.us/meetings/bcc/landuse>.

All interested parties are invited to attend the hearing in person, online or by telephone and will be provided with an opportunity to testify orally, if they so choose. The staff report and drafts of the proposed amendments are available on our website at <https://www.clackamas.us/meetings/bcc/landuse>. Please direct all calls and correspondence to the staff member listed below.

**LAND USE HEARING**

**File No.:** Z0315-23-CP & Z0316-23-R

**Applicant:** Everett Griffin

**Proposal:** File number Z0315-23-CP is a request for a Comprehensive Plan Map amendment to change the Willamette River Greenway designation from “Limited Use” to “Multiple Use” for a portion of river abutting the subject property to allow for construction of a new private noncommercial dock. File number Z0316-23-R is a corresponding Willamette River Greenway dock application for approval to construct a private noncommercial dock.

**Staff Contact:** Martha Fritzie, Principal Planner, 503-742-4529, [MFritzie@clackamas.us](mailto:MFritzie@clackamas.us)

*Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at least three (3) business days before the meeting at 503-742-4545 or email [Drenhard@clackamas.us](mailto:Drenhard@clackamas.us).*

¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод? | 翻译或口译? | Cần Biên dịch hoặc Phiên dịch? | 번역 또는 통역?



**Land Use Hearing  
Staff Report to the Board of County Commissioners**

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**File Number(s):** Z0315-23-CP and Z0316-23-R, *Comprehensive Plan amendment to Map 3-1e and application for a private noncommercial dock on the Willamette River*

**Staff Contact:** Martha Fritzie, Planning and Zoning Division, mfritzie@clackamas.us

**Board of County Commissioners Hearing Date:** November 29, 2023

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**PROPOSAL:**

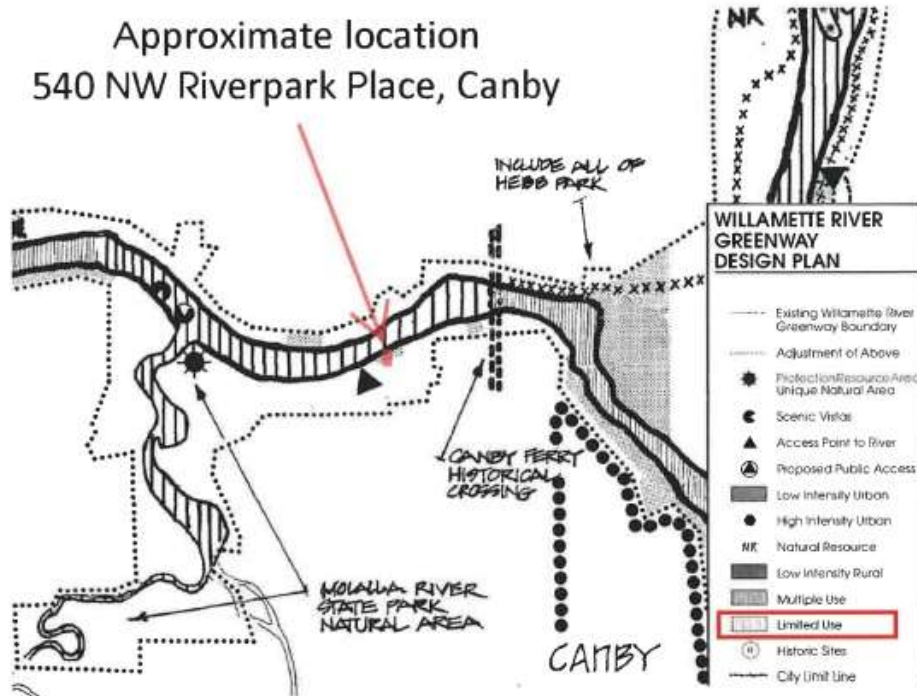
The Applicant's proposal contains two distinct applications, which are being processed concurrently:

1. A proposal to change the Willamette River Greenway designation found on Comprehensive Plan Map 3-1e from "Limited Use" to "Multiple Use" for the portion of the river abutting the subject property (Z0315-23-CP), and
2. A Willamette River Greenway (WRG) application for approval to construct a 35 ft. x 20 ft. (700 sq. ft.) private noncommercial dock (Z0316-23-R).

In 2021, the Applicant filed an application for a WRG permit to install a noncommercial dock (file no. Z0064-21-R). This application was denied because the property was determined to be located within the "Limited Use" rural area of the WRG. Per the county's Comprehensive Plan and Section 705.05(B) of the Zoning & Development Ordinance (ZDO), private noncommercial docks and moorages are prohibited in the Limited Use rural portions of the WRG identified on Comprehensive Plan Map 3-1e, *Willamette River Greenway Design Plan*. The Applicant subsequently appealed the county's decision to the Hearings' Officer, who affirmed the county's decision, and then to the Land Use Board of Appeals (LUBA), where the case is currently suspended so that the parties can pursue an alternative resolution.

If approved, the current application for the Comprehensive Plan map amendment to designate the portion of the river adjacent to the subject property as Multiple Use would allow for the private noncommercial dock to be approved in this location.

Approximate location  
540 NW Riverpark Place, Canby



Source: Application (Z0316-23-R), Exhibit 1, page 221

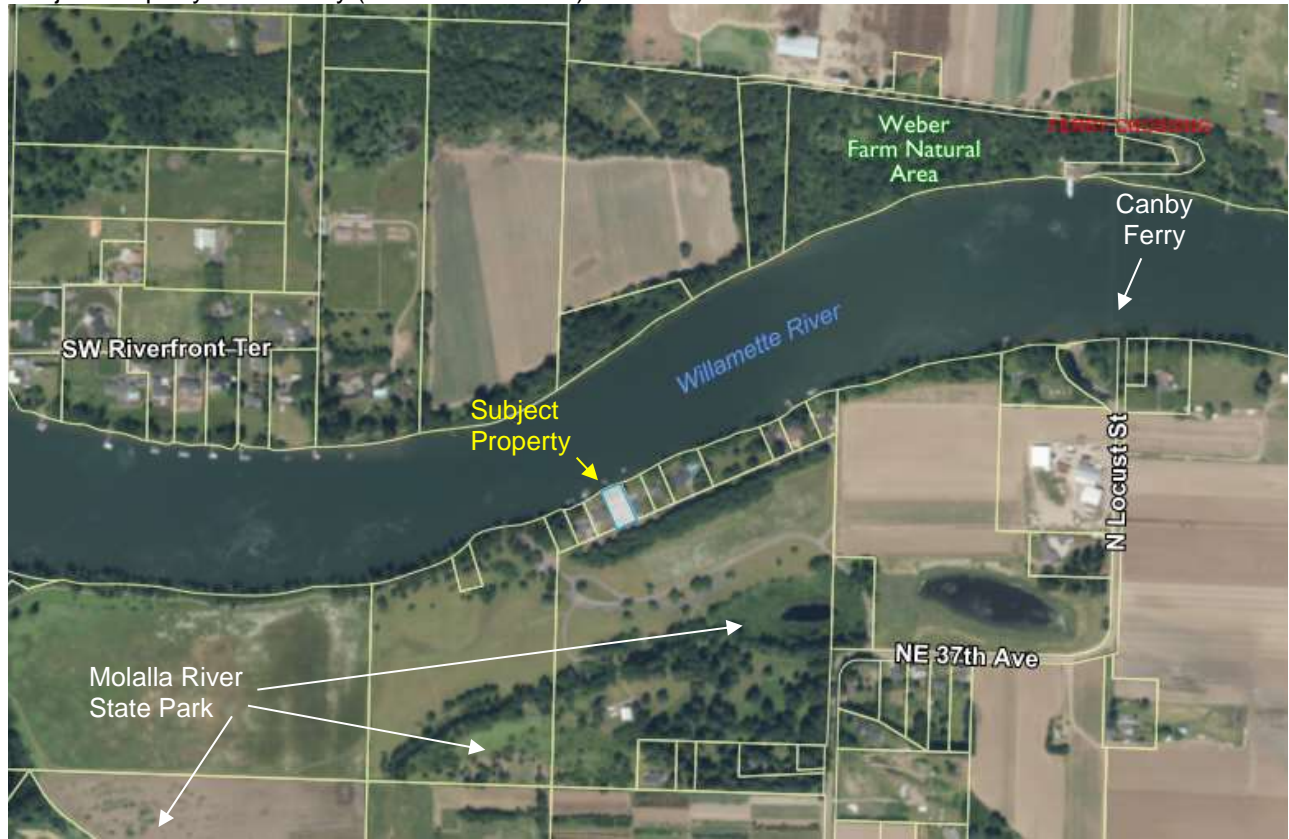
**Background:** The subject property is tax lot 700 of Assessor’s Map 31E21BD, located at 540 NW River Place. It is located along the southern bank of the Willamette River, approximately ½-mile west of the Canby Ferry. The subject site is approximately 0.5 acres, with a current Clackamas County Comprehensive Plan (Plan) land use designation of Agriculture (AG) and located in the Exclusive Farm Use (EFU) zoning district. This proposal would not change these designations. Based on mapped soil types, the subject site is considered (under state law) to be “low-value” farmland.

The subject property is located in a predominantly rural area characterized by large recreation areas, agricultural lands and rural residences. The subject is zoned Exclusive Farm Use (EFU), as are properties to the east, west, and north (across the Willamette River) of the subject. The Molalla River State Park, which bounds the subject site on the south, is zoned Timber (TBR).

The subject property is bound on the north by the Willamette River and has approximately 100 linear feet of river frontage. It contains one single-family dwelling, built in 1970. This dwelling is one of nine homes along NW River Park Place, all of which are located on riverfront lots that range from 0.5 to 1.0 acres. Five of these nine dwellings are on lots with a private dock. Based on prior staff research these docks were all established prior to the establishment of the county’s Willamette River Greenway Design Plan, which prohibits new docks in this area.

The subject site is relatively flat, with slopes found only along the riverbank. The property is vegetated with some trees and landscaping between the residence and the river. Roughly half of the subject site is within a flood hazard area, including both regulatory floodplain and floodway areas. The entire property is located within the Willamette River Greenway.

Subject Property and Vicinity (2022 Aerial Photo)



Source: Clackamas County GIS, PlanMap

Willamette River Greenway: The Willamette River Greenway (WRG), established through Statewide Planning Goal 15, is a corridor of water and land in which development is planned and built with recognition of the unique qualities of the Willamette River. The WRG law is currently found in ORS 390.310 through 390.368 and implemented through the rules in OAR 660-015-0005. Based on the history, Statutes and OARs, it appears to Staff that the WRG was largely established to preserve areas along the river for *public use* but does also recognize that private uses, such as residences and docks, exist on the river and should be allowed to continue and be afforded a “limited” intensification and/or changes of use.

As part of the county’s implementation of Goal 15, the WRG Design Plan was adopted into the county’s Comprehensive Plan. This plan established two classifications of water use on the Willamette River: Limited Use (where new docks are prohibited) and Multiple Use (where new docks are allowed). Both water use designations are applied in the WRG Design Plan to varying areas of the Willamette River above the Willamette Falls. No policies or criteria are provided in the Comprehensive Plan to justify the application of these designations to specific stretches of the River, except for the very general policy related to protecting the natural character of the river. As noted, and as is apparent in the above aerial photo, the “natural character” of the river has already been impacted in the immediate vicinity of the subject property by the development of dwellings on half-acre lots and the presence of numerous docks.

WRG Dock Application: The second application under consideration (file no. Z0316-23-R) is a proposal to install a 35-ft. by 20-ft. (700 sq. ft.) private, noncommercial dock and associated gangway within the Willamette River Greenway (WRG). Based on the Applicant's description, *[t]he dock will be comprised of a steel frame with polyethylene floats and wrapped in composite decking in dark natural wood colors and earth tones, such as dark brown or green. The gangway/ramp will be aluminum.*

Typically this type of permit requires a Type II review, which is a ministerial review which requires notice but not a public hearing. In this case, however, because it is being filed concurrent with the Plan amendment, a Type III, it must be processed through the Type III process, which requires public hearing(s).

The standards for private noncommercial docks on the Willamette River are found on Section 705 of the county's Zoning and Development Ordinance. This section includes a maximum size limit for a dock, maximum length to width ratio, requirements for certain materials and colors, and other development standards. The proposed private, noncommercial dock cannot meet the standards in ZDO Section 705 and be approved unless the proposed Comprehensive Plan amendment under file Z0315-23-CP is also approved.

Based on the findings detailed in the Planning Commission Staff Report (attached), Staff finds that the subject site meets all the applicable criteria both for a Comprehensive Plan map amendment from Limited Use to Multiple Use designation within the Willamette River Greenway and for approval of a 700 sq. ft. private noncommercial dock, subject to several conditions of approval.

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**RELATED PRIOR BCC ACTION:**

None

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**PLANNING COMMISSION ACTION:**

A public hearing was held on October 23, 2023, for Planning Commission consideration of the application and the staff recommendation. The Applicant was the only party who provided testimony at the Planning Commission hearing. The Planning Commission voted unanimously (6-0) to recommend approval of Z0315-23-CP and Z0316-23-R.

Draft minutes of the Planning Commission hearing are attached.

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**CPO AND HAMLET RECOMMENDATIONS:**

The local Community Planning Organization (CPO) - the Aurora-Butteville-Barlow CPO - was provided notice of this application, but has not commented.

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## SIGNIFICANT ISSUES:

At its October 23<sup>rd</sup> hearing, the Planning Commission did ask several questions and discussed potential concerns about the implications of approving the proposed Comprehensive Plan amendment. Most notably:

- A few Planning Commissioners expressed concern that approving this amendment will create a pathway within the Comprehensive Plan for future dock application approvals within the Limited Use area of the Willamette Greenway. Staff noted that this pathway is not new or unique to the subject property and other properties could submit the same type of application. However, if this change is approved, it would be only the fourth time that the Limited Use designation has been changed to Multiple Use since these designations were established nearly four decades ago.
- A few Commissioners also expressed concern that this process could create a “checkerboard-like” pattern that may cause confusion, particularly for code enforcement. Staff acknowledges that the current process is not necessarily the most efficient and could cause a “checkerboard” pattern, but this is what is available to the Applicant at this time. Staff also acknowledges that there may be better ways to implement the WRG and Goal 15 and may consider amendments to the WRG with a future code amendment package.

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## STAFF RECOMMENDATION:

Staff recommends **APPROVAL** of the amendment to Comprehensive Plan Map 3-1a to change the Willamette River Greenway designation at subject property from “Limited Use” to “Multiple Use” (File No. Z0315-23-CP) and **APPROVAL** of Willamette River Greenway dock application to construct a private noncommercial 35-ft. by 20-ft. (700 sq. ft.) dock (file no. Z0316-23-R), subject to the recommended **CONDITIONS OF APPROVAL**, identified on pages 2-4 of the Planning Commission Staff Report (attached).

Please note that if the Board denies the proposed map amendment in file no. Z0315-23-CP, then file no. Z0316-23-R, to allow the Applicant to construct a 700-sq. ft. private noncommercial dock, must be denied because a new dock is prohibited on the subject site without a Comprehensive Plan amendment to Map 3-1e.

Z0315-23-CP & Z0316-23-R

PROPOSED COMP. PLAN MAP  
AMENDMENT & PRIVATE  
NONCOMMERCIAL DOCK  
APPLICATION



Public Hearing, Board of County Commissioners  
November 29, 2023, 10:00 AM

# PROPOSAL

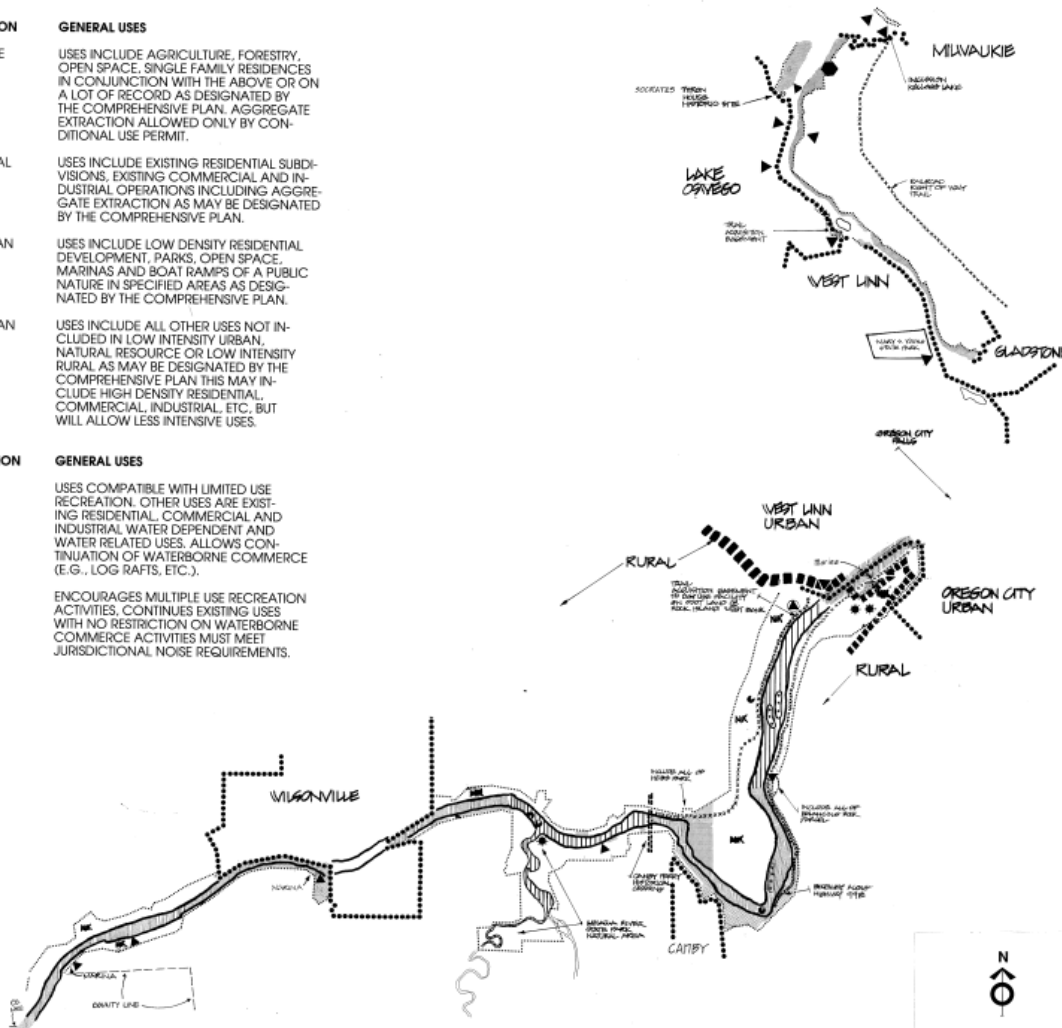
- 1) Comprehensive Plan Map amendment to change the Willamette River Greenway designation from “Limited Use” to “Multiple Use” for portion of river abutting subject property
  - Allow for construction of a new private noncommercial dock
  
- 2) Willamette River Greenway (WRG) dock application for approval to construct a private noncommercial dock
  - 35-ft. by 20-ft. (700 sq. ft.) dock



# WILLAMETTE RIVER GREENWAY (COMP. PLAN MAP 3-1A)

## MANAGEMENT ACTIVITIES

LAND CLASSIFICATION	GENERAL USES
NATURAL RESOURCE	USES INCLUDE AGRICULTURE, FORESTRY, OPEN SPACE, SINGLE FAMILY RESIDENCES IN CONJUNCTION WITH THE ABOVE OR ON A LOT OF RECORD AS DESIGNATED BY THE COMPREHENSIVE PLAN. AGGREGATE EXTRACTION ALLOWED ONLY BY CONDITIONAL USE PERMIT.
LOW INTENSITY RURAL	USES INCLUDE EXISTING RESIDENTIAL SUBDIVISIONS, EXISTING COMMERCIAL AND INDUSTRIAL OPERATIONS INCLUDING AGGREGATE EXTRACTION AS MAY BE DESIGNATED BY THE COMPREHENSIVE PLAN.
LOW INTENSITY URBAN	USES INCLUDE LOW DENSITY RESIDENTIAL DEVELOPMENT, PARKS, OPEN SPACE, MARINAS AND BOAT RAMPS OF A PUBLIC NATURE IN SPECIFIED AREAS AS DESIGNATED BY THE COMPREHENSIVE PLAN.
HIGH INTENSITY URBAN	USES INCLUDE ALL OTHER USES NOT INCLUDED IN LOW INTENSITY URBAN, NATURAL RESOURCE OR LOW INTENSITY RURAL AS MAY BE DESIGNATED BY THE COMPREHENSIVE PLAN THIS MAY INCLUDE HIGH DENSITY RESIDENTIAL, COMMERCIAL, INDUSTRIAL, ETC. BUT WILL ALLOW LESS INTENSIVE USES.
WATER CLASSIFICATION	GENERAL USES
LIMITED USE	USES COMPATIBLE WITH LIMITED USE RECREATION. OTHER USES ARE EXISTING RESIDENTIAL, COMMERCIAL AND INDUSTRIAL WATER DEPENDENT AND WATER RELATED USES. ALLOWS CONTINUATION OF WATERBORNE COMMERCE (E.G., LOG RAFTS, ETC.).
MULTIPLE USE	ENCOURAGES MULTIPLE USE RECREATION ACTIVITIES. CONTINUES EXISTING USES WITH NO RESTRICTION ON WATERBORNE COMMERCE ACTIVITIES MUST MEET JURISDICTIONAL NOISE REQUIREMENTS.



## WILLAMETTE RIVER GREENWAY DESIGN PLAN

- Existing Willamette River Greenway Boundary
- Adjustment of Above
- Protection Resource Area, Unique Natural Area
- ☾ Scenic Vistas
- ▲ Access Point to River
- ⊕ Proposed Public Access
- Low Intensity Urban
- High Intensity Urban
- NR Natural Resource
- Low Intensity Rural
- ▨ Multiple Use
- ▨ Limited Use
- ⊙ Historic Sites
- City Limit Line

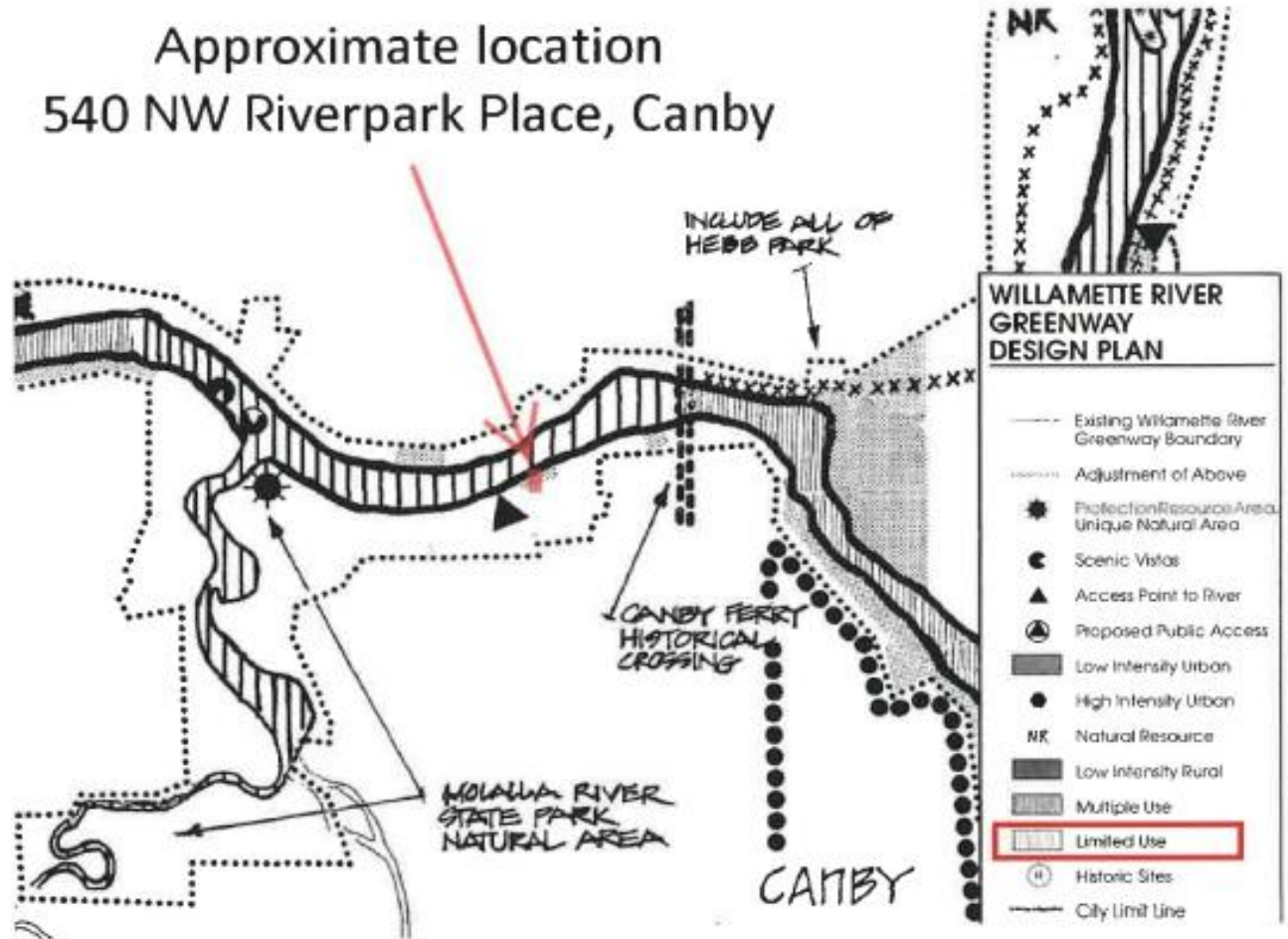
Comprehensive Plan Amendments to Change the Designation from Limited Use to Multiple Use

File #	* Assessor's Map & Tax Lot #	Board Order #	Effective Date
20256-95-CP	31E02C 01400	95-710	7/13/1995
71148-95-CP	31E02C 00803, 00900, 01000	95-15	1/4/1996
20226-96-CP	31E15 02700, 02701, 02702	96-734	11/27/1996

\* Assessor's map and tax lot numbers are as of the date of the amendment and may have since changed. See files for precise locations.

# SUBJECT SITE

- 31E21BD  
00700
- 0.5 acres
- South bank  
of Willamette  
River, within  
“Limited  
Use” area
- Approx. 1/2-  
mile west of  
Canby Ferry



# SUBJECT SITE AND VICINITY (2022 AERIAL PHOTO)



# SUBJECT SITE & ZONING



- Subject property zoning:
  - ▣ EFU
- Surrounding zoning:
  - ▣ TBR (Molalla River State Park)
  - ▣ EFU (elsewhere)

# PUBLIC COMMENT

- Notice sent 9/18/23
- Two comments
  - Neighbor – in support (Ex. 3)
  - DSL comment – permits required (Ex. 4)
- CPO: Aurora-Butteville-Barlow, no comment

# RELEVANT POLICIES AND CRITERIA

## Statewide Planning (SWP) Goals

- Goal 15 (Willamette River Greenway)

## County Comprehensive Plan Goals & Policies

- Chapter 2 (Citizen Involvement)
- Chapter 3 (Natural Resources and Energy)
- Chapter 4 (Land Use)
- Chapter 5 (Transportation)
- Chapter 11 (The Planning Process)

## Zoning & Development Ordinance (ZDO)

- Section 705 (Willamette River Greenway)
- Section 1307 (Procedures)

# COMP PLAN AMENDMENT FINDINGS (Z0315-23-CP)

## Statewide Planning (SWP) Goals

- SWP Goal 15, Willamette River Greenway
  - *protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River as the Willamette River Greenway*
  - Based on history and rules, appears that WRG largely established to preserve areas along the river for *public use*
  - Also recognizes that private uses – residences and docks – exist and should be allowed to continue

# COMP PLAN AMENDMENT FINDINGS (Z0315-23-CP)

## Statewide Planning (SWP) Goals

- SWP Goal 15, Willamette River Greenway (cont.)
  - ▣ County adopted WRG Design Plan into Comp Plan Ch. 3
  - ▣ Land and water use categories
  - ▣ Three amendments to Limited Use area (1995 & 1996)
  - ▣ Proposed change consistent with Goal 15
- Other SWP Goals
  - ▣ Goal 3, Agriculture
  - ▣ Goal 12, Transportation



# COMP PLAN AMENDMENT FINDINGS

## (Z0315-23-CP)

### □ Chapter 3

- Limited Use vs. Multiple Use water designations
- No specific policies to direct designation of these areas
- No direct correlation to adjacent land use designation
- 3.C.6.5: *Prohibit private noncommercial docks and moorages in limited-use rural portions of the Greenway to protect the natural river character*
- Subject site and surrounding areas are developed – river is not maintained in “natural” state

### □ Other Chapters

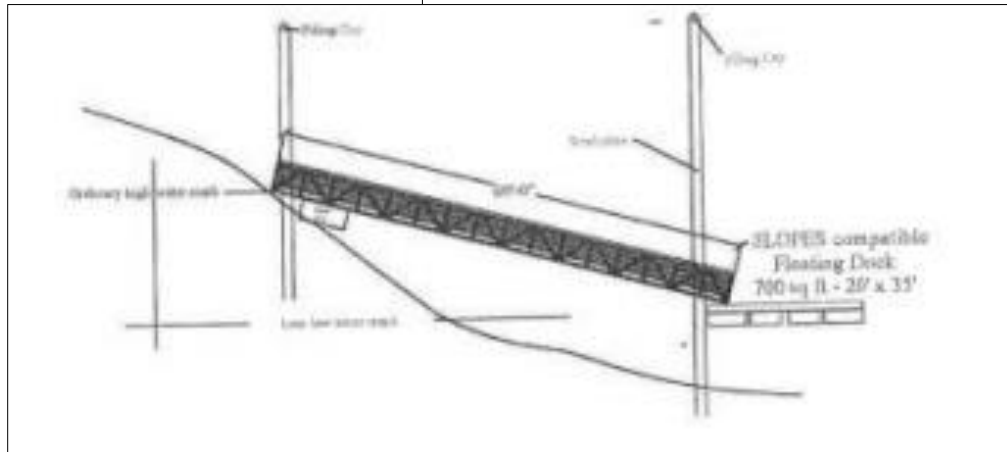
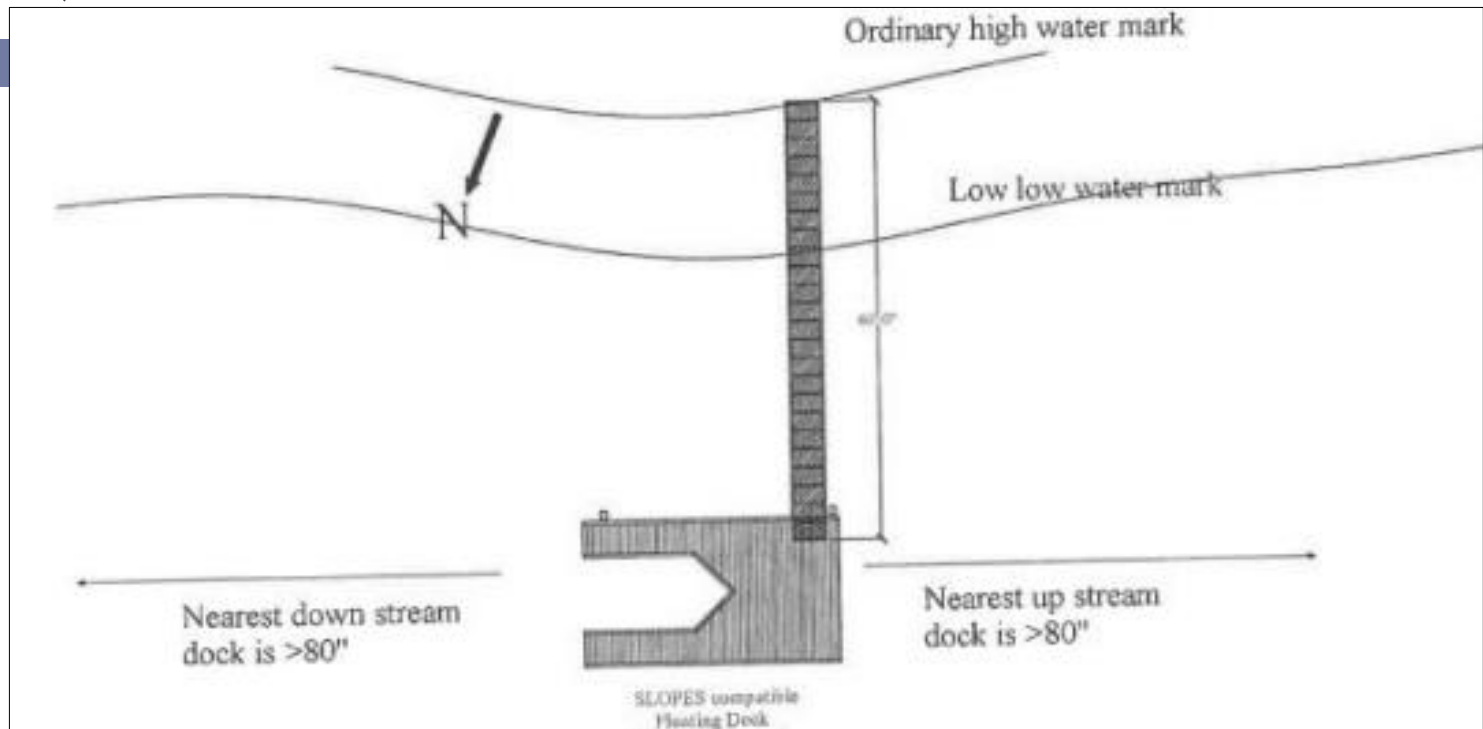
- Largely coordination, procedural

# WRG DOCK FINDINGS

## (Z0316-23-R)

- Type II land use permit
  - Filed concurrent with Comp Plan amendment (Type III)
  - Per ZDO 1307, processed under Type III procedures
- Dock permit cannot be approved if Z0315-23-CP is not approved
  - Subject site currently within Limited Use area of WRG

# WRG DOCK FINDINGS (Z0316-23-R)



# WRG DOCK FINDINGS

## (Z0316-23-R)

### ZDO Section 705, Willamette River Greenway

- ▣ 705.04(A) – consistent with purpose
  - If Z0315-23-CP is approved, would be consistent
- ▣ 705.04(C) & (D)– provide the maximum possible landscaped area, open space or vegetation, preserve buffer
  - Water-dependent use, requires minimal disturbance to vegetation for piles, gangway/ramp

# WRG DOCK FINDINGS

## (Z0316-23-R)

### ZDO Section 705, Willamette River Greenway

- 705.04(A) – consistent with purpose
- 705.04(G)(1-3)– specific standards for dock
  - Max. size: 700 SF
  - Max length to width ratio: 3:1
  - Only one dock allowed on lot of record
  - Colors: dark natural wood colors, or painted dark earth tones (dark brown or green)
- Other standards

If Z0315-23-CP is approved, proposed dock meets all applicable standards

# CONCLUSION & RECOMMENDATION


- Proposal meets all applicable criteria for a Comprehensive Plan amendment to Map 3-1e
  - ▣ Multiple Use designation
- Proposal meets all applicable criteria for a WRG private noncommercial dock, with conditions
- Staff recommends approval of Z0315-23-CP & Z00316-23-R, subject to recommended Conditions of Approval (p 2-4, PC Staff Report)

# PLANNING COMMISSION (PC) HEARING

- Public hearing October 23, 2023
- No testimony
- PC discussion/potential concerns
  - Creating process for more amendments
  - “Checkerboard” pattern
- PC recommended approval of Z0315-23-CP & Z0316-23-R, subject to recommended Conditions of Approval
  - Unanimous vote (6-0)



THANK YOU



Martha Fritzie, (503) 742-4529, [mfritzie@clackamas.us](mailto:mfritzie@clackamas.us)





**PLANNING STAFF REPORT AND RECOMMENDATION TO  
THE PLANNING COMMISSION**

**REPORT DATE:** October 16, 2023

**HEARING DATE:** October 23, 2023 (Agenda Item Time: 6:30 pm)

**PLANNING FILE NOS.:** Z0315-23-CP and Z0316-23-R

**PROPOSAL:** (1) A Comprehensive Plan Map amendment to change the Willamette River Greenway designation on subject property from "Limited Use" to "Multiple Use" to allow for the construction of a new private noncommercial dock and (2) a Willamette River Greenway dock application for approval to construct a private noncommercial 35-ft. by 20-ft. (700 sq. ft.) dock.

**STAFF CONTACT(S):** Martha Fritzie, (503) 742-4529, [mfritzie@clackamas.us](mailto:mfritzie@clackamas.us)

**LOCATION:** T3S, R1E, Section 21BC Tax Lot 00700 W.M.; 540 NW River Park Pl, Canby; abutting the south bank of the Willamette River, approximately ½-mile west of the Canby Ferry

**APPLICANT(S):** Everett Griffin

**OWNER(S):** Everett Griffin

**TOTAL AREA:** Approximately 0.50 acres

**ZONING:** Exclusive Farm Use (EFU) District)

**COMPREHENSIVE PLAN DESIGNATION:** Agriculture

**COMMUNITY PLANNING ORGANIZATION:**

AURORA BUTTEVILLE BARLOW CPO  
KEN IVEY; KEN@IJCO-CPA.COM

**NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER:** ORS Chapter 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

**OPPORTUNITY TO REVIEW THE RECORD:** The submitted application is available for review online at <https://accela.clackamas.us/citizenaccess/>. Select the Planning tab and enter the file number to search. Select 'Record Info' and then select 'Attachments' from the dropdown list, where you will find the submitted application. The complete application file is available for inspection at no cost by contacting the Planner listed on the first page of this decision. Copies of all documents may be purchased at the rate of \$2.00 per page for 8.5" x 11" or 11" x 14" documents, \$2.50 per page for 11" x

17" documents, \$3.50 per page for 18" x 24" documents, and \$0.75 per square foot with a \$5.00 minimum for large format documents.

**APPLICABLE APPROVAL CRITERIA:** These applications are subject to: Statewide Planning Goals; Clackamas County Comprehensive Plan Chapters 2, 3, 4, 5, and 11; and Clackamas County Zoning and Development Ordinance (ZDO) Sections 705 and 1307.

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## I. STAFF RECOMMENDATION

### Z0315-23-CP:

Staff recommends **APPROVAL** of the Comprehensive Plan map amendment in file no. Z0315-23-CP, subject to the following **CONDITIONS OF APPROVAL**.

#### **Comprehensive Plan Map Amendment Conditions**

1. The Clackamas County *Willamette River Greenway Design Plan Map* (Map 3-1e) shall be amended to reflect the area along the subject property frontage with the Willamette River and extending to the northwest to the centerline of the Willamette River, as being in the "Multiple Use" designation. (Tax Lot 31E21BC 00700)
2. The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the Applicant, in coordination if necessary with the federal agencies responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

### Z0316-23-R:

If Z0315-23-CP is approved, Staff recommends **APPROVAL** of the Willamette River Greenway application for a 35 ft. x 20 ft. (700-sq. ft.) private noncommercial dock (file no. Z0316-23-R), subject to the following **CONDITIONS OF APPROVAL**.<sup>1</sup>

#### **Willamette River Greenway (WRG) Conditions**

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied.

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<sup>1</sup> If Z0315-23-CP is denied, file no. Z0316-23-R, to allow the Applicant to construct a 700-sq. ft. private noncommercial dock, **MUST BE DENIED** because the proposed dock is prohibited on the subject site without a Comprehensive Plan amendment to Map 3-1e.

3. General Conditions:

- A) Approval of this land use permit is based on the submitted written narrative and plan(s) received August 7, 2023. No work shall occur under this permit other than that specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.
- B) The approval of this Willamette River Greenway (WRG) permit is valid for four (4) years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.
  - i. "Implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved WRG permit, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:
    - a. A building or manufactured dwelling placement permit for a new primary structure that was part of the WRG permit approval; or
    - b. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the WRG permit approval.
  - ii. If this approved WRG permit is not implemented within the initial approval period established by Subsection 705.07(B), a two-year time extension may be approved, pursuant to Section 1310.

4. Standards for docks:

- A) General Standards: Pursuant to Subsection 705.04(E)(1), the following standards apply to the private, noncommercial dock, including the pilings:
  - i. Colors: The colors of the dock shall be dark, natural, wood colors, or be painted dark earth tones (dark brown or green).
  - ii. Maximum height: No portion of the dock or any supporting structure may not exceed 35 feet in height.
  - iii. Calculation of Square Footage: The total square footage of the dock shall be calculated by measuring the length times the width of the outer edge of the structure.
  - iv. Length-to-Width Ratio: The length-to-width ratio of the dock shall not exceed 3:1.
  - v. Limitations: The dock shall be located on a riverfront Lot of Record, being the subject lot, and shall be the only dock and boathouse (if a boathouse is proposed in the future) that is allowed on the subject lot.
- B) Docks Located between the Oregon City Falls and the Marion County Line, pursuant to Subsection 705.04(E)(3):
  - a. Maximum Square Footage of Dock: The total square footage of the proposed dock shall not exceed 700 square feet.
- C) Building Permit Standards: A Building Permit is required for the portion of the dock that is located on land.

- D) Other permit standards: Prior to approval of a building permit, a Floodplain Management District development permit must be obtained for any development occurring within a flood hazard area including, but no limited to, grading, excavation, and placement of pilings for dock pilings and gangway/ramp.
5. Other Agency Standards:
- A) The proposed dock may be subject to the rules, regulations and permitting requirements of the U.S. Army Corps of Engineers and Oregon Dept. of State Lands. As such, the Applicant shall obtain all necessary permits from said agencies.
- B) Pursuant to Subsection 705.04(E)(4), the dock, if located on State-owned submerged and/or submersible land, shall be leased or registered with the Oregon Dept. of State Lands.

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## II. BACKGROUND

The subject property is tax lot 700 of Assessor's Map 31E21BD, located at 540 NW River Place. It is located along the southern bank of the Willamette River, approximately ½-mile west of the Canby Ferry. The subject site is approximately 0.5 acres, with a current Clackamas County Comprehensive Plan (Plan) land use designation of Agriculture (AG) and located in the Exclusive Farm Use (EFU) zoning district.

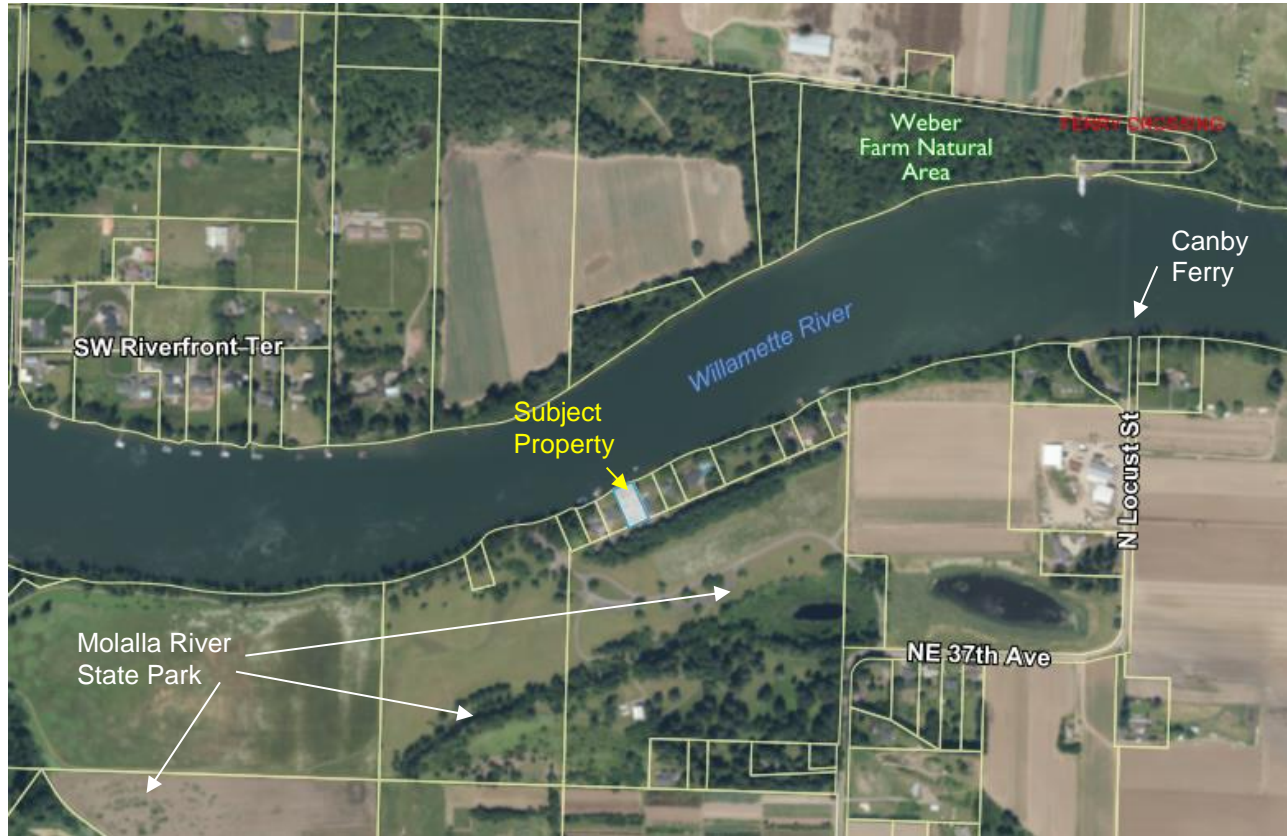
**Subject property and surrounding area**: The subject property is located in a predominantly rural area characterized by large recreation areas, agricultural lands and rural residences. The subject is zoned Exclusive Farm Use (EFU), as are properties to the east, west, and north (across the Willamette River) of the subject. The Molalla River State Park, which bounds the subject site on the south, is zoned Timber (TBR).

The subject property is bound on the north by the Willamette River and has approximately 100 linear feet of river frontage. It contains one single-family dwelling, built in 1970. This dwelling is one of nine homes along NW River Park Place, all of which are located on riverfront lots that range from 0.5 to 1.0 acres. Five of these nine dwellings are on lots with a private dock. Based on prior staff research these docks were all established prior to the establishment of the county's Willamette River Greenway Design Plan, which prohibits new docks in this area.

The subject site is relatively flat, with slopes found only along the riverbank. The property is vegetated with some trees and landscaping between the residence and the river. Roughly half of the subject site is within a flood hazard area, including both regulatory floodplain and floodway areas. The entire property is located within the Willamette River Greenway.

Based on mapped soil types, the subject site is considered (under state law) to be "low-value" farmland. The site is comprised predominantly of Class 6 (92F, Xerochrepts with Haploxerolls) agricultural soils.

## Subject Property and Vicinity (2022 Aerial Photo)



Source: Clackamas County GIS, PlanMap

Based on the Applicant's statements, this property does not currently have a dock, hence the need for the applications under review in Z0315-23-CP and Z0316-23-R. Indeed, aerial photos in the application that are dated 2019 show no dock at the subject site. However, more recent aerial photography (2022) appears to show that a dock has been installed, in violation of the Willamette River Greenway Plan and with no record of permits. If files Z0315-23-CP and Z0316-23-R are approved, that dock may be allowed to stay, provided it meets required development standards and all the proper permits are obtained. If files Z0315-23-CP and Z0316-23-R are denied, the dock must be removed.

Subject Property (2019 Aerial Photo)



Source: Application (Z0316-23-R), Exhibit 1, page 218)

Subject Property (2022 Aerial Photo)



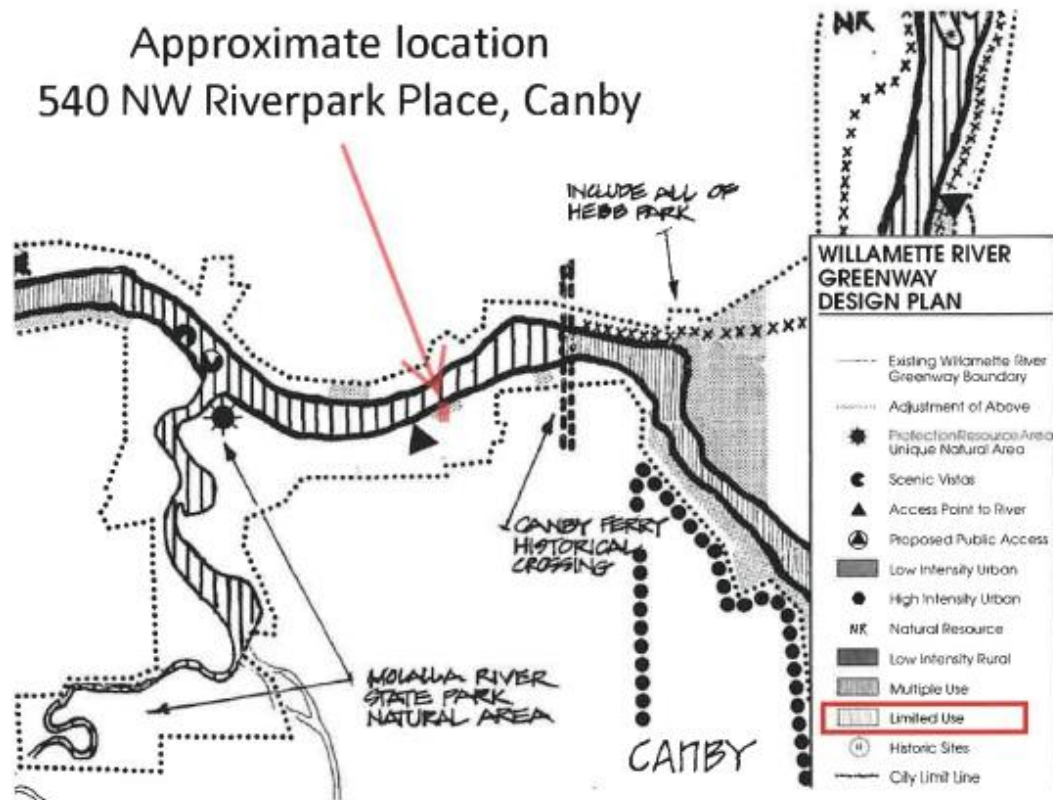
Source: Clackamas County GIS, PlanMap

**Proposal:** The Applicant’s proposal contains two distinct applications, which are being processed concurrently:

1. A proposal to change the Willamette River Greenway designation found on [Comprehensive Plan Map 3-1e](#) from “Limited Use” to “Multiple Use” for the portion of the river abutting the subject property (Z0315-23-CP), and
2. A Willamette River Greenway (WRG) application for approval to construct a 35 ft. x 20 ft. (700 sq. ft.) private noncommercial dock (Z0316-23-R).

In 2021, the Applicant filed an application for a WRG permit to install a noncommercial dock (file no. Z0064-21-R). This application was denied because the property was determined to be located within the “Limited Use” rural area of the WRG. Per the county’s Comprehensive Plan and Section 705.05(B) of the Zoning & Development Ordinance (ZDO), private noncommercial docks and moorages are prohibited in the Limited Use rural portions of the WRG identified on Comprehensive Plan Map 3-1e, *Willamette River Greenway Design Plan*. The Applicant subsequently appealed the county’s decision to the Hearings’ Officer, who affirmed the county’s decision, and then to the Land Use Board of Appeals (LUBA), where the case is currently suspended so that the parties can pursue an alternative resolution.

If approved, the current application for the Comprehensive Plan map amendment to designate the portion of the river adjacent to the subject property as Multiple Use would allow for the private noncommercial dock to be approved in this location.



Source: Application (Z0316-23-R), Exhibit 1, page 221

**Service providers:**

1. Sewer: The subject property is not located within a public or private sewer district. Septic systems would be required for any future development.
2. Water: The subject property is not located within a public or private water district. On-site wells would be required for any future development.
3. Fire Protection: Canby Fire Dist #62

**Noticing:** This application has been processed consistent with the legal noticing requirements in Section 1307, *Procedures*, of the County’s Zoning and Development Ordinance (ZDO) and with state noticing requirements. Specifically, the County has provided notice to interested agencies, local governments and property owners within 1/2-mile of the subject property consistent with State law and Section 1307 of the ZDO. The notification to property owners, public notices and hearings ensures an opportunity for citizens to participate in the land use process.

**Responses received:** To date, one response has been received; it included testimony from a neighbor, expressing support of the proposal (see Exhibit 3). The local Community Planning Organization, the Aurora-Butteville-Barlow CPO, has not provided any comments to date.

**Public Hearings:**

Two public hearings on the current proposal are scheduled: one before the Planning Commission on October 23, 2023, and another before the Board of County Commissioners (BCC) on November 29, 2023. The Planning Commission makes a recommendation to the BCC, who will ultimately decide whether the proposal is approved.

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**III. Z0315-23-CP: COMPREHENSIVE PLAN MAP AMENDMENT FINDINGS**

Z0315-23-CP is a proposal to change the Willamette River Greenway designation found on Comprehensive Plan Map 3-1e from “Limited Use” to “Multiple Use” for the portion of the river abutting the subject property. This application is subject to:

1. Statewide Planning Goals, and
2. The Clackamas County Comprehensive Plan;

Staff have reviewed these provisions and the Applicant’s preliminary findings in conjunction with this proposal. Compliance with the applicable regulations found in each is discussed below.

**A. Statewide Planning Goals**

**GOAL 1 – CITIZEN INVOLVEMENT**

Statewide Planning Goal 1 calls for “the opportunity for citizens to be involved in all phases of the planning process” and requires the County to have a citizen involvement program with certain features.

*This application proposes to amend County’s Comprehensive Plan Map 3-1e and, even if approved, the County’s existing, State-acknowledged citizen involvement program would not change.*



*Section 1307, Procedures, of the ZDO contains adopted and State-acknowledged procedures for citizen involvement and public notification of quasi-judicial applications. This application has been processed consistent with those requirements, including with notice to: property owners within a half mile of the subject property; the area's active CPO; the Department of Land Conservation and Development (DLCDD); the Division of State Lands (DSL); the Canby Fire District; and other interested agencies. Notice of the application and its public hearings has also been published in the newspaper and on County websites.*

*Before the Board of County Commissioners (BCC) can decide on this application, there will have been at least two public hearings with opportunity for interested parties to testify. The public has also been given the opportunity to provide written comments, and all comments provided to-date have been included in the record.*

***The relevant requirements of Statewide Planning Goal 1 are satisfied.***

### **GOAL 2 – LAND USE PLANNING**

Goal 2 requires the County to have and to follow a comprehensive land use plan and implementing regulations. Comprehensive plan provisions and regulations must be consistent with Statewide Planning Goals, but Goal 2 also provides a process by which exceptions can be made to certain Goals.

*The proposed amendment to Clackamas County's Comprehensive Plan Map 3-1a would not change the County's land use planning process. Even under the Applicant's proposal, the County will continue to have a comprehensive land use plan and consistent implementing regulations. This report outlines how this proposal is consistent with applicable policies of the County's State-acknowledged comprehensive plan. The Applicant does not request an exception to any Statewide Planning Goal, nor is an exception required for this proposal.*

***The relevant requirements of Statewide Planning Goal 2 are satisfied.***

### **GOAL 3 – AGRICULTURAL LANDS**

Goal 3 requires the County to identify farmland, designate it as such on its Comprehensive Plan maps, and zone it Exclusive Farm Use (EFU).

*The subject site is currently zoned EFU and is subject to Goal 3. The Applicant's proposal would not change any allowed uses in the EFU zoning district within the county, nor would it impact agricultural uses on nearby properties. The proposal would potentially allow for a private noncommercial dock to be installed as an accessory use on a small (1/2-acre) site that is already developed with a single-family dwelling.*

***The relevant requirements of Statewide Planning Goal 3 are satisfied.***

### **GOAL 4 – FOREST LANDS**

Goal 4 requires the County to identify forest lands, designate it as such on Comprehensive Plan maps, and zone it consistently with State rules.

*The County has already satisfied its Goal 4 requirements for forest land. This application does not propose to change the Comprehensive Plan Map designation or zoning of any forest land, nor*

does it propose a change in any allowed land use in its forest zoning districts (i.e., Ag/Forest and Timber Districts).

**Statewide Planning Goal 4 is not applicable.**

GOAL 5 – NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES

Goal 5 requires the County to adopt programs that will protect an area’s natural resources and will conserve scenic, historic, and open space resources for present and future generations. It requires an inventory of natural features, groundwater resources, energy sources, and cultural areas, and encourages the maintenance of inventories of historic resources.

*This proposal would not change the County’s adopted and acknowledged programs for the protection of such resources, nor would it change the County’s adopted and acknowledged historic resources inventory. The application does not propose to reduce or otherwise modify the boundaries of any open space area. Staff finds that there are no inventoried wilderness areas, mineral or aggregate resources, energy sources, cultural areas, or historic resources on the subject property.*

*Although this proposal affects land and waters within a riparian area, it is within the Willamette River Greenway and the program to protect this area is addressed under Goal 15.*

**The relevant requirements of Statewide Planning Goal 5 are satisfied.**

GOAL 6 – AIR, WATER, AND LAND RESOURCES QUALITY

Goal 6 instructs the County to consider the protection of air, water, and land resources from pollution and pollutants when developing its Comprehensive Plan.

*The proposal in this application would not change any Comprehensive Plan policy or implementing regulation affecting a Goal 6 resource, nor would it modify the mapping of any protected resource. As noted by the Applicant, the proposed amendment would allow a private noncommercial dock in an area of already existing docks and would therefore “have a de minimis if any impact on the quality of the water.”*

**The relevant requirements of Statewide Planning Goal 6 are satisfied.**

GOAL 7 – AREAS SUBJECT TO NATURAL HAZARDS

Goal 7 requires the County to address Oregon’s natural hazards.

*This proposal would not change the County’s adopted and acknowledged Comprehensive Plan policies or implementing regulations regarding natural disasters and hazards, nor would it modify the mapping of any hazard. The subject property is within a mapped flood hazard area and while the amendment would potentially allow for a private noncommercial dock, certain “water-dependent uses” like docks have been determined to not be in conflict with Goal 7 and are allowed, subject to meeting certain standards. Any dock proposed on the subject property would be required to meet all applicable development standards related to the flood hazard area.*

**The relevant requirements of Statewide Planning Goal 7 are satisfied.**

### GOAL 8 – RECREATIONAL NEEDS

Goal 8 requires the County to plan for the recreational needs of its residents and visitors.

*The proposal would not change any existing, State-acknowledged County Comprehensive Plan policy or implementing regulation regarding recreational needs, nor would it reduce or otherwise modify a mapped recreational resource.*

**Statewide Planning Goal 8 is not applicable.**

### GOAL 9 – ECONOMIC DEVELOPMENT

The purpose of Goal 9 planning is to provide adequate opportunities throughout Oregon for a variety of economic activities vital to the health, welfare, and prosperity of Oregonians.

*Goal 9 is implemented by Oregon Administrative Rules (OAR) Chapter 660, Division 9. Pursuant to OAR 660-009-0010(1), the requirements of Division 9 are only applicable to areas within urban growth boundaries (UGBs) and do not require or restrict planning for industrial or other employment uses outside UGBs. The subject property is located outside of any UGB.*

**Statewide Planning Goal 9 is not applicable.**

### GOAL 10 – HOUSING

The purpose of Goal 10 is to meet housing needs. Goal 10 is implemented by OAR Chapter 660, Divisions 7 and 8, which only apply to areas inside UGBs.

*The subject property is located outside of any UGB.*

**Statewide Planning Goal 10 is not applicable.**

### GOAL 11 – PUBLIC FACILITIES AND SERVICES

The purpose of Goal 11 is to ensure that local governments plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. Goal 11 is implemented by OAR Chapter 660, Division 11. Rules 60 and 65 of that division regulate the provision and extension of sewer and water service to rural lands, respectively.

*The subject property is not located within public sewer or water service districts, and the Applicant does not propose to extend sewer or water services to the subject property. No changes to adopted facilities plans or implementing regulations are proposed in this application.*

**Statewide Planning Goal 11 is not applicable.**

### GOAL 12 – TRANSPORTATION

The purpose of Goal 12 is to provide and encourage a safe, convenient, and economic transportation system. It requires the County to create a transportation system plan (TSP) that takes into account all relevant modes of transportation.

*Goal 12 is implemented by OAR Chapter 660, Division 12, commonly referred to as the "Transportation Planning Rule" (TPR). When an amendment to the County's Comprehensive Plan maps or zoning map is proposed, Rule 60 of the TPR requires an analysis of whether the*

proposed amendment would “significantly affect” an existing or planned transportation facility, and whether it is necessary to update transportation facility plans to accommodate such effects. The TPR defines what it means to “significantly affect” a transportation facility.

Typically, an Applicant for a proposed Comprehensive Plan map amendment is required to submit a traffic study or similar evidence to demonstrate compliance with requirements of the Transportation Planning Rule (TPR), as well as the requirements of ZDO Section 1202.03 and Chapter 5 of the Comprehensive Plan. In this case, however, no traffic study was needed to demonstrate such compliance.

This proposal would simply allow for a private noncommercial dock for use by the property owner and their guests. The dock itself would not generate any additional traffic and therefore no additional traffic analysis was required and it can be found that the proposal is consistent with the requirements of the TPR.

**The relevant requirements of Statewide Planning Goal 12 are satisfied.**

#### GOAL 13 – ENERGY CONSERVATION

Goal 13 encourages land use plans to consider lot size, siting controls, building height, density, and other measures in order to help conserve energy.

The Applicant’s proposal would not change any policy or implementing regulation regarding energy conservation.

**Statewide Planning Goal 13 is not applicable.**

#### GOAL 14 – URBANIZATION

The purpose of Goal 14 is to provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

The subject property is outside of a UGB. The application does not propose to expand or modify any UGB, permit urban land uses outside of a UGB, or rezone any rural lands to urban or urbanizable zoning district. The subject property is not located in an urban or rural reserve.

**Statewide Planning Goal 14 is not applicable.**

#### GOAL 15 – WILLAMETTE RIVER GREENWAY

The purpose of Goal 15 is to “protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The 1980 Rivers Planning Background Report of the Comprehensive Plan provides information and background on the creation of the WRG (excerpt provided in Application, Exhibit 1, page 120). According to this document, the WRG was initiated in 1967, but initial Plans were not adopted by the state, so Goal 15 was developed and formally adopted in 1975. Then, the “state plan showing boundaries, state and local government ownership, potential acquisition areas and proposed intensities on state land was approved by LCDC in October, 1977.” The document further notes that the “Willamette River Greenway Law requires establishment of the Greenway, requires

*maximum and minimum acreages allowable within the boundary, restricts use of eminent domain, prohibits public use of scenic easements and Goal 15 limits intensification and change of use within the Greenway.”*

*The WRG law is currently found in ORS 390.310 through 390.368 and implemented through the rules in OAR 660-015-0005. Based on the history, Statutes and OARs, it appears that the Willamette River Greenway was largely established to preserve areas along the river for public use but does also recognize that private uses, such as residences and docks, exist on the river and should be allowed to continue and be afforded a “limited” intensification and/or changes of use. Staff can find nothing in Goal 15 that requires the county to prohibit all new development in certain areas or to maintain an area like the limited use portions of the WRG in Clackamas County that prohibits new docks.*

- *ORS 390.314(2)(b) states that “[r]ecognizing the need of the people of this state for existing residential, commercial and agricultural use of lands along the Willamette River, finds it necessary to permit the continuation of existing uses of lands that are included within such greenway; but, for the benefit of the people of this state, also to limit the intensification and change in the use of such lands so that such uses shall remain, to the greatest possible degree, compatible with the preservation of the natural, scenic, historical and recreational qualities of such lands. [emphasis added].*
- *In fact, the only language in OAR 660-015-0005 that contemplates changes in uses allowed within the WRG state that “[t]he qualities of the Willamette River Greenway shall be protected, conserved, enhanced and maintained consistent with the lawful uses present on December 6, 1975. Intensification of uses, changes in use or developments may be permitted after this date only when they are consistent with the Willamette Greenway Statute, this goal, the interim goals in ORS 215.515(1) [which has been repealed] and the statewide planning goals,…”*

*As such, Staff finds that the Applicant’s assertion that “there is very little in Goal 15 that appears to be directly applicable” to this proposal is accurate and concurs that “the only potentially applicable provisions are Section C – Considerations and Requirements, Subsection 3-Use Management Considerations and Requirements.” Within that subsection, Staff finds only the following may be applicable:*

- a. *Agricultural lands -- The agricultural lands identified in the inventory shall be preserved and maintained as provided in Goal 3 as an effective means to carry out the purposes of the Greenway including those agricultural lands near the Greenway. Lands devoted to farm use which are not located in an exclusive farm use zone shall be allowed to continue in such farm use without restriction as provided in ORS 390.314(2)(c), ORS 390.332(4) and ORS 390.334(2);*

*Although the subject property is planned and zoned for agricultural use, as a practical matter, it is not agricultural land that requires preservation. The subject site is 0.5 acres and is already developed with a single-family dwelling. In addition, the proposal would allow for an accessory use to that dwelling, in the form of a private dock, which, as discussed earlier, would not affect the ability of other nearby agricultural properties to continue to operate.*

- g. *Vegetative fringe -- The natural vegetative fringe along the River shall be enhanced and protected to the maximum extent practicable;*

*Allowing the subject property to permit a dock on its river frontage would result in only a minimal disturbance to vegetation and any disturbed vegetation would be required to be restored with appropriate native vegetation, as per standards found in the county's Zoning & Development Ordinance.*

- k. Greenway setback -- A setback line will be established to keep structures separated from the river in order to protect, maintain, preserve and enhance the natural, scenic, historic and recreational qualities of the Willamette River Greenway, as identified in the Greenway Inventories. The setback line shall not apply to water-related or water-dependent uses.

*Changing the subject property from Limited Use to Multiple Use to allow for a private noncommercial dock would not conflict with this provision, as a dock is a water-dependent use and not subject to setbacks.*

*Staff finds that even if one were to look only to the intent of Goal 15 - to "protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River as the Willamette River Greenway" – it is reasonable to conclude that approving this proposal can be found consistent. The area in the immediate vicinity of the subject is not currently maintained in a natural or scenic manner; rather it is already developed with residences and docks that are used for private recreation on the river.*

***The relevant requirements of Statewide Planning Goal 15 are satisfied.***

GOAL 16 – ESTUARINE RESOURCES; GOAL 17 – COASTAL SHORELANDS; GOAL 18 – BEACHES AND DUNES; GOAL 19 – OCEAN RESOURCES

***Statewide Planning Goals 16 through 19 are not applicable to Clackamas County.***

## **B. Clackamas County Comprehensive Plan**

The County's Comprehensive Plan includes goals and policies that must be considered when evaluating a proposed change in Comprehensive Plan. Staff has reviewed each chapter of the Comprehensive Plan. In this section of the report and recommendation, Staff provides written findings as to how the Applicant's proposal is consistent with only those chapters, goals, and policies that were found to be applicable to this specific proposal.

**Chapter 2; Citizen Involvement:** The purpose of this Chapter is to promote citizen involvement in the governmental process and in all phases of the planning process.

There is one policy in this Chapter applicable to this application:

Policy 2.A.1 Require provisions for opportunities for citizen participation in preparing and revising local land use plans and ordinances. Insure opportunities for broad representation, not only of property owners and County wide special interests, but also of those within the neighborhood or areas in question.

*The Clackamas County Comprehensive Plan and ZDO have adopted and acknowledged procedures for citizen involvement. This application has been processed consistent with those*

procedures. Specifically, the County has provided notice to interested agencies, local governments and property owners within ½ mile of the subject property consistent with State law and Section 1307 of the ZDO. The notification to property owners, public notices and hearings ensures an opportunity for citizens to participate in the land use process.

***This application is consistent with Chapter 2.***

**Chapter 3: Natural Resources and Energy:** The purpose of this Chapter is to provide for the planning, protection and appropriate use of the County's natural resources and energy.

This Chapter contains eight (8) Sections addressing; 1) Water Resources; 2) Agriculture; 3) Forests; 4) Mineral and Aggregate Resources; 5) Wildlife Habitats and Distinctive Resource Areas; 6) Natural Hazards; 7) Energy Sources and Conservation and; 8) Noise and Air Quality.

This chapter of the Plan provides direction for use management within the WRG through the Design Plan depicted on Map 3-1e. Specific Plan policies for the WRG Design Plan are as follows

#### Willamette River Design Plan and Policies

- 3.C.6.1 Implement the design plan for the Willamette River according to Map 3-1e, which illustrates uses. Management activities and land classifications shown on the map are consistent with land use policies and designations in the Land Use Chapter. Official maps showing precise boundaries and sites (scale 1"=2000') are on file at the Clackamas County Department of Transportation and Development.

*Two classifications of water use are established in the WRG Design Plan: Limited Use and Multiple Use.*

*The general uses identified for the Limited Use designation are described as:*

*“Uses compatible with limited use recreation. Other uses are existing residential, commercial and industrial water dependent and water related uses...”*

*The general uses identified for the Multiple Use designation are described as:*

*“Encourages multiple use recreation activities, Continues existing uses with no restriction on waterborne commerce...”*

*Both water use designations are applied in the WRG Design Plan to varying areas of the Willamette River above the Willamette Falls. No policies or criteria are provided in the Comprehensive Plan to justify the application of these designations to specific stretches of the River, except for the very general policy related to protecting the natural character of the river, found in 3.C.6.5 (discussed below).*

*In the non-urban portion of the Greenway, the Design Plan identifies adjacent land classifications as “Natural Resource” or “Low Intensity Rural.” However there does not appear to be any direct correlation between the adjacent land use designation and the water use category applied. Both designations are applied to various stretches of the river abutting Low Intensity Rural and/or Natural Resource lands and both designations are applied to stretches of the river that contain larger, undeveloped lots and smaller lots with residences.*

*Changing the water use designation from Limited Use to Multiple Use for the subject property would not change anything about the implementation of the WRG Design Plan and, as a practical matter, would allow the subject to construct a dock in an area that appears to better fit into the Multiple Use category because it is already affected by development in and out of the river.*

- 3.C.6.2 Support regulation of recreational activities in the rural portion of the Willamette Greenway to minimize conflicts between water-based recreational uses, manage the intensity of recreational uses, and buffer bankside uses from water-borne recreational activities including recreational noise levels. The County shall develop a joint land management program with the Oregon State Parks and Recreation Department for all County- and state-owned lands in the rural greenway.

*The Design Plan permits both the Limited use and Multiple Use water designation in rural sections of the Greenway. The river is relatively wide in the vicinity of the subject property (approximately 500 feet wide), which should allow for safe maneuvering of both commercial and residential river traffic. Allowing for one additional private dock in this area would not affect the ability for others to recreate on the Willamette River. The fact that all the land surrounding the subject is zoned for agricultural or forest uses means that there is very limited development potential in the surround areas and very low potential for the intensity of recreational activities to increase.*

- 3.C.6.5 Prohibit private noncommercial docks and moorages in limited-use rural portions of the Greenway to protect the natural river character.

*The subject property is currently in the Limited Use area and therefore a dock is prohibited on the site. This policy appears to be the only one in the Plan that attempts to direct the application of the Limited Use water designation, albeit in a somewhat backward manner and using a broad, discretionary standard. Because "protect the natural river character" is not defined and, to Staff's knowledge has never been formally interpreted, its meaning is presumably to be taken at face value, meaning the Limited Use designation is intended for areas that have remained in a natural, undeveloped state, and docks should not be allowed to blemish these areas.*

*In this case, it is clear from aerial photography that the "natural character" of the river has already been impacted in the immediate vicinity of the subject property by the development of dwellings on half-acre lots and the presence of docks. In addition, multiple residential properties across the river, just west of subject property, also have private docks (see photos in Application, Exhibit 1, page 8). Outside these areas of residential development, the Willamette River is maintained in a much more natural, undisturbed state and will likely remain that way because of the agricultural and forest zoning, which makes those areas more appropriate for the Limited Use designation than the area of the subject property and the surrounding residential properties.*

- 3.C.6.6 Allow private noncommercial docks and moorages in urban and multiple-use rural portions of the Greenway through the Greenway Conditional Use provisions of the Zoning Ordinance which require an extraordinary exception in the rural portion.

*If the proposed map amendment is approved, the Multiple Use designation will be applied to the river along the frontage of the subject property and the Applicant's*



*concurrent application for the development of a private noncommercial dock can potentially be approved. Any dock proposed on this site would need to meet all the applicable standards and criteria for such a development.*

#### Other applicable policies

- 3.A.1 Maintain rivers and streams in their natural state to the maximum practicable extent through sound water and land management practices. Consideration shall be given to natural, scenic, historic, economic, cultural, and recreational qualities of the rivers and adjacent lands.

*This policy does not explicitly prohibit development in stream corridors, rather it requires the natural state of rivers and streams to be protected” to the maximum extent practicable.” Installing private noncommercial docks on the Willamette River is allowed in certain areas and has been found to be consistent with this policy. Other docks allowed on the river demonstrate that this type or “water-dependent” use may be developed, while maintaining these vegetated buffers.*

*And, as discussed above, the subject property is in an area of the river that is not maintained in a natural state, as it is surrounded by residential development and several docks.*

#### ***This application is consistent with Chapter 3.***

**Chapter 4 Land Use:** This Section of the Comprehensive Plan includes the definitions for urban and rural land use categories, and outlines policies for determining the appropriate Comprehensive Plan land use designation for all lands within the County.

This Chapter contains three Sections addressing; 1) Urbanization; 2) Urban Growth Concepts; and 3) Land Use Policies for the each Land Use Plan designation. Only the Land Use Policies for the each existing and proposed Land Use Plan designation would be applicable to the proposal and those are addressed below.

*The subject property is currently designated Agriculture on the Comprehensive Plan Map. The proposed amendment to Map 3-01e of the Plan, would not change the underlying land use designation of the property nor would it necessitate such a change. The dock would simply be an accessory use to the existing single-family dwelling on the property.*

*As such, the only policy in Chapter 4 that may be applicable to this proposal is*

- 4.NN.3 Land uses that conflict with agricultural uses shall not be allowed.

*As noted, the subject property is a small, half-acre lot, which is already developed with a dwelling and a dock would simply be an accessory use. The subject site is surrounded by*

- *other rural residential development, several properties of which also have a private noncommercial dock; and*
- *the Molalla River State Park, a largely undeveloped 567-acre public recreation area.*

*The nearest agricultural uses are located approximately ¼-mile to the east and south. It is clear from the amount of cultivated fields visible in the aerial photos of this area, that the presence of the existing home on the subject property and the homes and docks the immediate vicinity do not affect the ability to farm. The only testimony received about this proposal came from the owner of 245 acres of farmland between the subject and Canby; this owner expressed support for the proposal to allow for a dock on the subject site.*

*There are no agricultural uses on the ½-acre subject property and allowing for one additional private noncommercial dock in this area is not expected to have any impact on or conflict with existing agricultural uses in the area.*

***This application is consistent with Chapter 4.***

**Chapter 5 Transportation:** *This Chapter outlines policies addressing all modes of transportation.*

This Chapter contains eight Sections including 1) Foundation and Framework; 2) Land Use and Transportation; 3) Active Transportation; 4) Roadways; 5) Transit; 6) Freight, Rail, Air, Pipelines and Water Transportation; 7) Finance and Funding; and 8) Transportation Projects and Plans.

The only policy found in this chapter that is relevant to this application is found in the Roadways section.

Policy 5.F.6 Require changes in land use plan designation and zoning designation to comply with the Transportation Planning Rule [Oregon Administrative Rules (OAR) 660-012-0060]

*Typically an Applicant for a proposed Comprehensive Plan map amendment is required to submit a traffic study or similar evidence to demonstrate compliance with requirements of the Transportation Planning Rule (TPR), found in Oregon Administrative Rules 660-012- 0060, as well as the requirements of ZDO Section 1202.03 and Chapter 5 of the Comprehensive Plan. In this case, however, no traffic study was needed to demonstrate such compliance.*

*This proposal would simply allow for a private noncommercial dock for use by the property owner and their guests. The dock itself would not generate any additional traffic and it can be found that the proposal is consistent with the requirements of the TPR.*

***This application is consistent with Chapter 5.***

**Chapter 11 The Planning Process:** *The purpose of this Chapter is to establish a framework for land use decisions that will meet the needs of Clackamas County residents, recognize the County's interrelationships with its cities, surrounding counties, the region, and the state, and insure that changing priorities and circumstances can be met.*

In the City, Special District and Agency Coordination Section of this Chapter, one policy is applicable:

Policy 11.A.1 Participate in interagency coordination efforts with federal, state, Metro, special purpose districts and cities. The County will maintain an updated list of federal, state and regional agencies, cities and special districts and will invite their participation in plan revisions, ordinance adoptions, and land use actions which affect their jurisdiction or policies.

*Notice of this application has been provided to all appropriate agencies and parties, DLCD and the Aurora-Butteville-Barlow CPO, and advertised public hearings before the Planning Commission and the Board of County Commissioners provide an adequate opportunity for interagency coordination of this proposed Comprehensive Plan map amendment and demonstrates compliance with this policy.*

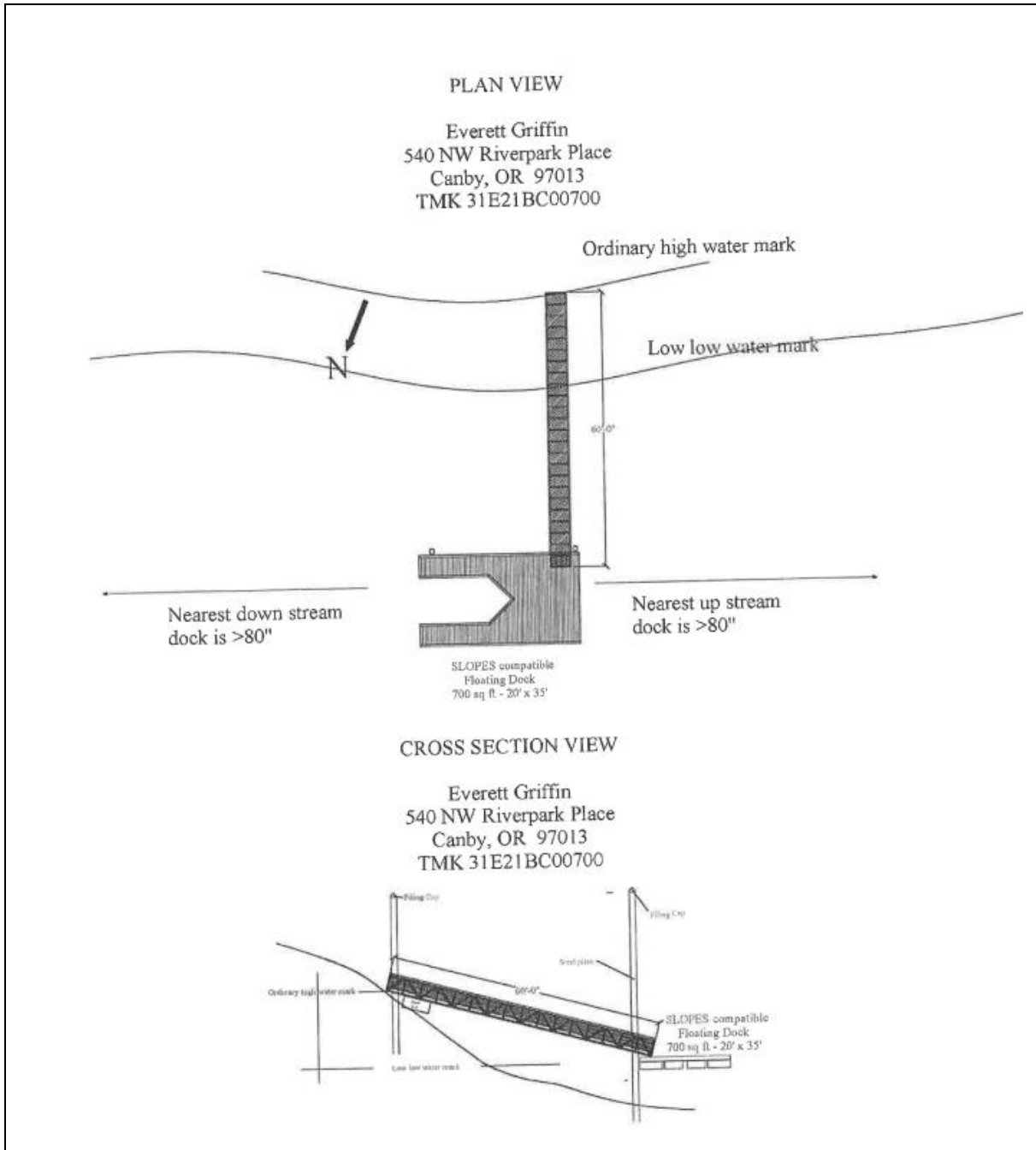
***This application is consistent with Chapter 11.***

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#### **IV. Z0316-23-R, WILLAMETTE RIVER GREENWAY DOCK FINDINGS**

Z0316-23-R is a proposal to install a 35-ft. by 20-ft. (700 sq. ft.) private, noncommercial dock and associated gangway within the Willamette River Greenway (WRG). Based on the Applicant's description, *[t]he dock will be comprised of a steel frame with polyethylene floats and wrapped in composite decking in dark natural wood colors and earth tones, such as dark brown or green. The gangway/ramp will be aluminum.*

As illustrated on Comprehensive Plan Map 3-1e, "Willamette River Greenway Design Plan," the area of the Willamette River that is located adjacent to the property falls within the Limited Use Rural portion illustrated on Map 3-1e. Pursuant to ZDO Subsection 705.05(B) and Policy 3.C.6.5 of the Comprehensive Plan, private noncommercial docks are prohibited in the Limited Use Rural portion of Map 3-1e. Therefore, the proposed private, noncommercial dock cannot be approved unless the proposed Comprehensive Plan amendment under file Z0315-23-CP, which is being reviewed concurrently, is approved.



The findings below identify the standards and criteria that are relevant to the proposal for placement of the private noncommercial dock and state the facts and justifications relied upon for rendering a decision.

**A. ZDO Section 705 Willamette River Greenway:** Section 705 of the ZDO, the Willamette River Greenway (WRG), sets forth the process, standards and requirements for development in the WRG. The proposed development is subject to the criteria and standards of Section 705 that are outlined below:

## 705.01 PURPOSE

Section 705 is adopted to:

- i. Protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River;
- ii. Maintain the integrity of the Willamette River by minimizing erosion, promoting bank stability, and maintaining and enhancing water quality and fish and wildlife habitats; and
- iii. Implement the Willamette River Design Plan set forth in Chapter 3 of the Comprehensive Plan.

*The development proposal for the dock and gangway would cause only minimal vegetation disturbance and any vegetation disturbed will be restored with appropriate native vegetation. Therefore, the dock will enhance the recreational qualities of the property located on the Willamette River while minimizing erosion, maintaining water quality and habitat and implementing the Willamette River Design Plan from the Comprehensive Plan.*

*If the Comprehensive Plan Map amendment to change the water use designation on subject property from Limited Use to Multiple Use is approved, the proposed private, noncommercial dock will comply with the Purpose of the Willamette River Greenway. If the map amendment is not approved, the proposed dock conflicts with the implementation of the Willamette River Design Plan set forth in Chapter 3 of the Comprehensive Plan that prohibits private, noncommercial docks in the Limited Use Rural Portion of the Willamette River Greenway and will not comply with the Purpose.*

*This criterion can be met if Z0315-23-CP is approved.*

## 705.02 DEFINITIONS

*The criteria, requirements, standards and text of ZDO Section 705 are subject to the definitions outlined in Subsection 705.02.*

## 705.03 AREA OF APPLICATION

Section 705 applies to development, change of use, or intensification of use on lands and water within the Willamette River Greenway, except:

- i. A change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated;
- ii. Landscaping, driveway construction, modifications of existing structures, and the construction or placement of subsidiary structures or facilities which are usual and necessary to the use and enjoyment of existing improvements;
- iii. Changes, modifications, and other practices customarily related to those farm uses described in Section 401;

- iv. Gravel removal from the bed of the Willamette River when conducted under a permit from the State of Oregon, and when compatible with the purposes stated in Subsection 705.01;
- v. Customary dredging and channel maintenance;
- vi. The placing, by a public agency, of signs, workers, or aids to serve the public;
- vii. Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses on public lands;
- viii. Acquisition and maintenance of scenic easements by the Oregon Parks and Recreation Department; and
- ix. The partial harvest of timber beyond the vegetative fringes in areas not covered by a scenic easement when the harvest is consistent with an approved plan under the Oregon Forest Practices Act (OFPA). If such activity is not covered by OFPA, it shall be reviewed as a Type II application pursuant to Section 1307, to ensure consistency with the purposes stated in Subsection 705.01. Commercial forest activities and harvesting practices shall provide for vegetation buffers and the intended shading, soil stabilizing, and water filtering effects required by the OFPA.

*The Applicant has proposed development in the Willamette River Greenway, in the form of a dock. The proposed development does not qualify as one of the exceptions outlined in this Subsection. Therefore, Section 705 applies.*

#### 705.04 STANDARDS FOR INTENSIFICATION, CHANGE OF USE, OR DEVELOPMENT WITHIN THE WILLAMETTE RIVER GREENWAY

All intensification, change of use, or development shall require a Willamette River Greenway (WRG) permit. A WRG permit requires review as a Type II application, pursuant to Section 1307 and shall be subject to the following standards and criteria:

- A. The request is consistent with the purposes stated in Subsection 705.01.

*As outlined above, the request is consistent with the Purpose outlined in Subsection 705.01(C) only if the proposed Comprehensive Plan map amendment is approved.*

*This criterion can be met if Z0315-23-CP is approved.*

- B. Where necessary, public access has been provided by appropriate legal means to and along the river.

*The subject property is private property with a single-family residence. Public access is not required to be provided. Nearby public access to the river is available at Molalla River State Park located west of the subject property and at Hebb County Park located east of the subject property.*

*This criterion is met.*

- C. The request will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river. The depth of this area need not exceed 150 feet.

*The Applicant asserts that “the dock is located in the Willamette River and no landscaped area, open space or shoreline vegetation will be disturbed by the dock. The gangway will not require any but minimal vegetation distribution and any vegetation disturbed will be restored with appropriate native vegetation.”*

*The proposal would include minimal disturbance to vegetation within the river buffer and, as noted, disturbed vegetation would be restored. Based on the information submitted, it is reasonable to conclude that this will retain vegetation or landscaping to the maximum extent possible. This criterion is met.*

- D. The request will result in the preservation of a buffer or filter strip of natural vegetation along the river bank. The depth of this vegetative buffer or filter strip need not exceed 150 feet, and shall be determined by consideration of the following:
1. The character of the use or development;
  2. The width of the river;
  3. Steepness of the terrain;
  4. Type and stability of the soil; and
  5. The type and density of the existing vegetation.

*The proposal would include minimal disturbance to vegetation within the river buffer and, as noted, disturbed vegetation would be restored. Based on the information submitted, it is reasonable to conclude that this will retain vegetation or landscaping to the maximum extent possible. This criterion is met.*

- E. Structures shall observe a minimum setback between 100 and 150 feet from the mean low water level. The setback shall be determined by evaluation of the criteria stated in Subsection 705.04. Residential lots of record and water-dependent uses unable to meet this requirement shall be exempt from this setback.

*The proposed structure is a residential dock on a lot of record. The use is a water-dependent use that relies on being in or adjacent to the water. Therefore, the proposed use is exempt to this criterion and has to meet the requirements for docks including 705.04 (G) below. This criterion is met.*

- F. The maximum height of a dwelling or a structure accessory to a dwelling shall be 35 feet.

*The proposed structure is a residential dock on a lot of record. This dock is a structure accessory to the dwelling that exists on the site and is therefore subject to this standard. No measurements are provided to identify the height of the pilings to secure the proposed dock, however, with a Condition of Approval requiring the height not exceed 35 feet, this proposal can be found consistent with this standard. As conditioned, this criterion is met.*

G. Private noncommercial docks and boathouses shall be subject to the following standards, in addition to the other standards in Subsection 705.04:

1. General Provisions:

- a. Private noncommercial docks, boathouses, and pilings shall either be dark natural wood colors, or painted dark earth tones (dark brown or green).
- b. The square footage of docks and boathouses is measured as the length times the width of the outer edge of the structure.
- b. The length-to-width ratio of a private noncommercial dock shall not exceed 3:1.
- c. Only one dock and boathouse is allowed per riverfront lot of record.

*The Applicant has indicated that the proposed dock would be dark natural wood colors or be painted in dark earth tones such as dark brown or green. The Applicant has calculated the square footage of the proposed dock to be 700 sq. ft., by multiplying the length of 35 ft. by the width of 20 ft., which equals 700 sq. ft. The dimensions of 35 ft. by 20 ft. do not exceed a ratio of 3:1 and only one dock is proposed for the subject lot, which is a riverfront lot of record.*

2. Oregon City Falls to Multnomah County line:

- a. Private noncommercial docks shall not exceed 400 square feet.
- b. Private boathouses are prohibited.

*The subject site is not located between the Oregon City Falls and the Multnomah County line.*

3. Oregon City Falls to Marion County line:

- a. Private noncommercial docks shall not exceed 700 square feet.
- b. Private noncommercial boathouses shall not exceed 500 square feet.
- c. Private noncommercial boathouses shall not exceed 12 feet in height, measured from the platform of the dock to the roof peak

*The subject site is located between the Oregon City Falls and the Marion County line. The proposed dock measures 700 sq. ft. A private, noncommercial boathouse is not proposed. This criterion is met and the applicable standards of this Subsection have been applied as Conditions of Approval.*

4. All docks located on state-owned submerged and/or submersible land must be leased or registered with the Oregon Division of State Lands, according to state law.

*To ensure the appropriate approval from the Oregon Division of State Lands is received, this standard has been applied as a Condition of Approval.*

## 705.05 PROHIBITED USES

The following uses are prohibited in the Willamette River Greenway (WRG):



- A. Low head hydroelectric dam facilities, which adversely impact fisheries or the scenic and water quality of the river; and
- B. Private noncommercial docks and moorages in the limited use rural portions of the WRG identified on Comprehensive Plan Map III-1e, Willamette River Greenway Design Plan.

*The proposal does not include hydroelectric dam facilities. This proposal does include a private, noncommercial dock to be sited in the Limited Use rural portion of the Willamette River Greenway, which is a prohibited use. However, the Applicant has submitted an application for a Comprehensive Plan amendment to change the water use designation from Limited Use to Multiple Use on Comprehensive Plan Map 3-1e (file no. Z0315-23-CP). If file Z0315-23-CP is approved, then the proposed use would no longer be prohibited under this criterion.*

*This criterion can be met if Z0315-23-CP is approved.*

#### 705.06 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for a Willamette River Greenway permit shall include:

*The Applicant has provided the necessary submittal materials to process the application.*

#### 705.07 APPROVAL PERIOD AND TIME EXTENSION

*The Standards of this Subsection are outlined in the Conditions of Approval above.*

*Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at 503-742-4545 or email [DRenhard@clackamas.us](mailto:DRenhard@clackamas.us).*

*503-742-4545: ¿Traducción e interpretación? |Требуется ли вам устный или письменный перевод? |翻译或口译 ? | Cán Biên dịch hoặc Phiên dịch? | 번역 또는 통역?*

**PLANNING COMMISSION  
DRAFT MINUTES**

October 23, 2023

Meeting held online via Zoom

Commissioners present: Tammy Stevens, Gerald Murphy, Tom Peterson, Louise Lopes, Michael Wilson, Tom Middaugh.

Commissioners absent: Kevin Moss, Carrie Pak

Staff present: Martha Fritzie, Jennifer Hughes, Darcy Renhard

Commission Chair Murphy opened the meeting at 6:34 pm.

Chair Murphy asked if there was anyone in the audience who wished to provide public comment on items other than what is on the agenda. There were none.

Chair Murphy opened the public hearing for file numbers Z0315-23-CP and Z0316-23-R, which are applications by Everett Griffin for a Comprehensive Plan Map amendment and corresponding Willamette River Greenway application for a dock.

Martha Fritzie presented the staff report and recommendation for both files. File Z0315-23 is a proposed Comprehensive Plan Map amendment to change the Willamette River Greenway designation from "limited use" to "multiple use". File Z0316-23 is a Willamette River Greenway (WRG) application for approval to construct a 700 sf (35 ft. x 20 ft.) private noncommercial dock. The applicant had previously filed for a permit to install a private noncommercial dock in 2021, but that application was denied because the property was located within the "limited use" rural area of the WRG. The Clackamas County Comprehensive Plan and Zoning & Development Ordinance (ZDO) prohibit private, noncommercial docks in "limited use" areas identified on Comprehensive Plan Map 3-1e. The applicant appealed the County's decision to the Hearings Officer, who affirmed the County's decision. The applicant then appealed the denial to the Land Use Board of Appeals (LUBA), where the case is currently suspended in order to allow the parties to find an alternative resolution. If the proposed applications before the Planning Commission tonight are approved by the Board of County Commissioners, the "multiple use" designation would allow the private noncommercial dock to be approved in this location.

Staff has determined that the application for the Comprehensive Plan Map designation change satisfies the requirements in Statewide Planning Goals 1, 2, 3, 5, 6, 7, 12, and relevant parts of 15. Goals 4, 8, 9, 10, 11, 13, 14, and 16-19 are not applicable.

The application is consisted with Chapters 2, 3, 4, 5, and 11 of the Clackamas County Comprehensive Plan.

As explained by Ms. Fritzie, this property is one of nine homes along NW River Park Place, all of which are riverfront lots. Five of these nine dwellings have existing private docks that were established prior to implementation of the County's Willamette River Greenway Design Plan, which prohibits new docks in this area.

The subject property is approximately 0.5 acres and is relatively flat with slopes only along the riverbank. The property is vegetated with some trees and landscaping between the residence and the river. About half of

the site is within a flood hazard area. The entire property is within the Willamette River Greenway. Although the property is zoned EFU, the site is considered to be low-value farmland.

Only one neighbor provided testimony on this application, and it was in support of approval. The Aurora-Butteville-Barlow CPO did not provide any comments as of this hearing.

Based on this information, staff is recommending approval of file numbers Z0315-23-CP and Z0316-23-R.

Chair Murphy asked if this would provide a pathway to continue adding docks in the limited use areas. Ms. Fritzie answered that it could, but that it requires a Comprehensive Plan amendment which is not an insignificant undertaking. It has been done 4 times before in the limited use area, and this would be the fifth. This approval would be specific only to the subject property, it would not apply to any other properties in the area. Chair Murphy said that it seems like enforcement would be easier if the multi-use and limited use weren't done so as to end up in a checkerboard effect. Ms. Fritzie agreed that there may be other ways to handle this, and staff have been having this conversation but it is unrelated to this application.

Commissioner Lopes asked if the dock already exists as the aerial photos seem to indicate. Ms. Fritzie answered that there does appear to be a dock in front of the property, but she was informed that the dock that appears in that photo actually belongs to the neighbor and was only sitting there for repairs. Whether or not the dock is a violation, it does not affect whether or not the proposal meets the criteria for the Comprehensive Plan amendment.

Commissioner Wilson asked for an explanation of what the difference is between multiple use and limited use, and if all of the properties that already have docks are multiple use. Ms. Fritzie answered that some of the docks are still in the limited use area, but those docks existed prior to the establishment of the Greenway. Since they are older, they are allowed to continue to exist. They are essentially a non-conforming use.

Commissioner Middaugh asked if there were any other regulatory agencies other than the Department of State Lands that have any kind of jurisdictional interest in a decision we might make here. Ms. Fritzie answered that the county has its own standards and the Dept of State Lands (DSL) has their own permitting requirements and standards. So in order to approve a dock you need a permit from both agencies. There may be other state agencies that would have interest in this, including the Department of Land Conservation and Development since this relates to statewide planning goals (specifically Goal 15). Both agencies were provided notice and given an opportunity to provide comment about whether or not they think the proposal meets the applicable standards. The comments from DSL were emailed to everyone earlier today. There is a proposed condition of approval that requires any necessary permitting from DSL be obtained. They would also still have to obtain a building permit for the dock.

**Joshua Griffin** is the property owner's son. He clarified that the neighbor had replaced their dock and moved their old dock over in front of his father's property. There is nothing there now, the dock has since been removed.

Chair Murphy closed the public hearing.

Commissioner Stevens moved that the Planning Commission recommend to the Board of County Commissioners approval of file numbers Z0315-23-CP and Z0316-23-R. Commissioner Wilson seconded. *Ayes=6, Nays=0. Motion passes.*

Commissioner Stevens moved to approve the minutes for September 11, 2023 as submitted by staff. Commissioner Wilson seconded. *Ayes=6, Nays=0. Motion passes.*

Ms. Hughes provided a schedule update.

There being no further business, the meeting was adjourned at 8:28 pm.

**Exhibit List**  
**In The Matter Of File Nos. Z0315-23-CP & Z0316-23-R**

<i>Ex. No.</i>	<i>Date Received</i>	<i>Author or source</i>	<i>Subject &amp; Date of document</i>
1*	Date	Applicant (Everett Griffin)	Submitted Application   08/07/23, deemed complete 08/21/23
2*	09/18/23	Planner of Record (Martha Fritzie)	Land use notices
3*	09/26/23	Ed Montecucco	Letter in support of proposal
4*	10/21/23	Matthew Unitis, Dept. of State Lands (DSL)	Comment noting that the proposed dock would require additional permitting through the State.
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\* Exhibits received prior to or during PC hearing  
 \*\* Exhibits received after PC hearing



**Planning and Zoning**  
**Department of Transportation and Development**  
 Development Services Building  
 150 Beaver Creek Road | Oregon City, OR 97045  
 503-742-4500 | zoninginfo@clackamas.us  
 www.clackamas.us/planning

**STAFF USE ONLY**

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**RECEIVED**

AUG 7 2023

Z0315-23

Clackamas County  
 Planning & Zoning Division

Staff Initials: BB File Number: \_\_\_\_\_

Land use application for:

## COMPREHENSIVE PLAN MAP AMENDMENT & ZONE CHANGE

**Application Fee: \$14,920 (+\$150 for expanded notification area if the property is in the AG/F, EFU, FF-10, FU-10, RA-1, RA-2, RC, RI, RR, RRF-5, or TBR zone)**

No zone change requested; see request for fee reduction in attached application narrative.

APPLICANT INFORMATION			
Applicant name: Everett Griffin	Applicant email: n/a	Applicant phone: (503) 970-5130	
Applicant mailing address: 540 NW River Park Place	City: Canby	State: OR	ZIP: 97013
Contact person name (if other than applicant):	Contact person email:	Contact person phone:	
Contact person mailing address:	City:	State:	ZIP:

PROPOSAL	
Brief description of proposal: Plan amendment WRG Limited Use to Multiple Use to allow construction of private boat dock; no zone change requested; property will remain EFU	Pre-application conference file number: <b>ZPAC0134-21</b>

SITE INFORMATION		
Site address: 540 NW River Park Place	Comprehensive Plan designation: Land: Ag; Water: WRG Limited Use	Zoning district: EFU
Map and tax lot #:  Township: <u>3S</u> Range: <u>1E</u> Section: <u>21BC</u> Tax Lot: <u>700</u> Township: _____ Range: _____ Section: _____ Tax Lot: _____ Township: _____ Range: _____ Section: _____ Tax Lot: _____	Land area:  0.45 acre	
Adjacent properties under same ownership:  Township: _____ Range: _____ Section: _____ Tax Lot: _____ Township: _____ Range: _____ Section: _____ Tax Lot: _____		

Printed names of all property owners: Everett Griffin	Signatures of all property owners:  <i>Everett Griffin</i>	Date(s):  8/4/23
<p><b>I hereby certify that the statements contained herein, along with the evidence submitted, are in all respects true and correct to the best of my knowledge.</b></p>		
Applicant signature:  <i>Everett Griffin</i>	Date:  8/4/23	

## A. Complete a pre-application conference:

You must attend a pre-application conference with Planning and Zoning staff before filing this application. [Information about the pre-application conference](#) process and a request form are available from the Planning and Zoning website.

## B. Review applicable land use rules:

This application is subject to the provisions of [Section 1202, Zone Changes](#) of the [Clackamas County Zoning and Development Ordinance](#) (ZDO).

It is also subject to the ZDO's definitions, procedures, and other general provisions, as well as to the specific rules of the subject property's zoning district and applicable development standards, as outlined in the ZDO.

## C. Turn in the following:

- Complete application form:** Respond to all the questions and requests in this application, and make sure all owners of the subject property sign the first page of this application. Applications without the signatures of *all* property owners are incomplete. 

No zone change requested; see request for fee reduction in attached application narrative.
- Application fee:** The cost of this application is **\$14,920, plus a \$150 notification surcharge if an expanded notification area is required by ZDO Section 1307**. Payment can be made by cash, by check payable to "Clackamas County", or by credit/debit card with an additional card processing fee using the [Credit Card Authorization Form](#) available from the Planning and Zoning website. Payment is due when the application is submitted. Refer to the FAQs at the end of this form and to the adopted [Fee Schedule](#) for refund policies.
- Vicinity map:** Provide a map of the area around the property, drawn to scale, that shows the uses and location of improvements on adjacent properties and properties across any road.
- Site plan:** Provide a site plan (also called a plot plan). A [Site Plan Sample](#) is available from the Planning and Zoning website. The site plan must be accurate and drawn to-scale on paper measuring no larger than 11 inches x 17 inches. The site plan must illustrate all of the following (when applicable):
  - Lot lines, lot/parcel numbers, acreage/square footage of lots, and contiguous properties under the same ownership;
  - All existing and proposed structures, fences, roads, driveways, parking areas, and easements, each with identifying labels and dimensions;
  - Setbacks of all structures from lot lines and easements;
  - Significant natural features (rivers, streams, wetlands, slopes of 20% or greater, geologic hazards, mature trees or forested areas, drainage areas, etc.); and
  - Location of utilities, wells, and all onsite wastewater treatment facilities (e.g., septic tanks, septic drainfield areas, replacement drainfield areas, drywells).
- Service Feasibility Determinations:** Request that the property's water provider, sanitary sewer provider, and surface water management authority, as applicable, each complete a [Preliminary Statement of Feasibility](#) and include those completed statements with your application. If the proposed development will be served by an onsite wastewater treatment system (e.g., a septic system), include an approved Site Evaluation or Authorization Notice from the [Septic & Onsite Wastewater Program](#) attesting to the feasibility of your proposal. n/a
- Transportation impact study:** Refer to the information provided at the pre-application conference regarding the need for a transportation impact study. Include a copy of any required study with your application submittal. n/a
- Any additional information or documents advised of during the pre-application conference** n/a

**D. Answer the following questions:**

1. What Comprehensive Plan designation are you requesting for the subject property?

Requested Plan designation: \_\_\_\_\_WRG: Multiple Use\_\_\_\_\_

2. What zoning district designation are you requesting for the subject property?

Requested zoning district: \_\_\_\_\_n/a property will remain EFU\_\_\_\_\_

3. If the zoning designation you requested in response to Question 2 cannot be approved because the property doesn't meet the approval criteria, would you like an alternate zoning district designation to be considered?

- NO n/a
- YES, and the alternate zoning district designation(s) I would like is/are:

\_\_\_\_\_

4. Are you filing this Comprehensive Plan Map amendment and zone change application with another application (e.g., an application for a partition or subdivision)?

- NO, this application is being filed alone.
- YES, this application is being filed with another application. That other application requests the following:

\_\_\_\_\_WRG permit for private noncommercial boat dock\_\_\_\_\_



**D. Respond in a narrative:**

Your application submittal must include a narrative that fully responds to the following. Due to the technical nature of these requirements, guidance on how best to respond will be provided during the required pre-application conference.

1. How is your proposal consistent with applicable Statewide Planning Goals?
2. How is your proposal consistent with the applicable goals and policies of the County's [Comprehensive Plan](#)?
3. If relevant, how is your proposal consistent with Metro's Urban Growth Management Functional Plan? *n/a*
4. If development under the proposed zone would need public services (sanitary sewer, surface water management, and water), could the need be accommodated with the implementation of the applicable service provider's existing capital improvement plan? The cumulative impact of the proposed zone change and development of other properties under existing zoning designations must be considered. *n/a*
5. Explain how the transportation system is adequate and will remain adequate with approval of the proposed zone change. This explanation should take into consideration the following: *n/a*
  - a. "Adequate" means a maximum volume-to-capacity ratio (v/c), or a minimum level of service (LOS), as established by Comprehensive Plan Tables 5-2a, *Motor Vehicle Capacity Evaluation Standards for the Urban Area*, and 5-2b, *Motor Vehicle Capacity Evaluation Standards for the Rural Area*.
  - b. Conduct the evaluation of transportation system adequacy pursuant to the Transportation Planning Rule (Oregon Administrative Rules 660-012-0060).
  - c. Assume that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.
  - d. The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards.
  - e. The adequacy standards apply to all roadways and intersections within the impact area of the proposed zone change. The impact area is identified based on the Clackamas County Roadway Standards.
  - f. A determination of whether submittal of a transportation impact study is required is made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.
  - g. (d) through (f) above do not apply to roadways and intersections under the jurisdiction of the State of Oregon. Instead, motor vehicle capacity calculation methodology, impact area identification, and transportation impact study requirements are established by the

ODOT Transportation Analysis Procedures Manual for such roadways and intersections.

6. Explain how the safety of the transportation system is adequate to serve the level of development anticipated by the proposed zone change. *n/a*

## FAQs

### **What is a Comprehensive Plan Map amendment and zone change?**

All land in the County has been divided into mapped Comprehensive Plan designations, each of which corresponds to one or more zoning districts. A Comprehensive Plan Map amendment and zone change results in a property switching from one Comprehensive Plan Map designation and zoning district to another designation and zoning district, which may change allowed uses, minimum lot size, and other development standards.

### **What is the permit application process?**

Comprehensive Plan Map amendments and zone changes that are *not* related to the Historic Landmark, Historic District, and Historic Corridor overlay district are subject to a "Type III" land use application process, as provided for in [Section 1307](#) of the ZDO. Type III decisions include notice to owners of nearby land, the Community Planning Organization (if active), service providers (sewer, water, fire, etc.), and affected government agencies, and are reviewed at public hearings before the Planning Commission and the Board of County Commissioners (BCC). If the application is approved, the applicant must comply with any conditions of approval identified in the decision. The County's decision can be appealed to the Oregon Land Use Board of Appeals (LUBA).

### **What is needed for the County to approve a land use permit?**

Comprehensive Plan Map amendments and zone changes *may* be permitted after an evaluation of applicable standards by staff, the Planning Commission, and the BCC. The applicant is responsible for providing evidence that their proposal does or can meet those standards. In order to address the standards, the information requested in this application should be as thorough and complete as possible. A permit will only be approved or denied after a complete application is received and reviewed. The BCC approves an application only if it finds that the proposal meets the standards or can meet the standards with conditions.

### **How long will it take the County to make a decision about an application?**

A final decision on an application for a Comprehensive Plan Map amendment and zone change is generally issued within 24 weeks (168 days) of when we deem the application to be complete. However, these applications are often highly complex and may take longer to process.

### **If an application is submitted and then withdrawn, will a refund be given?**

The fee for this application includes a \$3,830 fee for review by the Hearings Officer, which will be fully refunded if the application is withdrawn before the hearing occurs. If the submitted Type III application is withdrawn before it is publicly noticed, 75% of the portion of the application fee paid that is not the Hearings Officer review fee (i.e., the remainder), or the remainder minus \$250, whichever is less, will be refunded. If a submitted application is withdrawn after it is publicly noticed, but before a staff report is issued, 50% of the remainder, or \$500, whichever is less, will be refunded. No refund on the remainder will be given after a staff report is issued.

### **Who can help answer additional questions?**

For questions about the County's land use permit requirements and this application form, contact Planning and Zoning at [503-742-4500](tel:503-742-4500) or [zoninginfo@clackamas.us](mailto:zoninginfo@clackamas.us). You can also find information online at the Planning and Zoning website: [www.clackamas.us/planning](http://www.clackamas.us/planning).

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**503-742-4545:** ¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод?  
翻译或口译? | Cần Biên dịch hoặc Phiên dịch? | 번역 또는 통역?

**APPLICATION NARRATIVE**  
**Comprehensive Plan Amendment WRG Limited Use to Multiple Use**

**I. Introduction**

**A. Summary of Applicant's Request**

This is an application for a Comprehensive Plan Map amendment to change the subject property's Willamette River Greenway (WRG) designation from "Limited Use" to "Multiple Use" to allow the applicant to construct a new private noncommercial dock on the Willamette River at the subject property.

**B. Description of Subject Property and General Area**

The subject property is Tax Lot 700, Assessor's Map T3S, R1E, Section 21BC, W.M., located at 540 NW River Park Place, Canby, OR 97013 in unincorporated Clackamas County. The subject property is located along the Willamette River at approximately river mile 34 and is within the Willamette River Greenway (WRG). The subject property is part of what is essentially a subdivision of about a dozen properties – mostly less than an acre on the south (east) side of the river between Molalla River State Park and the Canby Ferry. A "Vicinity Map" is attached as Exhibit 1. The subject property is planned Agriculture and is zoned Exclusive Farm Use (EFU) with a WRG Limited Use overlay. The applicant would like to put in a noncommercial dock, in line with many of his neighbors who have docks, including his immediate upstream and downstream neighbors in the subdivision. A Site Plan is attached as Exhibit 2.

The subject property is approximately 0.45 acre and is developed with a single family residence. The property is vegetated with trees and landscaping between the residence and the river. The property is surrounded by similarly sized parcels along NW River Place (NW River Park Place properties) that are also developed with single family residences. Properties on either side of the subject property and other NW River Park Place properties have noncommercial boat docks.



There are also numerous nearby properties on the other side of the river and upstream of the subject property along SW Riverfront Terrace that also have noncommercial boat docks.



The applicant initially filed an application for a WRG permit to install a noncommercial dock in File Number Z0064-21-R. Whether a dock is allowed is

determined under Clackamas County Zoning and Development Ordinance (ZDO) 705.05(B), which provides that certain uses are prohibited in the WRG, including:

“Private noncommercial docks and moorages in the *limited use rural portions of the WRG* identified on Comprehensive Plan Map III-1e, Willamette River Greenway Design Plan.” (Emphasis added.)

Comprehensive Plan Map III-1e (the Map) (Exhibit 3) has small shaded areas on it that designate Low Intensity Urban and Low Intensity Rural areas along the river. These shaded areas correspond with areas where there are many existing docks. The subject property is located in one of these areas. The river itself is designated either Limited Use or Multiple Use. The river along the subject property is designated Limited Use. Staff denied the application because the river is designated Limited Use along the subject property. That decision was appealed to the county hearings officer. The hearings officer denied the appeal, and the decision states that the applicant needs a comprehensive plan amendment to approve a dock. During discussion with senior planners at the pre-application conference, it was determined that the best option would be to replan the property Multiple Use for the small portion of the river adjacent to the subject property. This application provides the basis for that comprehensive plan amendment.

### C. Pre-Application Conference

A pre-application conference regarding this application was held on December 1, 2021 (ZPAC0134-21). An application must be submitted within 2 years of the pre-application conference. ZDO 1307.05(F). This application is submitted within that 2-year period.

## II. REQUEST FOR FEE REDUCTION

ZDO 1307.16(E) provides that the County may reduce or waive application fees upon showing of “just cause” to do so. The applicant respectfully requests that you exercise your authority to do so in this situation, reducing the fee to \$5,280, the amount that staff advised would be required at the time the applicant completed his pre-application conference. Since that time, the application fee has gone up significantly to \$12,410, a 235% increase. The reasons for the request to reduce the fee are that this application is relatively straightforward and should require significantly less staff time to reach a decision when compared to other types of plan amendment applications which can be significantly more complex

(e.g., EFU to any other designation), does not involve a concurrent zone change, and involves only a small 0.45-acre residential property.

Please note that the applicant has submitted with this application the current fee. If you decide to reduce the fee to the requested \$5,280, the applicant requests that you refund him the difference.

### **III. APPROVAL CRITERIA**

This application is for a comprehensive plan amendment (a zone change is not requested as the property will remain zoned EFU), so the proposal must comply with the Statewide Planning Goals (Goals) and any applicable provisions of the Clackamas County Comprehensive Plan (Comprehensive Plan).

#### **A. Statewide Planning Goals**

There are nineteen Goals that the proposal must comply with.

##### **1. Goals Other Than Goal 15**

Goal 1: Citizen Involvement. The notice and hearings process provides an opportunity for citizen involvement. The proposal complies with Goal 1.

Goal 2: Land Use Planning. The subject application to amend the Comprehensive Plan will be considered under the process and procedure dictated by the Comprehensive Plan. The proposal complies with Goal 2.

Goal 3: Agricultural Lands. The subject property is zoned EFU. The only proposed amendment to the Comprehensive Plan is to designate the portion of the Willamette River adjacent to the property Multiple Use. The only effect of the proposed comprehensive plan amendment would be to allow the applicant to have a private noncommercial dock like his neighbors. A noncommercial dock would have no impact on any agricultural uses on the subject property or any other properties. The proposal complies with Goal 3.

Goal 4: Forest Lands. The subject property has not been determined to be forest land. This goal does not apply.

Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources. The Comprehensive Plan does not identify any significant open spaces, scenic and

historic area, or natural resources on the subject property. Goal 15 addresses the WRG. The proposal complies with Goal 5.

Goal 6: Air, Water and Land Resources Quality. The proposed amendment to Multiple Use would not have any effect on air or water as it would only affect the designation of the river. The proposed amendment would only allow a noncommercial dock in an area of already existing noncommercial docks so it would have de minimis if any impact on the quality of the water in the Willamette River. The proposal complies with Goal 6.

Goal 7: Areas Subject to Natural Disasters and Hazards. The subject property is not within a hazard area. While the proposed amendment would allow for a noncommercial dock in the floodplain, as a dock is a water dependent use that rises and falls with the river, it would not have any impact on potential flooding. The proposal complies with Goal 7.

Goal 8: Recreation Needs. No Goal 8 resources are identified on the property. The proposal complies with Goal 8.

Goal 9: Economic Development. This goal focuses on commercial and industrial development, primarily within an urban growth boundary. Allowing a noncommercial dock in an area of noncommercial docks would not have any adverse impact on economic development. The proposal complies with Goal 9.

Goal 10: Housing. There is already a residence on the subject property. The proposed amendment would not have any impact on the amount or availability of housing on the property or in the area. The proposal complies with Goal 10.

Goal 11: Public Facilities and Services. The proposed amendment does not require the use of or extension of public facilities or services. The proposal complies with Goal 11.

Goal 12: Transportation. The subject property has an existing residence. The proposed amendment would only change the designation of the river to allow a private, noncommercial dock that will be used only by the subject property's owner who resides there. The proposed amendment would not have any impact on transportation. The proposal complies with Goal 12.

Goal 13: Energy Conservation. There is no indication of energy use increase or decrease based on the proposed amendment. The proposal complies with Goal 13.



Goal 14: Urbanization. The subject property contains an existing residence within an area that is best described as a rural subdivision (even though all of the properties are zoned EFU). The proposed amendment would not increase or decrease the number of residential uses or lead to any increase or decrease in density. The proposed amendment would have no impact on whether the property could be further urbanized in the future. The proposal complies with Goal 14.

Goal 15: Willamette River Greenway. This is primary Goal that needs to be addressed, and it is addressed below.

Goals 16-19 concern respectively: Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources. Those Goals are not applicable to the present case.

## **2. Goal 15**

Goal 15 is the Willamette River Greenway goal, and it is codified at OAR 660-015-0060. The purpose of Goal 15 is to “protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of land along the Willamette River as the Willamette River Greenway.” The overwhelming majority of Goal 15 deals with identifying the WRG and directing local governments to adopt plans and policies to implement Goal 15. There is very little in Goal 15 that appears to be directly applicable to a very limited comprehensive plan amendment like the present case. As far as we can tell, the only potentially applicable provisions are Section C – Considerations and Requirements, Subsection 3 – Use Management Considerations and Requirements, which provide:

“Plans and implementation measures shall provide for the following:

- “a. Agricultural lands – The agricultural lands identified in the inventory shall be preserved and maintained as provided in Goal 3 as an effective means to carry out the purposes of the Greenway including those agricultural lands near the Greenway. Lands devoted to farm use which are not located in an exclusive farm use zone shall be allowed to continue in such farm use without restriction as provided in ORS 390.314(2)(c), ORS 390.332(4) and ORS 390.334(2);
- “b. Recreation --

- “(1) Local, regional and state recreational needs shall be provided for consistent with the carrying capacity of the land;
- “(2) Zoning provisions shall allow recreational uses on lands to the extent that such use would not substantially interfere with the long-term capacity of the land for farm use are defined in ORS 215.203;
- “(3) The possibility that public recreation use might disturb adjacent property shall be considered and minimized to the greatest extent practicable;
- “(4) The public parks established by section 8a of Chapter 558, 1973 Oregon Laws, shall be set forth in Oregon Laws, shall be set forth on the appropriate comprehensive plans and zoning established which will permit their development, use and maintenance;
- “c. Access -- Adequate public access to the river shall be provided for, with emphasis on urban and urbanizable areas;
- “d. Fish and wildlife habitat -- Significant fish and wildlife habitats shall be protected;
- “e. Scenic qualities and views -- identified scenic qualities and viewpoints shall be preserved;
- “f. Protection and safety -- The Willamette River Greenway Program shall provide for the maintenance of public safety and protection of public and private property, especially from vandalism and trespass in both rural and urban areas to the maximum extent practicable;
- “g. Vegetative fringe -- The natural vegetative fringe along the River shall be enhanced and protected to the maximum extent practicable;
- “h. Timber resource -- The partial harvest of timber shall be permitted beyond the vegetative fringes in areas not covered by a scenic easement when the harvest is consistent with an approved plan under the Forest

Practices Act, or, if not covered by the Forest Practices Act, then with an approved plan under the Greenway compatibility review provisions. Such plan shall insure that the natural scenic qualities of the Greenway will be maintained to the greatest extent practicable or restored within a brief period of time;

- “i. Aggregate extraction -- Extraction of known aggregate deposits may be permitted when compatible with the purposes of the Willamette River Greenway and when economically feasible, subject to compliance with ORS 541.605 to 541.695; ORS 517.750 to 517.900 and subject to compliance with local regulations designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, streamflow, visual quality, noise, safety and to guarantee necessary reclamation;
- “j. Development away from river -- Developments shall be directed away from the river to the greatest possible degree; provided, however, lands committed to urban uses within the Greenway shall be permitted to continue as urban uses, including port, industrial, commercial and residential uses, uses pertaining to navigational requirements, water and land access needs and related facilities;
- “k. Greenway setback -- A setback line will be established to keep structures separated from the river in order to protect, maintain preserve and enhance the natural, scenic, historic and recreational qualities of the Willamette River Greenway, as identified in the Greenway Inventories. The setback line shall not apply to water-related or water-dependent uses.”

Subsection 3(a) deals with agricultural lands, like the subject property, and states that such lands shall be preserved and maintained to carry out the purposes of Goal 3. Amending the designation of the river to Multiple Use would only have the effect of allowing a noncommercial dock, as many of the other parcels in the residential area already have. The proposed amendment would not adversely impact any Goal 3 uses at all. The proposal complies with subsection 3(a).

Subsection 3(b) deals with recreation, primarily in regards to public recreation. Subsection 3(b)(2), however, states that zoning provisions shall allow recreational uses in lands to the extent such use would not substantially interfere with the long term capacity of the land for farm use. The proposed amendment would allow for a noncommercial dock which could provide recreational opportunities for the applicant, and such opportunities would not interfere at all, let alone substantially, with the long term capacity of the property for farm use. The proposal complies with subsection 3(b).

Subsection 3(c) deals with public access. This subsection is not applicable.

Subsection 3(d) deals with protecting fish and wildlife habitat. Allowing one noncommercial dock in an area of several other existing docks would not have any adverse impact on fish and wildlife habitat. The proposal complies with subsection 3(d).

Subsection 3(e) deals with protecting scenic qualities and views. The Map identifies scenic view areas, and there are no scenic view areas near the subject property. The property is in a rural residential area with numerous existing docks, so allowing one more dock would not impact any scenic qualities or views. The proposal complies with subsection 3(e).

Subsection 3(f) deals with protection and safety. This subsection deals with public safety and protection, which is not applicable in the present case. This subsection also deals with protecting private property from vandalism and trespass. The proposed amendment would not have any adverse impacts on potential vandalism or trespass. The proposal complies with subsection 3(f).

Subsection 3(g) deals with the vegetative fringe and provides that the vegetative fringe shall be enhanced and protected to the maximum extent practicable. The fringe on the property is landscaped with trees, grasses, and other native vegetation. The proposed amendment would allow a noncommercial dock, which would be in the water rather than on land. The allowance of a dock would not adversely impact the vegetative fringe. The proposal complies with subsection 3(g).

Subsection 3(h) deals with timber resources. The property is not in a timber area. This subsection does not apply.

Subsection 3(i) deals with aggregate extraction. The Map identifies natural resource areas, such as aggregate extraction areas. There are no aggregate areas near the subject property. This subsection does not apply.

Subsection 3(j) deals with directing development away from the river to the maximum extent practicable, except for certain uses including water and land access needs. Docks clearly require a location on the water. The proposed amendment would not allow for any other development near the river. The proposal complies with subsection 3(j).

Subsection 3(k) deals with the greenway setback. In general, structures are to be separated from the river in order to protect the natural, scenic, historic, and recreational qualities of the river. The subsection states, however, that the “setback line shall not apply to water-related or water-dependent uses.” A dock is clearly a water-related or water-dependent use, so it need not comply with the greenway setback. The proposed amendment would not allow any prohibited uses within the setback. The proposal complies with subsection 3(k).

The proposed amendment, which would only have the minimal effect of allowing one additional noncommercial dock in a rural subdivision that already has numerous docks, would have no negative impact on the purpose of Goal 15, which is to “protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of land along the Willamette River as the Willamette River Greenway.” The subject property is not in a pristine or natural or scenic setting. The property is in the middle of a rural residential subdivision with landscaped riparian areas and existing docks. The allowance of one additional noncommercial dock would have no adverse impact whatsoever on the natural, scenic, historical, agricultural, economic, or recreational qualities of land in the WRG. The proposed amendment complies with Goal 15.

## **B. Comprehensive Plan Policies**

Chapter 3 of the Comprehensive Plan addresses Natural Resources and Energy. There are a number of subsections that are potentially applicable to the present application.

### **1. Water Resources**

There are a number of different policies under the Water Resources portion of Chapter 3.

**a. River and Stream Corridor Policies**

Chapter 3.A contains the River and Stream Corridor Policies, some of which may be applicable to the present application.

River and Stream Corridor Policy 3.A.1 provides:

“Maintain rivers and stream in their natural state to the maximum practicable extent through sound water and land management practices. Consideration shall be given to natural, scenic, historic, economic, cultural, and recreational qualities of the rivers and adjacent lands.”

This policy largely mirrors Goal 15. As explained earlier, and as demonstrated in the attached pictures, the stretch of river in the vicinity of the subject property is not in a natural undisturbed state. The subject property is in the middle of a rural residential neighborhood. There is a large rural residential neighborhood just upstream on the other side of the river with a double digit number of docks. There are more rural residential uses and the Canby Ferry just downstream. Adding one additional dock in an area with lots of docks and rural residential uses would not degrade any natural, scenic, historic, economic, or cultural qualities of the river. A noncommercial dock would increase the recreational qualities of the river for the applicant, the subject property’s owner. The proposal complies with Policy 3.A.1.

River and Stream Corridor Policy 3.A.10 provides:

“Establish water-based recreational areas for water activities such as swimming, fishing, and canoeing that are free from conflicts with speed boating and water skiing.”

The County has established areas for such water-based activities, but they are not in the stretch of the river adjacent to the subject property. The river is relatively wide and open in this area, and numerous other residences in the area have docks with motor boats used for water skiing. The proposed amendment would not open up a previously restricted area of the river to additional speed boating or water skiing. On the contrary, the proposed amendment would fit in perfectly with the uses in the area. The proposal complies with Policy 3.A.10.

**b. Stream Conservation Area Policies**

Chapter 3.C contains the Stream Conservation Area Policies, some of which may be applicable to the present application. Chapter 3.C.5 contains the Willamette River Design Plan and Policies.

Stream Conservation Area policy 3.C.6.1 provides:

“Implement the design plan for the Willamette River according to Map 3-1e, which illustrates uses. Management activities and land classifications shown on the map are consistent with land use policies and designations in the Land Use Chapter. Official maps showing the precise boundaries and sites (scale 1”=2000’) are on file at the Clackamas County Department of Transportation and Development.”

The Map referenced earlier was created to implement this policy. The Map shows the subject property as a shaded area located in the Low Intensity Rural portion of the WRG. This is different from other portions of the rural WRG that are not shaded. There is nothing in the Map or the ZDO that explains what the difference between the two types of areas is. The non-shaded areas, however, correspond with stretches where the river is in its natural state and there is very little if any development along the river.

The Low Intensity Rural areas are described as:

“Uses include existing residential subdivisions, existing commercial and industrial operations including aggregate extractions as may be designated in the comprehensive plan.”

The Low Intensity Rural areas are areas where the WRG is not in a natural undisturbed state, but instead has various types of development. While the term “Low Intensity” at first blush might seem like more pristine areas where things like docks should be prohibited, they are actually more developed than the non-shaded areas – which could more accurately be termed “No Intensity Rural” as the non-shaded area correspond with the undeveloped portions of the WRG. The subject property is in the middle of a Low Intensity Rural area, as required by the design plan. The proposal complies with Policy 3.C.6.1

Stream Conservation Area policy 3.C.6.2 provides:

“Support regulation of recreational activities in the rural portion of the Willamette River Greenway to minimize conflicts between water-based recreational uses, manage the intensity of recreational uses, and buffer bankside uses from water borne recreational activities including recreational noise levels. The County shall develop a joint land management program with the Oregon State Parks and Recreational Department for all County-and state-owned lands in the rural greenway.”

The subject property is in an area of rural residential housing with numerous docks that already engage in water-based recreational use of the river. The proposed amendment would not add additional recreational uses that are not already occurring. The impact of one additional noncommercial dock in an area of several other existing docks would not adversely impact bankside uses or create noticeable additional noise. The second sentence concerns the relationship between the County and the state and is not applicable. The proposal complies with Policy 3.C.6.2.

Stream Conservation Area policy 3.C.6.5 provides:

“Prohibit private noncommercial docks and moorages in limited-use rural portions of the Greenway to protect the natural river character.”

This is the provision that is codified at ZDO 705.05(B) which currently prohibits the applicant from installing a private noncommercial dock like his neighbors already have. Approval of the proposed amendment would change the designation of the river adjacent to the applicant’s property and the policy would no longer prohibit a private noncommercial dock. With approval of the proposed amendment, Policy 3.C.6.5 will be complied with.

Stream Conservation Area policy 3.C.6.6 provides:

“Allow private noncommercial docks and moorages in urban and multiple-use rural portions of the Greenway through the Greenway Conditional Use provisions of the Zoning Ordinance which require an extraordinary exception in the rural portion.”

Approval of the proposed amendment would apply the Multiple Use designation to the river adjacent to the applicant’s property and bring the property into compliance with this policy. The language about an extraordinary exception appears to be a vestige of prior procedures that are no longer applicable. Currently,



a Willamette River Greenway Permit would be required to install a noncommercial dock in a Multiple Use area.

In case the County is concerned that approving the proposed comprehensive plan amendment would open the flood gates for docks in pristine stretches of the river, that would not be the case. While the County has an interest in limiting the proliferation of docks in areas of the river still in their natural setting, the proposed amendment only applies to a single property located in a Low Intensity Rural shaded area designated on the Map. There are very few shaded areas where such docks could be located. Furthermore, the Low Intensity Rural areas on the Map coincide with the areas where there are already numerous docks. In the area between Canby and Wilsonville, there are only three Low Intensity Rural areas, and those areas already contain numerous docks. Thus, recognizing that the Low Intensity Rural areas provide a basis for amending the Comprehensive Plan to Multiple Use would still prohibit all but a very small number of properties from having docks.

Finally, there is hardly a better candidate for such a comprehensive plan amendment than the subject property. The property is located in the middle of a Low Intensity Rural area. The property is in the middle of a rural residential neighborhood that already has a number of docks. The properties immediately upstream and downstream already have docks. When the applicant applied in the previous case, there was no opposition to his request for a dock and the only comment from any neighbor was in support of the application. Approving the proposed amendment would not open the flood gates for numerous other docks. While this type of application does not appear to have been considered for quite some time, all of the previous applications that have been discovered were approved even though those circumstances were not as clearly in favor of a plan amendment as the present case. Exhibit 4. With approval of the proposed amendment, Policy 3.C.6.6 will be complied with.

The proposal complies with all applicable provisions of the Comprehensive Plan.

#### **IV. CONCLUSION**

While this is a somewhat unusual situation, the proposed amendment complies with all of the Statewide Planning Goals and applicable Comprehensive Plan policies. The purpose of Goal 15 and the Comprehensive Plan regarding noncommercial docks is clearly to limit docks in pristine, natural, undeveloped areas. The subject property is not in that type of area. The property is in the middle

of rural residential subdivision that would likely be considered urban under a current Goal 14 analysis. The property is located on a stretch of the river that has numerous other docks, including a rural residential neighborhood just upstream with double digit docks and the applicant's neighborhood that also has a number of docks including immediately upstream and downstream. Allowing one additional dock in between two other docks, in a larger area of multiple docks, would not even be noticeable. The proposed dock would certainly not have any adverse impacts on the qualities and aspects that Goal 15 and the Comprehensive Plan seek to protect. Finally, approving the proposed amendment would not open the door for large number of other docks, as the circumstances supporting the applicant's proposal are very unique. We respectfully request that the County approve the proposed amendment.

# Vicinity Map



**Objectid:** 101763

**Primary Address:** 540 NW River Park Pl, Canby, 97013

**Jurisdiction:** Clackamas County (<http://www.clackamas.us/>)

**Map Number:** 31E21BC

**Taxlot Number:** 31E21BC00700

**Parcel Number:** 00769485

**Document Number:** 2019-056819

**Census Tract:** 022905

**Landclass:** 101

## Assessment

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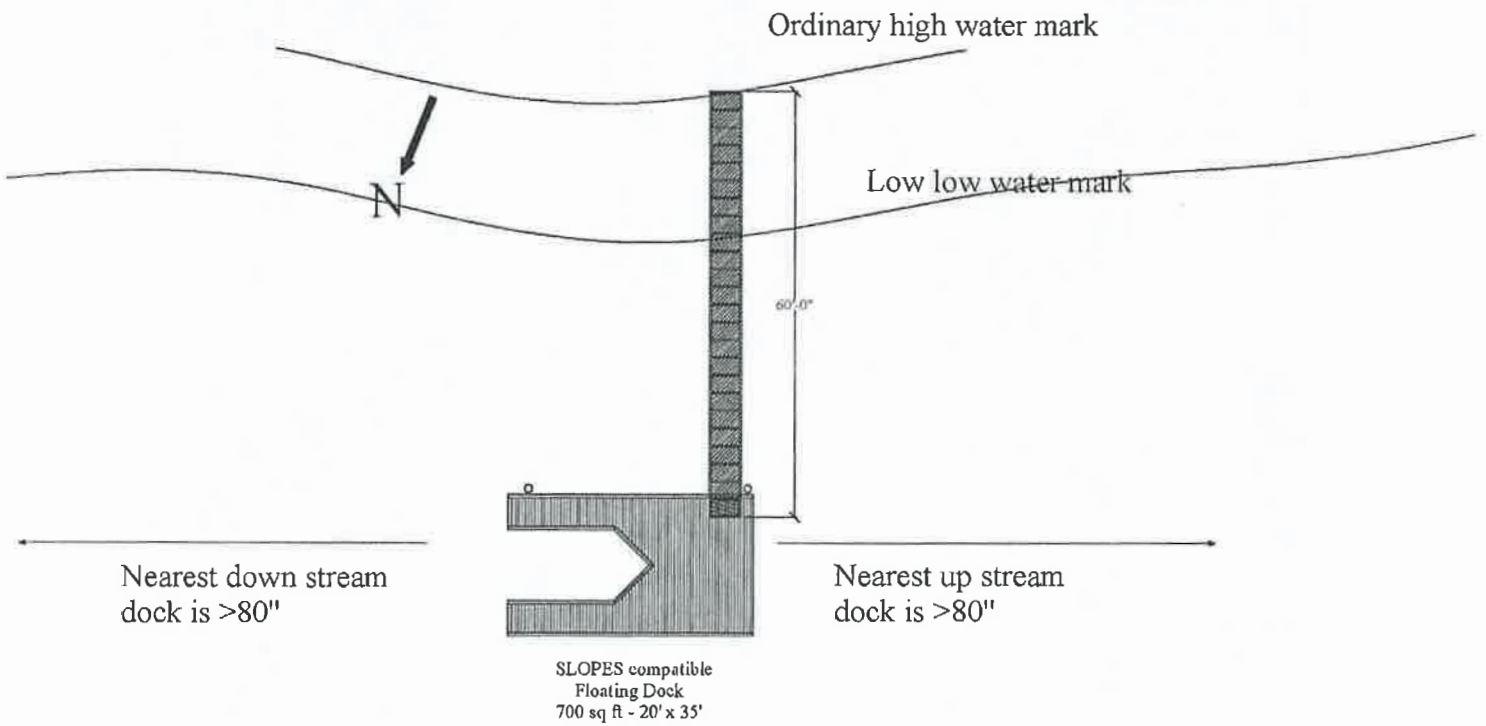
**Estimated Acres:** 0.45

# Site Plan



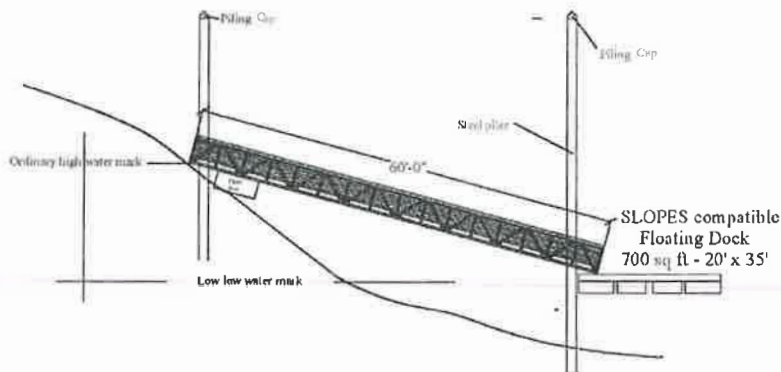
PLAN VIEW

Everett Griffin  
540 NW Riverpark Place  
Canby, OR 97013  
TMK 31E21BC00700



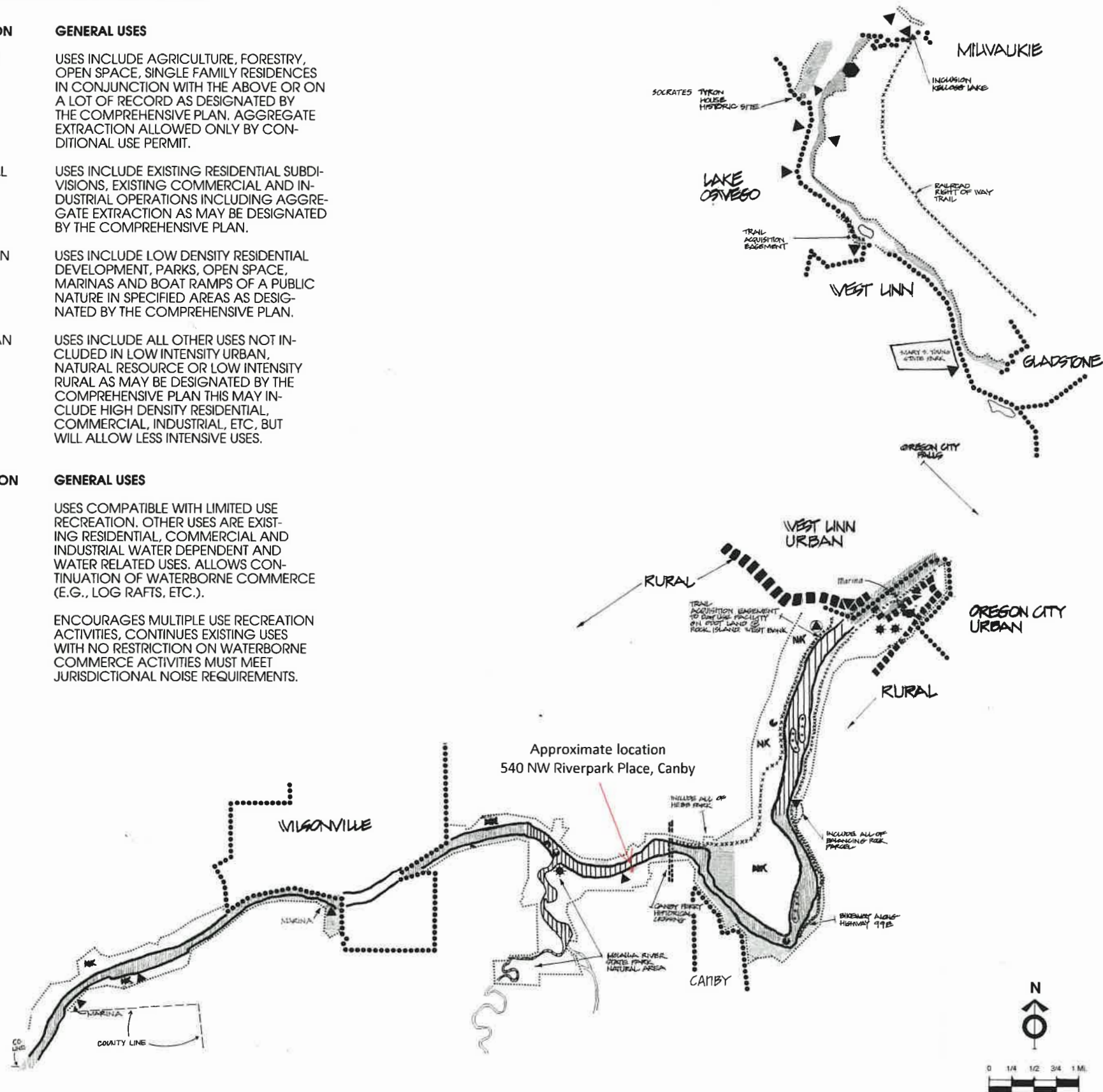
CROSS SECTION VIEW

Everett Griffin  
540 NW Riverpark Place  
Canby, OR 97013  
TMK 31E21BC00700



MANAGEMENT ACTIVITIES

LAND CLASSIFICATION	GENERAL USES
NATURAL RESOURCE	USES INCLUDE AGRICULTURE, FORESTRY, OPEN SPACE, SINGLE FAMILY RESIDENCES IN CONJUNCTION WITH THE ABOVE OR ON A LOT OF RECORD AS DESIGNATED BY THE COMPREHENSIVE PLAN. AGGREGATE EXTRACTION ALLOWED ONLY BY CONDITIONAL USE PERMIT.
LOW INTENSITY RURAL	USES INCLUDE EXISTING RESIDENTIAL SUBDIVISIONS, EXISTING COMMERCIAL AND INDUSTRIAL OPERATIONS INCLUDING AGGREGATE EXTRACTION AS MAY BE DESIGNATED BY THE COMPREHENSIVE PLAN.
LOW INTENSITY URBAN	USES INCLUDE LOW DENSITY RESIDENTIAL DEVELOPMENT, PARKS, OPEN SPACE, MARINAS AND BOAT RAMPS OF A PUBLIC NATURE IN SPECIFIED AREAS AS DESIGNATED BY THE COMPREHENSIVE PLAN.
HIGH INTENSITY URBAN	USES INCLUDE ALL OTHER USES NOT INCLUDED IN LOW INTENSITY URBAN, NATURAL RESOURCE OR LOW INTENSITY RURAL AS MAY BE DESIGNATED BY THE COMPREHENSIVE PLAN THIS MAY INCLUDE HIGH DENSITY RESIDENTIAL, COMMERCIAL, INDUSTRIAL, ETC., BUT WILL ALLOW LESS INTENSIVE USES.
WATER CLASSIFICATION	GENERAL USES
LIMITED USE	USES COMPATIBLE WITH LIMITED USE RECREATION. OTHER USES ARE EXISTING RESIDENTIAL, COMMERCIAL AND INDUSTRIAL WATER DEPENDENT AND WATER RELATED USES. ALLOWS CONTINUATION OF WATERBORNE COMMERCE (E.G., LOG RAFTS, ETC.).
MULTIPLE USE	ENCOURAGES MULTIPLE USE RECREATION ACTIVITIES, CONTINUES EXISTING USES WITH NO RESTRICTION ON WATERBORNE COMMERCE ACTIVITIES MUST MEET JURISDICTIONAL NOISE REQUIREMENTS.



# WILLAMETTE RIVER GREENWAY DESIGN PLAN

- Existing Willamette River Greenway Boundary
- Adjustment of Above
- ☀ Protection Resource Area, Unique Natural Area
- ☾ Scenic Vistas
- ▲ Access Point to River
- ⊕ Proposed Public Access
- Low Intensity Urban
- High Intensity Urban
- NR Natural Resource
- Low Intensity Rural
- ▨ Multiple Use
- ▨ Limited Use
- Ⓜ Historic Sites
- ..... City Limit Line

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of a Comprehensive  
Plan Map Change  
for Ron Sloy.

Applicant: Ron Sloy  
2685 Lexington Terrace  
West Linn, OR 97068

ORDER NO: 95-710

File No.: Z0256-95-CP

This matter coming regularly before the Board of County Commissioners; and it appearing that Ron Sloy made application for a comprehensive plan map change on property described as T3S, R1E, Section 2C, Tax Lot 1400, W.M., generally located off the south side of Pete's Mountain Road at the southwest junction of the Willamette River and the Tualatin River; West Linn area; and

It further appearing that planning staff, by its report dated April 18, 1995, has recommended denial of the application; and

It further appearing that the Planning Commission at its April 24, 1995, has recommended approval of the application; and

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners in the County Courthouse Annex at 906 Main Street, Oregon City, OR, on May 31 and June 21, 1995, in which testimony and evidence were presented, and that a preliminary decision was made by the Board on June 21, 1995;


Based upon the evidence and testimony presented, this Board makes the following findings:

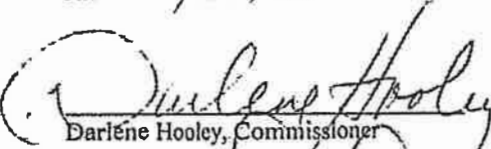
1. The applicant requests approval of a comprehensive plan amendment to change the Greenway Designation from "Limited Use" to "Multiple-Use".
2. There are no comprehensive plan goals or policies directly applicable
3. Given the topography and existing development in the immediate area, the requested change in designation is not inconsistent with Statewide Goal 15.

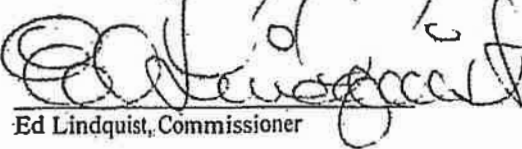
NOW, THEREFORE, IT IS HEREBY ORDERED that the requested Comprehensive plan amendment is approved.

DATED this 13<sup>th</sup> day of July, 1995.

BOARD OF COUNTY COMMISSIONERS

  
Judie Hampterstad, Chair

  
Darlene Hooley, Commissioner

  
Ed Lindquist, Commissioner

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of a Comprehensive  
Plan map Change  
for Clackamas County.

File No.: Z1148-95-CP

This matter coming regularly before the Board of County Commissioners, and it appearing that Clackamas County made application for a Comprehensive Plan map change from the "limited use" designation to "multiple use" designation in the Willamette Greenway Design Plan on property described as T3S, R1E, Section 2, Tax Lot(s) 803, 900, 1000, W.M., generally located along the West Bank of the Willamette River, South of its conjunction with the Tualatin River; and

It further appearing that planning staff, by its report dated November 21, 1995, has recommended approval of the application; and

It further appearing that the Planning Commission at its April 24, 1995, has recommended approval of the application; and

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners in the County Courthouse Annex at 906 Main Street, Oregon City, OR, on November 29, 1995, in which testimony and evidence were presented, and that a preliminary decision was made by the Board on November 29, 1995.

Based upon the evidence and testimony presented, this Board makes the following findings:

1. The Planning Commission and this Board previously requested that the Planning Division initiate this Comprehensive Plan map change.
2. Based upon testimony and evidence presented at the November 29, 1995 hearing before this Board, and at the previous hearing on the neighboring Sloy property, this Board finds that, due to the topography and existing development in this area, the proposed Comprehensive Plan change is appropriate, and in compliance with the relevant Statewide Goals.

NOW, THEREFORE, IT IS HEREBY ORDERED that the proposed Comprehensive Plan amendment is granted

DATED this 4th day of January, 1996.

BOARD OF COUNTY COMMISSIONERS

Judie Hammerstad, Chair

Darlene Hooley, Commissioner

Ed Findquist, Commissioner



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of a Comprehensive  
Plan for Greg Knutson.

ORDER NO 96-734

Applicant: Greg Knutson

File No.: Z0226-96-CP

This matter coming regularly before the Board of County Commissioners, and it appearing that Greg Knutson made application for a Comprehensive Plan map amendment on property described as T3S, R1E, Section 15, Tax Lots 2700, 2701, 2702, W.M. , located on the west side of the Willamette River, roughly 1/3 mile south of Rock Island; Peach Cove area; and

It further appearing that planning staff, by its report dated May 13, 1996, has recommended approval of the application; and

It further appearing that the Planning Commission at its May 20, 1996, has recommended approval of the application; and

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners in the County Courthouse Annex at 906 Main Street, Oregon City, OR, on June 19, 1996 , in which testimony and evidence were presented, and that a preliminary decision was made by the Board on June 19, 1996;

Based upon the evidence and testimony presented, this Board makes the following findings:

1. The applicant requests approval of a Comprehensive Plan amendment to change the Willamette Greenway Design Plan designation on the subject property from "Limited Use" to "Multiple Use".
2. This request complies with the applicable Comprehensive Plan policies and with Statewide Goal 15, for the reasons stated in the Planning Staff Report and Recommendation, which is hereby adopted as the findings and conclusions of this Board.

NOW, THEREFORE, IT IS HEREBY ORDERED that the requested Comprehensive plan amendment is granted.

DATED this 27th day of November.

BOARD OF COUNTY COMMISSIONERS

  
Darlene Hooley, Chair

  
Millicent Morrison, Recording Secretary

Joe Maurer

BEFORE THE LAND USE HEARINGS OFFICER  
FOR CLACKAMAS COUNTY

Regarding a request by William Kennemer for )  
approval of a Greenway Conditional Use per- )  
mit to implement a floating dock and attendant )  
facilities within the Willamette River Green- )  
way )

FINAL ORDER

Z0785-98-R  
(Kennemer)

— REQUEST FOR GREENWAY CONDITIONAL USE: *Approved*, with conditions —

A. SUMMARY OF PERTINENT FACTS

Applicant William Kennemer (“Applicant”) seeks approval for a Greenway Conditional Use pursuant to CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE (“ZDO”) § 705.03 in order to construct a 600-square-foot (20’ x 30’) floating dock with attendant ramp, support arm, and concrete pilings within the Willamette River Greenway (the “proposed use”).

The affected property, addressed as 21041 S. Highway 99E and located on the west side of Highway 99E roughly half a mile north of the highway’s intersection with S. South End Road (the “subject property”), lies within a Rural Residential Farm/Forest 5 Acres (RRFF-5) zoning district in an area designated Rural on the County’s COMPREHENSIVE PLAN Land Use Map.

Applicant proposes to site the dock off the southern corner of the subject property, located as far as possible from adjoining State Park property on the north. The dock and its flotation logs will be anchored to two ground-level concrete pilings located roughly five street behind a steep embankment, approximately ten to twelve feet from the low water line at that point. A proposed 40-foot-long, 5-foot-wide steel ramp will extend from one of the pilings to the dock. The dock will have a canopy and canopy supports (but not a boathouse) to house a boat slip.

Applicant’s undated narrative that accompanied the land use application (“APPLICANT’S NARRATIVE”) further describes the use as follows:

“This is a simple (20’ x 30’) noncommercial dock. The ramp and support arm will be painted a dark, natural green to blend in with the surroundings. The dock uses untreated logs as a flotation system, is a wooden dock that is

currently in place elsewhere on the Willamette River, and is very consistent with the design and features of many of the docks along the river. The concrete pilings will be set back approximately 5' from the bank, leaving the bank vegetation intact and undisturbed. To minimize visual impact and maximize greenspace, the dirt removed for the pilings will be used as backfill around the pilings, except for a small area under the ramp and support arm; these small areas must be left unfilled to allow movement up and down as water levels change." (*Id.* at 2.)

Normally, a request for a Greenway Conditional Use approval would be an administrative action subject to initial review and approval by the Planning Director under the administrative procedures prescribed by ZDO § 1305.02. See ZDO § 705.03(A). However, Applicant's status as a member of the Board of County Commissioners resulted in Applicant's request (via a September 24, 1998, letter) that this approval request proceed directly to the Hearings Officer. ZDO § 1305.02(B) allows that option:

"B. Applicant Option: An applicant for a land use permit which is subject to Planning Director action under this subsection may request that such land use action be heard by the Land Use Hearings Officer . . . [.]"

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## B. HEARING AND RECORD

The Hearings Officer heard testimony on November 4, 1998. The County rendered its "*Planning Staff Report To The Hearings Officer*" ("STAFF REPORT") on October 29, 1998. Except as may be modified, rejected, or augmented within this decision, the Hearings Officer adopts the pertinent factual discussion in that STAFF REPORT as his own, and incorporates it herein by reference. All exhibits and records of testimony have been filed with the Planning Division, Clackamas County Department of Transportation and Development.

The Hearings Officer had no *ex parte* contacts, bias, or conflicts of interest to disclose. He did disclose that Applicant represented one of the four or five persons who had interviewed him prior to his appointment to that position in January, 1998, and he asked those present at the hearing whether anyone had any objection to the Hearings Officer's participation in this matter. No one objected or voiced any concerns. Pursuant to ORS 197.763(5), the Hearings Officer declared to those in attendance at the hearing that: (1) the Greenway Conditional Use approval criteria in ZDO § 705.03 (cited in the STAFF REPORT) would control Applicant's approval request; (2) all testimony and documentary evidence must be directed to the prescribed approval criteria or to other identified approval criteria in the County's ZONING AND DEVELOPMENT ORDINANCE, COMPREHENSIVE PLAN, or other identified source; and (3) the failure to raise any factual or legal issue with specificity and clarity sufficient

to allow the Hearings Officer or any participant to address and respond to such issue may preclude any appeal based upon the Hearings Officer's resolution of such issue.

Planner Gary Naylor summarized the application and the STAFF REPORT, following which the Hearings Officer took testimony and other comments. Applicant testified on his own behalf. Nancy Lauderdale and Craig Eberle posed questions concerning (1) the precise location of the subject property *vis-a-vis* that portion of the Greenway within which the proposed use would otherwise be prohibited, and (2) developments within the Greenway in general and the precedential impact that the proposed use might have. The Hearings Officer closed the public record at the conclusion of the testimony.

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### C. APPROVAL CRITERIA

ZDO § 705.02(A) provides that "[t]he standards of Section 705 apply to all lands and water within the Willamette River Greenway," while ZDO § 705.02(B) separately (but similarly) provides that "[t]he standards of Section 705 apply to all development, change of use, or intensification of use within the greenway, unless specifically excepted by Section 705.02C." ZDO § 705.02(A) encompasses the subject property and § 705.02(B) encompasses the proposed use. None of the exemptions in ZDO § 705.02(C) applies to the proposed use.

Approval Criteria. ZDO §§ 705.03(B) and (C) implement a number of Greenway Conditional Use approval criteria, and they provide (in pertinent part):

- "B. All intensification or change in use, or development shall require a Greenway Conditional Use permit. A Conditional Use shall be granted only if the applicant shows that the request will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river. The depth of this area need not exceed 150 feet. Additionally, the applicant shall demonstrate all of the following:
- "1. That approval of the request will be consistent with the purposes stated in Subsection 705.01.
  - "2. That, where necessary, public access has been provided by appropriate legal means to and along the river.
  - "3. That the request complies with Subsections 705.03D and 705.03E.

"C. A conditional use shall be granted only if the applicant shows that the request will result in the preservation of a filter or buffer strip of natural vegetation along the river bank. The depth of this buffer strip need not exceed 150 feet, and shall be determined by consideration of the following:

- "1. The character of the use of development.
- "2. The width of the river.
- "3. Steepness of the terrain.
- "4. Type and stability of the soil.
- "5. The type and density of the existing vegetation."

Development Standards. ZDO §§ 705.03(D) and (E) separately prescribe a number of development standards that must be observed in the event of any approval; they do not comprise approval criteria as such, but instead represent the source of various dimensional limitations and the source of various conditions of approval that an applicant must fulfill before any approval can become effective:

"D. All structures shall observe a minimum setback between 100 and 150 feet from the mean low water level. The setback shall be determined by evaluation of the criteria stated in Subsection 705.03. Residential lots of record and water dependent uses unable to meet this requirement shall be exempt from this setback.

"E. Private noncommercial docks and boathouses shall be subject to the standards listed below, in addition to the other standards in Subsection 705.03:

"1. General Provisions:

- "a. Private noncommercial docks, boathouses, and pilings shall either be dark natural wood colors, or painted dark earth tones (dark brown or green).
- "b. The square footage of docks and boathouses is measured as the length times the width of the outer edge of the structure;
- "c. The length-to-width ratio of a private noncommercial dock shall not exceed 3:1;

"d. Only one dock and boathouse is allowed per riverfront lot of record.

"\* \* \* \* \*

"3. Oregon City Falls to Marion County line:

"a. Private noncommercial docks shall not exceed 700 square feet;

"b. Private noncommercial boathouses shall not exceed 500 square feet, and shall not exceed 12 feet in height, measured from the platform of the dock to the roof peak.

"4. All docks located on state-owned submerged and/or submersible land must be leased or registered with the Oregon Division of State Lands, according to State law."

Prohibition(s). Finally, ZDO § 705.04 identifies various "prohibited" uses, among which appears the following:

"D. Private noncommercial docks and moorages in the limited use rural portions of the greenway (as identified in Chapter 3 of the Comprehensive Plan) are prohibited."

## D. DISCUSSION AND FINDINGS

### 1. DOES THE PROPOSED USE CONSTITUTE A "PROHIBITED" USE?

The record raises the question whether the proposed use constitutes a "prohibited" use by virtue of ZDO § 705.04(D), which proscribes "[p]rivate noncommercial docks and moorages in the *limited use rural portions* of the greenway (as identified in Chapter 3 of the Comprehensive Plan [*viz*, the Natural Resources and Energy chapter]) . . . [.]". Because of the subject property's proximity to the "limited use rural portion" of the Willamette River Greenway, the question whether the proposed use might otherwise be prohibited by virtue of ZDO § 705.04(D) must necessarily be resolved first.

The prohibition in ZDO § 705.04(D) refers to Chapter 3 of the County's COMPREHENSIVE PLAN as "identif[ying]" the "limited use rural portions" of the Willamette Greenway. The "*Water Resources*" section of the Natural Resources and Energy chapter of the County's COMPREHENSIVE PLAN (Chapter 3) implements a number of water resource policies, among which appears Policy 15.0:

“15.1 Implement the design plan for the Willamette River *according to the following map which illustrates uses*. Management activities and land classifications shown on the map are consistent with land use policies and designations in the Land Use Chapter. Official maps showing precise boundaries and sites (scale 1”=2000’) are on file at the Clackamas County Department of Transportation and Development.” (Emphasis added.)

The STAFF REPORT identifies the map referenced in the first sentence of Policy 11.1 as Map III-1e, titled “*Willamette River Greenway Design Plan*.” (STAFF REPORT at 4.) That particular map vaguely identifies an area within the Greenway as “limited use,” which corresponds to the prohibition in ZDO § 705.04(D), above (*viz*, “limited use rural portions of the greenway”). Applicant’s property lies close to the extreme southern portion of the “limited use” area, within which the proposed use would be prohibited.

Map III-1e identifies no discernible landmarks or reference points within the area of the subject property other than a notation that the extreme southern portion of the “limited use” area *includes* “Balancing Rock.” However, the map does not appear to locate or identify Balancing Rock itself (at least as the Hearings Officer and others viewed the map at the November 4 hearing), other than to make it reasonably plain that Balancing Rock — wherever it may be — falls within the prohibited area. The map bears a scale of 1 mile=3/4 inch, or 1 inch=7,040 feet, which renders it virtually unusable for purposes of locating a particular site — such as the subject property — with any objectivity or reliable specificity.

The STAFF REPORT recites that “[a]s staff measures from a known point to the north to the subject property it appears [that] the property is barely in the Limited Use are[a]. When staff measures from a known point to the south to the subject property it appears the property is clearly in the Multiple Use designation [*viz*, outside the ‘limited use’ area].” (*Id.* at 4.) However, nowhere does the STAFF REPORT identify the two “known” reference points, and Staff did not identify them at the November 4 hearing either.

The STAFF REPORT also cites a November 27, 1996, decision by the Board of County Commissioners (Order No. 96-734) in Z0226-96-CP in which the Board approved a COMPREHENSIVE PLAN map amendment that redesignated a Willamette River property “Multiple Use” and concurrently removed a “Limited Use” designation. The staff report that accompanied that decision offered a discussion of various COMPREHENSIVE PLAN policies in an effort to demonstrate that the proposed map amendment would be “consistent” with those policies. As part of its “consistency” discussion, the staff report in that matter described various perceived differences in physical characteristics of Greenway properties lying in both the “Limited Use” and “Multiple Use” areas along the Willamette River in the area of the subject property. Apparently, the STAFF REPORT in *this* matter cites the prior approval in Z0226-96-CP for the proposition that the demarcation between those areas has not been firmly fixed or otherwise depends upon certain physical characteristics in the riverfront properties to determine where one area begins and the other ends. Thus, the STAFF REPORT concludes, based upon the characteristics identified and discussed in Z0226-96-CP, that

“the limited use designation on the east side of the Willamette River, upstream from the Tualatin River, ends when the RRF-5 zone begins, just north of the subject property.” (*Id.* at 4.) That interpretation would place the subject property beyond (or south of) the “limited use” designation. However, the Hearings Officer does not necessarily agree that the subjective designation of “limited use” and “multiple use” areas can or should be determined in that manner, particularly in the absence of some provision in the COMPREHENSIVE PLAN that purports to differentiate between “limited use” and “multiple use” areas in the manner suggested by the STAFF REPORT — and the STAFF REPORT cites no such provision. Moreover, if properties could be designated “limited use” and “multiple use” in the manner suggested by the STAFF REPORT there would be little need to refer to a particular map as reflective of the demarcation.

At the November 4 hearing the Hearings Officer asked Staff to locate the other map referenced in Policy 11.1, above (*viz.*, one of the “Official maps showing precise boundaries and sites”). Staff located an “official” map that appeared to correspond to the area in question, but the “official” map — although much larger — contained no reference whatsoever to the “limited use” area that appears on Map III-1e, and did not appear to contain many of the details otherwise contained in Map III-1e. Thus, Map III-1e appears to contain the only identification or demarcation of the “limited use” area described in ZDO § 705.04(D).

Applicant testified that the subject property lies sufficiently south of Balancing Rock that it falls outside of the southern boundary of the “limited use” area depicted on Map III-1e. Applicant further testified that the Division of State Lands (“DSL”) had corroborated that determination in conjunction with DSL’s antecedent approval of Applicant’s “Waterway Structure Registration Application” (Exhibit 12), and that the DSL would not have rendered its approval if the subject property lay within a prohibited area. Although the Hearings Officer does not know, and the record does not otherwise describe, the extent to which the DSL enforces or acts in accordance with the County’s COMPREHENSIVE PLAN, Applicant’s testimony about the relationship of the subject property and Balancing Rock stands uncontradicted in this record. Applicant also testified — without contradiction — that one or more properties to the *north* of the subject property have constructed similar docks, a circumstance which yields the inference that those properties also lie outside of the “limited use” area described in ZDO § 705.04(D).

The Hearings Officer concludes that the subject property lies sufficiently south of Balancing Rock that it lies outside (or south) of the southern boundary of the “limited use” area depicted on Map III-1e of the County’s COMPREHENSIVE PLAN. As such, the proposed use does *not* constitute a use otherwise prohibited by ZDO § 705.04(D).



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2. "MAXIMUM POSSIBLE" LANDSCAPED AREA, OPEN SPACE, AND VEGETATION  
(ZDO § 705.03(B))

Applicant must demonstrate that "the request will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river," the depth of which "need not exceed 150 feet."

Applicant's proposed plans, dated September 23 and 24, 1998, depict the proposed dock almost entirely within the river. The only portion on the land will be the concrete pilings as portrayed on those plans. The "activity" — *viz*, the floating dock and attendant ramp — will be located predominately in or in extremely close proximity to the river itself. The Hearings Officer concludes, based upon Applicant's proposed plans, that for all practical purposes there exists no area "between the activity and the river" and that Applicant has demonstrated a fulfillment of ZDO § 705.03(B).<sup>1</sup>

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3. CONSISTENCY WITH ZDO § 705.01  
(ZDO § 705.03(B)(1))

ZDO § 705.03(B)(1) requires that Applicant demonstrate that any "approval of the request will be consistent with the purposes stated in [ZDO] Subsection 705.01."

ZDO § 705.01 bears the caption "PURPOSE" and provides (in full):

- "A. To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River;
- "B. To maintain the integrity of the Willamette River by minimizing erosion, promoting bank stability and maintaining and enhancing water quality and fish and wildlife habitats;
- "C. To implement the Willamette River Design Plan described in the Comprehensive Plan."

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<sup>1</sup> The STAFF REPORT discusses this criterion with the existing *residence* as the reference point for purposes of the "activity." (*Id.* at 5.) The Hearings Officer does not construe ZDO § 705.03(B) as necessitating an examination of *existing* uses that will remain unaffected or unaltered by the *proposed* use, nor does he construe the "activity" for purposes of ZDO § 705.03(B) as anything except the proposed use for which Applicant seeks approval, *viz*, the dock and attendant facilities.

There would seem to be no realistic dispute but that the proposed dock will "enhance" the "recreational" quality of Applicant's property.

Applicant's proposed design — which incorporates two concrete pilings just above ground level and a post-construction revegetation of any affected area — would appear to have no discernible impact in terms of erosion, bank stability, or water quality; the plans depict no proposed alteration of the river bank itself, and nothing about the proposed dock poses an inherent risk to overall river water quality. The record contains no evidence to the contrary. The record identifies no known fish or wildlife habitats in the immediate vicinity of the proposed dock.

Finally, the "Willamette River Design Plan" has already been discussed earlier. That plan delineates certain use areas, and the specific prohibition in ZDO § 705.04(D) implements the plan. The Hearings Officer has already concluded that the subject property lies within an area described in that plan as allowing the proposed use.<sup>[2]</sup>

Thus, the Hearings Officer concludes that "approval of the request will be consistent with the purposes stated in Subsection 705.01" and that Applicant has therefore demonstrated a fulfillment of ZDO § 705.03(B)(1).

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#### 4. PRESERVATION OF PUBLIC ACCESS TO WILLAMETTE RIVER (ZDO § 705.03(B)(2))

The proposed use will neither impede nor further limit any public access that may already exist in the area. Moreover, a State park adjoins the subject property to the north, rendering unnecessary any discussion whether Applicant ought to provide (or whether ZDO § 705.03(B)(2) could compel Applicant to provide) additional public access in conjunction with the proposed use.

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<sup>2</sup> The STAFF REPORT recites that

"[a]ddressing this standard [*viz.*, the 'purpose' provision in ZDO § 705.01(C)] will require a review of the Goals of the Water Resources section of the Natural Resources and Energy element of the Comprehensive Plan . . . [.] It is also necessary to review Policies 15.0 through 16.0 . . . of [that portion of] the Plan." (*Id.* at 6.)

If ZDO § 705.01(C) referred to the "Willamette River Design Plan *and Policies*" the Hearings Officer would be inclined to agree with the STAFF REPORT. However, ZDO § 705.01 specifically identifies only the "Plan," which the STAFF REPORT earlier identifies as Map III-1e of the COMPREHENSIVE PLAN (captioned "Willamette River Greenway Design Plan").

Thus, the Hearings Officer concludes that "public access has been provided by appropriate legal means to and along the river" and that further public access to the river from the subject property would be entirely unnecessary in conjunction with the proposed use. Applicant has therefore demonstrated a fulfillment of ZDO § 705.03(B)(2).

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5. COMPLIANCE WITH ZDO §§ 705.03(D) AND 705.03(E)  
(ZDO § 705.03(B)(3))

ZDO §§ 705.03(D) and 705.03(E) prescribe certain development standards, and this decision identifies those standards earlier.<sup>3]</sup>

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<sup>3</sup> For reference, ZDO §§ 705.03(D) and (E) provide:

"D. All structures shall observe a minimum setback between 100 and 150 feet from the mean low water level. The setback shall be determined by evaluation of the criteria stated in Subsection 705.03. Residential lots of record and water dependent uses unable to meet this requirement shall be exempt from this setback.

"E. Private noncommercial docks and boathouses shall be subject to the standards listed below, in addition to the other standards in Subsection 705.03:

"1. General Provisions:

"a. Private noncommercial docks, boathouses, and pilings shall either be dark natural wood colors, or painted dark earth tones (dark brown or green).

"b. The square footage of docks and boathouses in measured as the length times the width of the outer edge of the structure;

"c. The length-to-width ratio of a private noncommercial dock shall not exceed 3:1;

"d. Only one dock and boathouse is allowed per riverfront lot of record.

\* \* \* \* \*

"3. Oregon City Falls to Marion County line:

"a. Private noncommercial docks shall not exceed 700 square feet;

"b. Private noncommercial boathouses shall not exceed 500 square feet, and shall not exceed 12 feet in height, measured from the platform of the dock to the roof peak.

"4. All docks located on state-owned submerged and/or submersible land must be leased or registered with the Oregon Division of State Lands, according to State law."

The proposed use, as a "water dependent use," will be exempt from ZDO § 705.03(D). The remaining provisions in ZDO § 705.03(E) underlie the various conditions of approval prescribed at the conclusion of this decision.

The Hearings Officer concludes that record sufficiently demonstrates that Applicant's proposed design either currently fulfills or can, with the conditions of approval, fulfill the development and dimensional limitations in ZDO § 705.03(E). Applicant has therefore demonstrated a fulfillment of ZDO § 705.03(B)(3).

---

#### 6. PRESERVATION OF FILTER OR BUFFER STRIP (ZDO § 705.03(C))

ZDO § 705.03(C) requires that Applicant demonstrate that the proposed use "will result in the preservation of a filter or buffer strip of natural vegetation along the river bank." The depth of this buffer strip will be determined by (1) the character of the use of development, (2) the width of the river, (3) the steepness of the terrain, (4) the type and stability of the soil, and (5) the type and density of the existing vegetation.

APPLICANT'S NARRATIVE and Applicant's proposed design depict the proposed dock as just beyond a steep embankment located approximately ten to twelve feet from the river's low water line. The proposed dock will involve no dredging, filling, or excavation that would interfere with or impact any existing conditions between the low water line and the embankment (*id.*); to the contrary, according to Applicant and the proposed design, the dock has been designed to accommodate the embankment as the river level rises and falls.

The existing natural vegetation in the back yard of the subject property — which APPLICANT'S NARRATIVE describes as "mostly low growing wild bushes, wild flowers and grasses" (*id.* at 3) — extends to the embankment, and the concrete pilings will be placed at the edge of that vegetation just above the embankment. Applicant represents that none of the existing vegetation will be altered except for the space to be taken up by the two concrete pilings.

The Hearings Officer concludes that the proposed use will leave virtually intact the existing natural vegetation and will result in "the preservation of a filter or buffer strip of natural vegetation" as required by ZDO § 705.03(C).

---

### E. DECISION

Based upon the above discussion, the Hearings Officer approves the requested Greenway Conditional Use for the floating dock and attendant facilities as described in Applicant's land use application and accompanying design, subject to Applicant's fulfillment of the conditions of approval prescribed below.

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### F. CONDITIONS OF APPROVAL

As conditions precedent to the effectiveness of this approval, Applicant shall fulfill the following conditions:

1. The dock and attendant facilities (*viz*, flotation devices, ramp, and ramp support arms) shall either be dark natural wood colors or shall be painted dark earth tones (dark brown or green).
2. The dock and attendant facilities shall substantially conform to the drawings and plans submitted by Applicant as part of this land use approval request. The square footage of the dock shall not exceed 700 square feet, and in no event shall the length-to-width ratio of the dock exceed 3:1.
3. To the extent the dock will be located on state-owned submerged and/or submersible land, Applicant shall lease or register the dock with the Oregon Division of State Lands (DSL) and shall further obtain and maintain all necessary DSL approval(s).
4. Applicant shall have no more than one dock for the subject property.

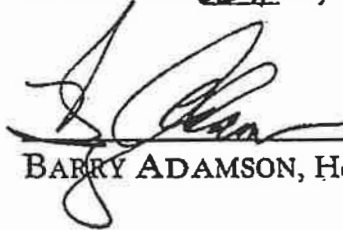
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### G. APPEAL RIGHTS

ZDO § 1304.01 provides that, with the exception of an application for an "Interpretation" as so classified by the Department of Transportation and Development, the Land Use Hearings Officer's decision constitutes the County's final decision for purposes of any available appeal to the Land Use Board of Appeals (LUBA). Various provisions in ORS Chapter 197 determine whether and when this decision might be appealable to LUBA. In addition, administrative rules promulgated by LUBA prescribe the time period within which any appeal must be filed and the manner in which such an appeal must be commenced.

If this decision does not involve an "Interpretation" as so classified by the Department of Transportation and Development, ZDO § 1304.02 provides that this decision will be "final" for purposes of a LUBA appeal as of the date of mailing (which date appears on the last page herein), *unless* a party invokes the rehearing procedures set forth in ZDO § 1304.03.

DATED this 8<sup>th</sup> day of NOVEMBER, 1998.

  
\_\_\_\_\_  
BARRY ADAMSON, Hearings Officer

## CERTIFICATE OF MAILING

I certify that on the date set forth below I mailed a copy of the above HEARINGS OFFICER FINAL ORDER by first class mail to the following participants at the address shown:

William Kennemer  
21041 S. Highway 99E  
Oregon City, Oregon 97045

Nancy Lauderdale  
10721 S.E. Marilyn Court  
Portland, Oregon 97266

Diane Moore  
10741 S.E. Marilyn Court  
Portland, Oregon 97266

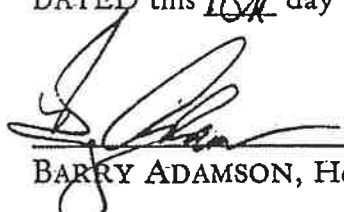
Craig Eberle  
10758 S.E. Forest View Lane  
Portland, Oregon 97266

Terry Curry  
Planning Division  
Department of Transportation and Development  
902 Abernethy Road  
Oregon City, Oregon 97045

Kit Whittaker  
Public Affairs Coordinator  
Clackamas County Public Affairs Office  
906 Main Street  
Oregon City, Oregon 97045

The original of this decision has been filed with the Planning Division, Clackamas County Department of Transportation and Development.

DATED this 18<sup>th</sup> day of NOVEMBER, 1998

  
BARRY ADAMSON, Hearings Officer

HEARINGS OFFICER FINAL ORDER  
REQUEST FOR GREENWAY CONDITIONAL USE APPROVAL

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Planning and Zoning  
Department of Transportation and Development  
Development Services Building  
150 Beaver Creek Road | Oregon City, OR 97045  
503-742-4500 | zoninginfo@clackamas.us  
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### **PRE-APPLICATION CONFERENCE SUMMARY**

*The information contained in this memo is introductory in nature and is designed to act as a guide to relevant ZDO and Comprehensive Plan standards. This is an initial review and is based on the information submitted by the applicant for the pre-application conference.*

#### **Permit Type: Comprehensive Plan Amendment**

#### **File No. ZPAC0134-21**

**Proposal:** Comprehensive plan amendment to allow installation of a noncommercial dock on the Willamette River. Mr. Griffin's property is identified on the Willamette River Greenway Comprehensive Plan Map III-1e as Limited Use Rural, which does not allow non-commercial docks. Mr. Griffin seeks a comprehensive plan amendment either to Limited Use Urban or Multiple Use Rural, which would allow a non-commercial dock.

**Staff Contact:** Melissa Ahrens, Phone: 503-742-4519, E-mail: mahrens@clackamas.us

**Applicant:** Everett Griffin

**Assessor's Map and Tax Lot Number:** 34E21BC00700

**Site Address:** 540 NW River Park Place, Canby

**Zoning:** EFU

## **I. APPLICABLE ZONING AND DEVELOPMENT ORDINANCE (ZDO) AND COMPREHENSIVE PLAN STANDARDS**

***Note to applicant:*** Pre-application conferences are advisory in nature and are intended to familiarize applicants with the requirements of this Ordinance; to provide applicants with an opportunity to meet with County staff to discuss proposed projects in detail; and to identify standards, approval criteria, and procedures prior to filing a land use permit application. The pre-application conference is intended to be a tool to orient applicants and assist them in navigating the land use review process, but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the County from enforcing all applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference. This document is not a land use decision and is not subject to appeal.

**A. Comprehensive Plan Ch. 3.** Chapter 3 contains policies related to river recreation, natural features and Willamette River Greenway protection. For a CP amendment staff have to make consistency findings with Statewide Planning Goals and all Comprehensive Plan chapters, however, from past approvals that were similar in nature staff it would be important for a future application to specifically address the specific Ch. 3 Comprehensive Plan policies as follows:

### **3.A.1 Protection of the natural state of streams and rivers**



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Department of Transportation and Development  
Development Services Building  
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3.A.10 Prevent conflicts between high speed boating and water skiing

3.C.6.2 Support regulation of recreational activities in rural portion of Willamette River Greenway

\*Please see the attached Ch.3 PDF with highlighted full text policies. Also please see the 1996 decision (attached) that provides context for findings that were used for these policies to support a similar proposed CP amendment.

B. Statewide Planning Goal 15. Please address statewide Planning Goal 15.

C. Other statewide Planning Goals. In past similar approvals it doesn't look like Goal 5 or 6 findings were included, however, I am still researching old files (as discussed in the pre-app) and it seems like findings for these goals would be potentially important. As such, staff would recommend including consistency findings for all applicable statewide planning goals as part of a future CP amendment application.

## II. LAND USE PERMITTING PROCESS

**Comprehensive Plan Amendment** applications require notice to owners of nearby land (1/2 mile), the Community Planning Organization (CPO) if active, service providers (sewer, water, fire, etc.) and affected government agencies. The application is required to first go before the Planning Commission in a public hearing where a recommendation will be made to the Board of County Commissioners. The second public hearing would be before the Board of County Commissioners, who are the final decision makers on this type of an application at the County. The County's decision can be appealed to the Oregon Land Use Board of Appeals (LUBA). The fee for the CP amendment is \$5,280.

RE: ZPAC0134-21

Ahrens, Melissa <MAhrens@clackamas.us>

Fri 12/3/2021 5:13 PM

To: Fred Wilson <fw@klgpc.com>

Cc: Fritzie, Martha <MFritzie@clackamas.us>

📎 3 attachments (2 MB)

Ch. 3 Comp. Plan Highlight.pdf; Z0226-96.pdf; ZPAC0134-21 Planning Comments.pdf;

Hi Fred,

Attached please see our written pre-app comment summary, the 1996 land use decision findings I was referencing during our meeting, and the highlighted Ch. 3 of our Comp plan. Like we talked about in the meeting we are still working on trying to understand how these types of Comp. Plan amendments have been done in the past and do more research, so if other pertinent things come up I will keep you in the loop. I am still taking a look at that other file (the 100+ page one I mentioned), but sometime next week I will send that to you too with some feedback if there is anything that may be helpful in there for your proposal on this property. Feel free to reach out with Q in the meantime. Thank you.

Melissa

**Melissa Ahrens**

Senior Planner

Clackamas County Planning and Zoning Division

150 Beaver Creek Road

Oregon City, OR 97045

[MAhrens@co.clackamas.or.us](mailto:MAhrens@co.clackamas.or.us)

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---

**From:** Fred Wilson <fw@klgpc.com>

**Sent:** Tuesday, November 16, 2021 11:51 AM

**To:** Ahrens, Melissa <MAhrens@clackamas.us>

**Subject:** RE: ZPAC0134-21

**Warning: External email. Be cautious opening attachments and links.**

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Hi Melissa – just checking to confirm that we are still on for December 1<sup>st</sup> at ten for the pre-application meeting.

Thanks - Fred

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**From:** Fred Wilson  
**Sent:** Thursday, November 4, 2021 12:34 PM  
**To:** Ahrens, Melissa <[MAhrens@clackamas.us](mailto:MAhrens@clackamas.us)>  
**Subject:** RE: ZPAC0134-21

Hi Melissa – I talked to Everett, and he is free the morning of December 1st. How about the ten o'clock slot?

Also, let me know if you need more information or explanation. I included a bunch of stuff from our earlier case rather than the normal pre-app materials, as I thought it might explain the situation better. But since I'm knee deep in it, it might not make as much sense to someone new.

Thanks - Fred

---

**From:** Ahrens, Melissa <[MAhrens@clackamas.us](mailto:MAhrens@clackamas.us)>  
**Sent:** Wednesday, November 3, 2021 9:32 AM  
**To:** Fred Wilson <[fw@klgpc.com](mailto:fw@klgpc.com)>  
**Subject:** ZPAC0134-21

Hi Fred,

I am finally coming up for air a bit from all my Comp. Plan/Zone changes and am working to schedule some pre-apps and organize my calendar- Sorry for the delay in getting back to you. Would December 1<sup>st</sup> work to get a pre-application scheduled for this? Say 10 or 11am? We are still holding these via zoom. Thank you!

Melissa

**Melissa Ahrens**  
**Senior Planner**  
Clackamas County Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, OR 97045  
[MAhrens@co.clackamas.or.us](mailto:MAhrens@co.clackamas.or.us)  
Direct Ph: 503-742-4519 | Fax: 503-742-4550

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---

**From:** Ahrens, Melissa  
**Sent:** Wednesday, October 6, 2021 4:55 PM  
**To:** 'Fred Wilson' <[fw@klgpc.com](mailto:fw@klgpc.com)>  
**Subject:** RE: Potential Discussion About Griffin Case Z0064-21-R

Hi Fred,

Apologies again, I am working on two Comp. Plan amendment/zone changes right now that are very complex so I have had to prioritize those. And yes, in general we are swamped right now and down three staff positions so it has been very busy for all of us taking on the extra work. I am in the office tomorrow and I think Jennifer is there also so I may have a chance to chat with her then and can hopefully update you, however, I think your idea of setting up a pre-app would be a good direction to take so that we have something on the calendar and I can start preparing notes to provide to you in the context of the pre-app conference. Thank you.

Melissa

**Melissa Ahrens**  
Senior Planner  
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150 Beaver Creek Road  
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---

**From:** Fred Wilson <[fw@klgpc.com](mailto:fw@klgpc.com)>  
**Sent:** Wednesday, October 6, 2021 1:37 PM  
**To:** Ahrens, Melissa <[MAhrens@clackamas.us](mailto:MAhrens@clackamas.us)>  
**Subject:** RE: Potential Discussion About Griffin Case Z0064-21-R

**Warning: External email. Be cautious opening attachments and links.**

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Hi Melissa – it sounds like y'all are slammed. Maybe it would be better if we just filed for a pre-app and that way it would get on the calendar? We could just put in the pre-ap that we would be seeking one of two possible ways to get a comp plan amendment. Then we could talk about the issue at the pre-ap. Whatever is easiest for you we would be happy to do.

Thanks - Fred

---

**From:** Ahrens, Melissa <[MAhrens@clackamas.us](mailto:MAhrens@clackamas.us)>  
**Sent:** Tuesday, September 28, 2021 8:43 AM  
**To:** Fred Wilson <[fw@klgpc.com](mailto:fw@klgpc.com)>  
**Subject:** RE: Potential Discussion About Griffin Case Z0064-21-R

Hi Fred,

I haven't had a chance to touch base with Jennifer on this yet and I am not in the office until Thursday (when I was going to do a bit more digging in our records) so I may not be able to get back to you until Friday with clearer

direction. I will keep you posted if that changes though. Apologies for the delay- we have been very busy and I am prioritizing applications with legal deadlines on them. Thank you!

Melissa

**Melissa Ahrens**  
Senior Planner  
Clackamas County Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, OR 97045  
[MAhrens@co.clackamas.or.us](mailto:MAhrens@co.clackamas.or.us)  
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**From:** Fred Wilson <[fw@klgpc.com](mailto:fw@klgpc.com)>  
**Sent:** Monday, September 27, 2021 10:45 AM  
**To:** Ahrens, Melissa <[MAhrens@clackamas.us](mailto:MAhrens@clackamas.us)>  
**Subject:** RE: Potential Discussion About Griffin Case Z0064-21-R

**Warning: External email. Be cautious opening attachments and links.**

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Hi Melissa – is there a good time for you talk about the Griffin case?

Thanks - Fred

---

**From:** Ahrens, Melissa <[MAhrens@clackamas.us](mailto:MAhrens@clackamas.us)>  
**Sent:** Tuesday, September 14, 2021 8:54 AM  
**To:** Fred Wilson <[fw@klgpc.com](mailto:fw@klgpc.com)>  
**Subject:** RE: Potential Discussion About Griffin Case Z0064-21-R

Sounds good- will aim to get back to you after Monday of next week. Thanks.

Melissa

**Melissa Ahrens**  
Senior Planner  
Clackamas County Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, OR 97045  
[MAhrens@co.clackamas.or.us](mailto:MAhrens@co.clackamas.or.us)  
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**From:** Fred Wilson <[fw@klgpc.com](mailto:fw@klgpc.com)>  
**Sent:** Tuesday, September 14, 2021 8:47 AM  
**To:** Ahrens, Melissa <[MAhrens@clackamas.us](mailto:MAhrens@clackamas.us)>; Nesbitt, Lindsey <[LNesbitt@clackamas.us](mailto:LNesbitt@clackamas.us)>  
**Subject:** RE: Potential Discussion About Griffin Case Z0064-21-R

**Warning: External email. Be cautious opening attachments and links.**

---

Hi Melissa – I am actually going to be out of town Thursday, Friday, and next Monday – so sometime after that next week would work great for me if that is ok with you.

Thanks - Fred

---

**From:** Ahrens, Melissa <[MAhrens@clackamas.us](mailto:MAhrens@clackamas.us)>  
**Sent:** Tuesday, September 14, 2021 8:28 AM  
**To:** Fred Wilson <[fw@klgpc.com](mailto:fw@klgpc.com)>; Nesbitt, Lindsey <[LNesbitt@clackamas.us](mailto:LNesbitt@clackamas.us)>  
**Subject:** RE: Potential Discussion About Griffin Case Z0064-21-R

Hi Fred,

I have heard about this a bit just on the periphery, however, I would be happy to dig in a bit more and coordinate internally about a possible CP amendment. My schedule this week is very busy though so I likely won't be able to get back to you till the end of the week or early next week. If you don't want to wait for some initial feedback about the CP amendment process you can always go ahead and just submit for a pre-application meeting in the meantime. We are scheduling those out 3-4 weeks anyway so at least that way you would have something on the books. Thanks.

Melissa

**Melissa Ahrens**  
Senior Planner  
Clackamas County Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, OR 97045  
[MAhrens@co.clackamas.or.us](mailto:MAhrens@co.clackamas.or.us)  
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---

**From:** Fred Wilson <[fw@klgpc.com](mailto:fw@klgpc.com)>  
**Sent:** Monday, September 13, 2021 10:51 AM  
**To:** Nesbitt, Lindsey <[LNesbitt@clackamas.us](mailto:LNesbitt@clackamas.us)>  
**Cc:** Ahrens, Melissa <[MAhrens@clackamas.us](mailto:MAhrens@clackamas.us)>  
**Subject:** RE: Potential Discussion About Griffin Case Z0064-21-R

**Warning: External email. Be cautious opening attachments and links.**

---

Hi Lindsey – no worries, thanks for getting back to me. I was out Friday (I went to Columbus for the Oregon v. Ohio State game – Geaux Dux!)

Our client is Everett Griffin, who lives at 540 NW River Park Place, Canby, OR 97013. He lives in what is essentially a subdivision of about a dozen small parcels – mostly less than an acre on the south (east) side of the Willamette River between the Molalla River State Park and the Canby Ferry. Everett just wants to put in a non-commercial dock. About half the folks in his subdivision already have one, including his next door neighbors upstream and downstream. I'm not sure how familiar you are with the Comprehensive Plan map that deals with the Willamette River Greenway (Map III-1e) – I don't think I'd ever looked at it before. There are little shaded areas on the map that show Low Intensity Urban and Low Intensity Rural identifications for land areas next to the river. Everett is in one of these little shaded areas (the areas generally correspond with places where there are smaller lots where people have docks). The map also shows either Multiple Use or Limited Use for the river portions of the map – Everett is definitely Limited Use. Noncommercial docks are not allowed in "Limited Use Rural" areas of the Greenway. The only issue in this case is whether Everett is Limited Use Rural or not.

Anyways, before I started working at the firm, we filed an application for a non-commercial dock. Steve denied it because the river is designated Limited Use next to Everett's property. The way the County has apparently done things is to just look at river designation - so if the river is Limited Use (like it is here) then no dock is allowed – regardless of what the property itself is (it's a little fuzzy how the other people in these areas got docks – some may be nonconforming, some may have gotten comp plan amendments that aren't shown on the map). On appeal to Joe, we argued that even though the river is Limited Use, Everett's property is either Low Intensity Urban or Low Intensity Rural – it's really hard to tell from the map – the cross hatching for both look almost the same. At the hearing before Joe, Steve and I both agreed that if you only look at the river Everett doesn't get a dock – and that if you do look at the land than he does get a dock. Steve agreed with me that either Low Intensity Urban or Low Intensity Rural is different from just plain Rural.

Joe denied the appeal. The file number is Z0064-21-R and the decision was issued on July 14<sup>th</sup>. I'm really not trying to be snarky or anything like that, but I'm not exactly sure whether Joe denied it because he agrees with Steve that you don't look at the land designation at all or that he denied it because Everett is Low Intensity Rural rather than Low Intensity Urban. Joe talks about how he agrees with Steve about looking at Limited Use versus Multiple Use and that that is how the County has traditionally done it, but he also explains why he thinks Everett is Low Intensity Rural rather than Low Intensity Urban. It isn't set out as alternative findings so I'm not quite sure whether it matters or not if Everett is Low Intensity Rural or Low Intensity Urban.

I don't bring that up as criticism – just that if you do look at the land classification that opens up another potential way to approve a dock. The decision is up on appeal at LUBA, but we stayed the case to see if we could pursue a comp plan amendment instead. I thought it would be a better use of Everett's money to do a comp plan



amendment if the County's is on board than to fight it out at LUBA. One way to get to a dock would be to get a comp plan change for the river classification to Multiple Use – that has been how the County traditionally does it I believe. If Joe's decision changed the process and now the land classification matters too then I was thinking we could also apply to change the land designation to Low Intensity Urban from Low Intensity Rural. It's a subdivision of less than one-acre lots – I think under the Curry County factors it would be urban. For instance, if someone wanted to do this kind of development now they would definitely need an exception to Goal 14 as it would be considered an urban level of development.

Anyways, I would prefer to work with y'all to see if there is something everyone could agree on rather than fighting at LUBA. It sure seems like the little areas of shading on the map correspond with areas where docks are OK (there are some other shaded areas on the map where everyone has docks) – so this wouldn't open the floodgates for more docks at all, there is no opposition from anyone to Everett having a dock, a number of neighbors submitted letters in favor of him having a dock, and a dock sure seems pretty low intensity. So we could apply for a comp plan change to Multiple Use or maybe to change the land classification to Low Intensity Urban which wouldn't even effect the river classification.

I hope that is enough information (or not too much). Since I wasn't exactly sure if there were two possible ways to proceed I thought it might be better to discuss it before a formal pre-app.

Thanks a lot - Fred

---

**From:** Nesbitt, Lindsey <[L.Nesbitt@clackamas.us](mailto:L.Nesbitt@clackamas.us)>  
**Sent:** Friday, September 10, 2021 2:15 PM  
**To:** Fred Wilson <[fw@klgpc.com](mailto:fw@klgpc.com)>  
**Cc:** Ahrens, Melissa <[MAhrens@clackamas.us](mailto:MAhrens@clackamas.us)>  
**Subject:** RE: Potential Discussion About Griffin Case Z0064-21-R

Hi Fred,

I am so sorry that it has taken me a while to respond. I was out of the office last week Thursday and Friday. Thank you for checking back in with me. I have included Melissa Ahrens in this discussion because she would be the planner reviewing an application if you plan to move forward with Comprehensive Plan Amendment. I think your inquiry would warrant a pre-application meeting. Will you please coordinate with Melissa (and myself). We would like to know more about your request so we can research and schedule a pre-application for you. Melissa is out of the office today, but will be back on Tuesday. I think the three of us can meet via zoom to gather a little more information before scheduling a pre-application. We will of course need to do some research before the pre-app as well.

Please let me know if this sounds like a good plan for your team, and if so I can send a meeting request via zoom next week.

Lindsey

---

**From:** Fred Wilson [<mailto:fw@klgpc.com>]  
**Sent:** Wednesday, September 1, 2021 3:15 PM  
**To:** Nesbitt, Lindsey <[L.Nesbitt@clackamas.us](mailto:L.Nesbitt@clackamas.us)>  
**Subject:** Potential Discussion About Griffin Case Z0064-21-R

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Hi Lindsey – I hope everything has been going well for you – and no more epic dissertations like on Heirloom Apartments.

We have a case – Griffin Z0064-21-R – where we are trying to get someone a noncommercial dock. Docks aren't allowed in "limited use rural" areas of the Willamette River Greenway. We had a hearing before the hearings officer (Joe) where we argued that we weren't in the limited use rural area, but the hearings officer said that we were. The case is up on appeal at LUBA, but we stayed it to see if we could get a comprehensive plan change to allow the dock. I checked with Nate, and he said it was ok to talk to you. Before spending the eight grand or so for a comp plan application, I was hoping I could talk to someone (Nate said it would likely be you or maybe Martha with your later review) about how the county feels about it. I think the hearings officer's decision sort of changed the way we all have to look at things now (I'm not entirely sure), so I thought it would be helpful to see what y'all thought. I could do it in an actual Zoom meeting or on the phone or whatever is most convenient for y'all (if you can have the meeting at all that is). He is in a subdivision of about a dozen ½ acre lots where about half the folks already have docks (including his direct upstream and downstream neighbors) so it wouldn't stick out like a sore thumb or anything. Anyways, I hope I'm not dumping too much information on you – but if someone would be willing to talk to me about it that would be much appreciated.

Thanks - Fred



**Fred Wilson | Attorney at Law.**

P.O. Box 159

Lake Oswego, OR 97034

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### **Chapter 3: NATURAL RESOURCES AND ENERGY**

Citizen involvement is essential in the governmental process to promote the general health and welfare of the total community. New approaches must be developed by local government to effectively involve citizens in the planning and decision-making process. Positive accomplishments can be achieved.

The resources and natural systems of Clackamas County are the most enduring and tangible assets for its communities and their economies and environment.

River corridors, farm fields, marshes, scenic outlooks, wildflowers, spawning beds for salmon, deer and elk wintering areas, gravel quarries, magnificent stands of trees along Oatfield Ridge, or reservoirs of hot water beneath the slopes of Mt. Hood are all part of the wealth of Clackamas County's environment.

Natural resources and processes are interdependent, supplying benefits to the system of which they are a part. Plants are used by animals. Floodplains accommodate floods. Geologic processes produce areas of spectacular scenery. Skiers use the snow-covered slopes of Multnomah Mountain. Favorable soils and slopes result in savings for construction. Energy flows into the region from the sun, wind, and rain.

Clackamas County is an area of rapid growth, urbanization pressures, and diverse rural activities. As man exerts a greater influence on the environment, planning for future use of Clackamas County's land, water, and energy resources becomes increasingly important. The concern becomes one of insuring long-range values and a high quality of life. This can be accomplished by insuring that our resources are wisely managed, that different uses of land do not conflict, that energy for productivity is available in the quantities needed, and that there is a sufficient amount of high-quality water for the needs of the population as well as natural systems.

#### **ISSUES**

- Use of rivers for recreation and public water supply.
- Effects of river corridor development.
- Competing land use demands in river corridors and impact of development on wetlands.
- Availability and quality of groundwater.
- Management of agricultural resources.
- Management of forest resources on small woodlot ownerships.
- Management of urban forests.
- Competition of recreational demands in forest areas.
- Management of mineral and aggregate supplies.
- Reuse of exhausted aggregate extraction sites.

Clackamas County Comprehensive Plan

- Management of fish and wildlife habitat.
- Compatibility of structures and land uses in critical habitat areas; animal damage in agricultural/forest areas.
- Protection of scenic and unique natural areas on public and private lands.
- Housing density in hazard areas (e.g., steep slopes, active landslides, and floodplains).
- Government liability if known hazard areas are allowed to develop, and damage to life or property occurs.
- Energy efficiency and alternative local sources (e.g., solar, geothermal).
- Need for educational programs on energy conservation (e.g., weatherization, recycling, and efficient land use patterning).

**SUMMARY OF FINDINGS AND CONCLUSIONS**

- On peak days and/or during summer months, sections of the Willamette River are overused in terms of recreational activities. The Clackamas and Sandy Rivers may be approaching recreational overuse in some sections. The Molalla has very low summer flows. Access points on the Tualatin River and lower Molalla River are few. The banks of the Tualatin are predominantly mud, relatively fragile, and cannot withstand much wave (wake) action. Regulatory programs include State Scenic Waterways on the Clackamas and Sandy Rivers, Federal Wild and Scenic Waterways Act, the Willamette River Greenway, state water quality standards, Water Resources Department policy and water rights, and Division of State Lands fill permits. Seven cities and the County share jurisdiction of the Willamette River.
- All rivers either support or provide passage for anadromous fish, i.e. salmon and steelhead.
- Existing land uses within each river corridor area are:

**Land Use as Percentage of Total**

<u>River</u>	<u>Residential</u>	<u>Commercial</u>	<u>Industrial</u>	<u>Ag/Forest/OS</u>
Clackamas	6.5	0.1	3.2	90.2
Sandy	4.7	0.4	0.0	94.9
Molalla	2.0	0.0	1.0	97.0
Tualatin	13.9	0.2	0.0	85.9
Willamette	11.3	0.4	3.6	84.7

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- Quality of groundwater in Clackamas County is generally good, although some dissolved iron is found in well supplies. Groundwater monitoring activities show a gradual yearly decline in the water table; however, according to the Oregon Water Resources Department, there is no indication of a critical groundwater situation.
- The County's agricultural production in 1987 had an estimated value of over \$150 million. This contributed a total of approximately \$500 million to the state's economy. The County's agricultural land base has decreased over 100,000 acres in the last 30 years. The potential for agricultural production is further reduced by rural parcelization patterns and inactive farm land owners.
- Techniques for maintaining the County's agricultural base are (1) regulating land uses to insure that in prime agricultural lands, economic farm units are preserved; and (2) utilizing and expanding existing resources that provide tax relief, educational programs, technical assistance, cooperatives, etc., to encourage the economic viability of the County's farms.
- Federal timber revenues to the County treasury averaged over \$9 million per year from 1984 to 1988. The forest industry is one of the largest industries in the state.
- During the late 1980s (from 1984 to 1988) federal lands supplied 70 to 75 percent of Clackamas County's timber harvest volume, and the forest industry supplied about 15 to 20 percent. Small woodlot owners control approximately 20 percent of the Countywide commercial forest land, and supply 5 to 10 percent of the timber harvest.
- Inside the Portland Metropolitan Urban Growth Boundary, street trees are required in certain areas and encouraged elsewhere.
- Inside the Portland Metropolitan Urban Growth Boundary, preservation, maintenance, and enhancement of the tree canopy are required or encouraged through regulation and public education.
- The County could simplify management of its scattered forest holdings by exchanging them for forest lands in other parts of the County and using them for parks and/or open space. A County forest land inventory and management plan has been completed and is now being implemented.
- Aggregate supplies are integral to general economic development in the County; however, supplies near the urban area are limited due to encroachment of urban land uses.
- Fishing is a major recreational activity in the County, with many streams and rivers noted for their salmon and steelhead runs. Hunting is also a major activity, with deer, bear, elk, and other hunting having an important economic impact on Clackamas County.

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- Areas near rivers or streams are the most important wildlife habitat, harbor the greatest species diversity, and are critical to the survival of numerous species. Cool and well-oxygenated rivers sustain fish in the summer. Winter range is necessary to support big game during inclement months.
- Scenic and natural areas are often quite fragile and easily obscured or degraded by inappropriate forms of development.
- County population projections indicate an increase of 45 percent by the year 2010, substantially increasing development pressure and recreational use of the County's scenic and natural areas. The quality of these resources affects tourism, a major County industry.
- Flooding and landslides are natural events posing hazards to existing structures and may be compounded by further development. There are approximately 330 acres of landslides and 935 acres of floodplain in northwest unincorporated urban Clackamas County.
- Inappropriate hillside development can increase runoff, erosion, and public service costs. County road maintenance costs, for development on hillsides with greater than 15 percent slope, are about four times as great as maintenance costs for development on 0 percent to 8 percent slope.
- Practically all energy is imported to the County. Although little can be done to affect price or supply, efficient use of energy can be accomplished once it enters the County, and auxiliary sources (e.g. solar, wind, geothermal, etc.) can be developed.
- Nearly 40 percent of the County's energy consumption is wasted by inefficient insulation, improper ventilation, poorly designed appliances, etc. Energy loss due to inefficient land use patterns add to this total. Energy conservation strengthens the economy by preventing job loss during shortages, reducing demands on natural resources, and providing time to develop new or more efficient sources.
- Solar and wind energy are both essentially unlimited in their supply and pose few environmental problems. If more actively promoted, they could become important auxiliary energy sources in Clackamas County. Solar energy can make an immediate contribution for heating and cooling individual buildings.
- The Metropolitan Service District has established a solid waste transfer station and recycling center in Oregon City. It, and a similar station near Sandy, are collection points for solid waste before the nonrecycled material is trucked to the landfill.
- Initial exploration near Mt. Hood indicates a potential for geothermal energy. Heat from the earth could be an important contributor to the total energy requirements of the Portland metropolitan area in the next 10 to 20 years.

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## **WATER RESOURCES**

The value of Clackamas County's water resources is immeasurable. Rivers, lakes, farm ponds, marshes, streams, and groundwater provide for domestic supply, recreation, wildlife habitat, drainage control, and many aesthetic benefits.

To protect our water resources, the following goals and policies address rivers and stream corridors in general, five individual river corridors, wetlands, and groundwater.

### **WATER RESOURCES GOALS**

- Maintain an adequate amount of surface water and maintain and improve water quality to insure its continued use for domestic water supply, aquatic habitat, and recreation.
- Minimize erosion and hazards to life or private and public property.
- Maintain or improve the quality and quantity of groundwater.
- Maintain or improve the quality of rivers and streams.
- Protect and enhance wetlands as a valuable source of groundwater recharge, wildlife habitat, and stormwater drainage control.

### **3.A River and Stream Corridors Policies**

- 3.A.1 Maintain rivers and streams in their natural state to the maximum practicable extent through sound water and land management practices. Consideration shall be given to natural, scenic, historic, economic, cultural, and recreational qualities of the rivers and adjacent lands.
- 3.A.2 Apply erosion and sediment reduction practices in all river basins to assist in maintaining water quality. Existing riparian vegetation along streams and river banks should be retained to provide fisheries and wildlife habitat, minimize erosion and scouring, retard water velocities, and suppress water temperatures.

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- 3.A.3 For areas that are outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary, require preservation of a buffer or filter strip of natural vegetation along all river and stream banks as shown on the adopted Water Protection Rules Classification (WPRC) Maps. The depth of the buffer or filter strip will be dependent on the proposed use or development, width of river or stream, steepness of terrain, type of soil, existing vegetation, and other contributing factors, but will not exceed 150 feet. River and stream corridor crossings shall be permitted provided they do not interfere with fish movement. Commercial forest activities and harvesting practices shall provide for vegetation buffers and the intended shading, soil stabilizing, and water filtering effects as required by the Oregon Forest Practices Act and administered by the State Department of Forestry. Tree cutting activities associated with river or stream enhancement projects approved by the Oregon Department of Fish and Wildlife are exempt from this policy.
- 3.A.4 For areas that are inside either the Metropolitan Service District Boundary or the Portland Metropolitan Urban Growth Boundary, require preservation of a buffer or filter strip of natural vegetation along all river and stream banks as shown on the adopted Habitat Conservation Areas Map and Water Quality Resource Areas Map and for unmapped Water Quality Resource Areas.
- 3.A.5 Encourage establishment and maintenance of adequate minimum flow standards in all streams to insure a productive fish habitat and to protect aquatic life and scenic qualities. As new data become available, and the Department of Water Resources Commission establishes minimum stream flows, such information shall be incorporated into the County planning process.
- 3.A.6 Require to the most reasonable extent possible the use of nonstructural methods of bank stabilization in areas experiencing accelerated soil loss. Require that bank stabilization not degrade fish habitat and not accelerate erosion in other sections of the river or stream.
- 3.A.7 Allow diversion or impoundment of stream courses if fisheries, wildlife, water quality, and flow will not be adversely affected. If the action is taken for fish or wildlife habitat enhancement, the action shall be approved by the applicable federal, state or local agencies having jurisdiction.



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- 3.A.7.1 Require new dams or other impoundments, or major modifications to existing dams or impoundments, to demonstrate that anadromous and resident fish will not be adversely affected by the installation of such works. The methodology for such determination shall be developed by the County in conjunction with affected federal and state agencies, including, but not limited to, the U.S. Department of Fish and Wildlife, the Oregon Department of Environmental Quality and Environmental Quality Commission, and the Oregon Department of Fish and Wildlife.
- 3.A.7.2 Require all new dam and impoundment projects to incorporate designs which assist to the maximum extent practicable the restoration, expansion and monitoring of anadromous fish populations, as determined by the County in the development of a methodology with the agencies listed in Policy 3.A.7.1 above.
- 3.A.8 Allow low head hydroelectric dam facilities that do not adversely impact fisheries and water quality.
  - 3.A.8.1 Require new dams or other impoundments, or major modifications to existing dams or other existing impoundments, to demonstrate pursuant to current accepted methodology that anadromous and resident fish will not be adversely impacted as determined by the Oregon Department of Fish and Wildlife.
  - 3.A.8.2 Require all new dam and impoundment construction incorporate designs which assist to the maximum extent practical restoration, expansion and monitoring of anadromous fish populations as determined by the Oregon Department of Fish and Wildlife and U.S. Fish and Wildlife Services.
- 3.A.9 Decisions regarding developments in Principal River Conservation Areas, Stream Conservation Areas, and Habitat Conservation Areas shall be consistent with the applicable Economic, Social, Environmental and Energy (ESEE) analyses for the watershed.
- 3.A.10 Establish water-based recreational areas for activities such as swimming, fishing, and canoeing that are free from conflicts with speed boating and water skiing.

### **3.B Principal River Conservation Area Policies**

- 3.B.1 Designate a Principal River Conservation Area along the corridor of the Willamette River. For areas that are outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary, designate Principal River Conservation Areas along the corridors of the Clackamas River, Sandy/Salmon Rivers, Molalla/Pudding Rivers, Tualatin River, Roaring River, and Zig Zag River as shown on Map 3-2. The corridors include those rivers identified by the Omnibus Oregon Wild and Scenic Rivers Act (1988), and the State Scenic Rivers Program. The corridor width will be one-quarter mile from mean high water level on each side, except along the Willamette River, where the width is defined by the Willamette River Greenway boundaries, urban and rural.
- 3.B.1.1 Coordinate with regional, state and federal regulatory agencies to provide a common management direction and permit review procedures for the designated river corridors. This includes reliance on the Oregon Forest Practices Act for contemplated forest management activities.
- 3.B.1.2 Manage development in all Principal River Conservation Areas according to the following siting performance criteria:
- 3.B.1.2.a Maintain vegetative fringe areas along the river free of structures, grading and tree cutting activities (see Policy 3.A.3). Diseased trees or those in danger of falling may be removed.
- 3.B.1.2.b Minimize erosion and sedimentation through drainage control techniques, revegetation of cleared/disturbed areas, phasing of vegetation removal, closure of unused roads, and discouraging off-road vehicles.
- 3.B.1.2.c Limit residential structure height to 35 feet and use a vegetative fringe to screen from the river primary and accessory structures.
- 3.B.1.2.d Encourage subdued substructure color or tones to blend with surroundings and adjacent features.
- 3.B.1.2.e Screen commercial/industrial structures (except water-dependent or water-related uses), parking and/or loading, and storage areas from view from the river, and orient signs away from the river.

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- 3.B.1.3 Require a minimum setback of not less than 100 feet or more than 150 feet from mean high water level for all structures, except water-dependent uses. The actual setback shall be based on the site criteria stipulated in Policy 3.A.3. Residential lots of record and residential minor land partitions unable to meet this requirement shall be exempt from the minimum setback standard. However, all River Areas siting criteria and other provisions of this Plan shall be met. Requirements of the State Scenic Waterways Act and Willamette River Greenway must be met on the applicable reaches of the Clackamas, Sandy, and Willamette Rivers.
- 3.B.1.4 Encourage new public access points to minimize trespass and vandalism on private property.
- 3.B.1.5 Mining of aggregate within Principal River Conservation Areas shall only be allowed upon demonstration the site is significant, has been reviewed pursuant to the Goal 5 process and procedures, and when demonstrated such uses shall not adversely impact water quantity or quality. Under no circumstances shall mining or other development activities associated with the use occur within one hundred fifty (150) feet of the mean high water line of the river.
  - 3.B.1.5.a The Canby Sand and gravel site, identified in Board order 95-47, commenced the Goal 5 process in 1992 and has been designated as a significant Goal 5 aggregate site but has not completed the ESEE stage of the process. This site has been found to have significant aggregate and fish habitat. The County has delayed the decision to protect these Goal 5 resources until a concurrent examination of these resources is performed pursuant to the ESEE analysis in OAR 660, Division 16.

**3.C Stream Conservation Area Policies**

- 3.C.1 For areas that are outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary, designate stream conservation areas along the corridors of fish-bearing streams based on Water Protection Rule Classification (WPRC) Maps created through the cooperative efforts of the Oregon Department of Forestry (DOF) and Oregon Department of Fish and Wildlife (ODFW) pursuant to OAR 629-635-000. Establish and manage conservation corridors based upon the following performance criteria:
  - 3.C.1.1 Large stream conservation areas: A minimum 100 feet from the mean high water line shall be designated along all streams described as fish-bearing streams (Type F) with average annual flows of 10 cubic feet per second or greater as shown on WPRC maps.

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- 3.C.1.2 Medium stream conservation areas: A minimum 70 feet from the mean high water line shall be designated along all streams described as fish-bearing streams (Type F) with average annual flows greater than two cubic feet per second and less than 10 cubic feet per second or greater as shown on WPRC maps.
  - 3.C.1.3 Small stream conservation areas: A minimum 50 feet from the mean high water line shall be designated along all streams described as fish-bearing streams (Type F) with average annual flows less than two cubic feet per second as shown on WPRC maps.
  - 3.C.1.4 Manage development and establish minimum setbacks from watercourses. Allow stream corridor crossings provided they do not interfere with fish movement.
  - 3.C.1.5 Maintain vegetative fringe areas along fish bearing streams free of structures.
  - 3.C.1.6 Establish residential lots of record exemption provisions to allow development on properties physically unable to satisfy the minimum setback requirements.
  - 3.C.1.7 Manage stream conservation areas to maintain and enhance water flows from springs, seeps, side channels and other sources.
- 3.C.2 Sandy/Zig Zag/Salmon Rivers Design Plan and Policies
- 3.C.2.1 Implement the design plan for the Sandy/Salmon Rivers according to Map 3-1b, which illustrates uses. Management activities and land classifications shown on the map are consistent with land use policies and designations in the Land Use Chapter. Official maps showing precise boundaries and sites (scale 1"=2000') are on file at the Clackamas County Department of Transportation and Development.
  - 3.C.2.2 Limit development and intense recreation activities on those sites designated Protection Resource Areas on the Design Plan Map. Islands shall not be developed.
  - 3.C.2.3 Apply policies contained in the adopted Mt. Hood Community Plan to the Sandy/Salmon Rivers.
  - 3.C.2.4 Prohibit water appropriations or other withdrawals from the Salmon River unless it is demonstrated through current accepted methodology that anadromous and resident fish habitat will not be adversely impacted as determined by the Oregon Department of Fish and Wildlife.

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3.C.3 Clackamas River Design Plan and Policies

- 3.C.3.1. Implement the design plan for the Clackamas River according to Map 3-1a, which illustrates uses. Management activities and land classifications shown on the map are consistent with land use policies and designations in the Land Use Chapter. Official maps showing precise boundaries and sites (scale 1"=2000') are on file at the Clackamas County Department of Transportation and Development.
- 3.C.3.2. Cooperate with the Oregon Department of Transportation (ODOT) in development of a coordinated management scheme for the scenic waterway section.
- 3.C.3.3. Limit development and intense recreational activities on those sites/areas designated Protection Resource Area on the Design Plan Map. Islands shall not be developed.
- 3.C.3.4. Develop, with the Oregon State Parks and Recreation Department, a Clackamas River Scenic Waterway Recreation Guide for river users that shows landmarks, access/egress points, and scenic waterway rules.
- 3.C.3.5. Study, for potential inclusion in the State Scenic Waterway Program, a Clackamas River "Gorge" from Estacada to Faraday Dam.
- 3.C.3.6. Encourage the posting of hazardous water signs in reaches of the river where safety hazards exist.

3.C.4 Molalla River Design Plan and Policies

- 3.C.4.1. Implement the design plan for the Molalla/Pudding Rivers according to Map 3-1c, which illustrates uses. Management activities and land classifications shown on the map are consistent with land use policies and designations in the Land Use Chapter. Official maps showing precise boundaries and sites (scale 1"=2000') are on file in the Clackamas County Department of Transportation and Development.
- 3.C.4.2. Encourage new public access points to minimize traffic hazards, trespass, vandalism, and crop disturbance. Clackamas County shall evaluate public access sites shown by the Oregon Department of Fish and Wildlife as indicated in the Pudding River Basin Master Plan for Angler Access and Associated Recreational Uses, 1969.
- 3.C.4.3. Limit development and intense recreational activities on those sites designated Protection Resource Areas on the Design Plan Map.

3.C.5 Tualatin River Design Plan and Policies

- 3.C.5.1. Implement the design plan for the Tualatin River according to Map 3-1d, which illustrates uses. Management activities and land classifications shown on the map are consistent with land use policies and designations in the Land Use Chapter. Official maps showing boundaries and sites (scale 1"=2000') are on file at the Clackamas County Department of Transportation and Development.

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- 3.C.5.2 Encourage new public access points to minimize trespass and vandalism on private property.
  - 3.C.5.3 Identify public access points above River Mile 3.4 (Lake Oswego Diversion Dam) and discourage boating activities which create bank erosion due to wave action.
  - 3.C.5.4 Cooperate with the State Water Resources Department and other appropriate agencies to implement the Willamette River Basin Plan.
- 3.C.6 Willamette River Design Plan and Policies
- 3.C.6.1 Implement the design plan for the Willamette River according to Map 3-1e, which illustrates uses. Management activities and land classifications shown on the map are consistent with land use policies and designations in the Land Use Chapter. Official maps showing precise boundaries and sites (scale 1"=2000') are on file at the Clackamas County Department of Transportation and Development.
  - 3.C.6.2 Support regulation of recreational activities in the rural portion of the Willamette Greenway to minimize conflicts between water-based recreational uses, manage the intensity of recreational uses, and buffer bankside uses from water-borne recreational activities including recreational noise levels. The County shall develop a joint land management program with the Oregon State Parks and Recreation Department for all County- and state-owned lands in the rural greenway.
  - 3.C.6.3 Provide for recreational activities in the urban portion of the Willamette Greenway through a jointly developed management program with all incorporated cities. At a minimum, public safety, recreational use intensity, and recreational noise need to be addressed.
  - 3.C.6.4 Exempt specified modifications of single family residences from the existing Greenway Conditional Use procedure. For all other uses, change of use, modifications, and intensifications, require Willamette River Greenway Conditional Use approval and compliance with provisions of the design plan and Policies 3.B.1.2 and 3.B.1.3 of this chapter.
  - 3.C.6.5 Prohibit private noncommercial docks and moorages in limited-use rural portions of the Greenway to protect the natural river character.
  - 3.C.6.6 Allow private noncommercial docks and moorages in urban and multiple-use rural portions of the Greenway through the Greenway Conditional Use provisions of the Zoning Ordinance which require an extraordinary exception in the rural portion.
  - 3.C.6.7 Limit development and intense recreational activities on sites designated Protection Resource Areas on the Design Plan Map. Islands shall not be developed.

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3.C.6.8 Encourage new public access points to minimize trespass and vandalism on private property. Emphasis shall be directed to the area from Gladstone to Milwaukie.

3.C.7 Cooperate with the State Water Resources Department and other appropriate agencies to implement the Willamette River Basin Plan.

**3.D Habitat Conservation Area Policies**

3.D.1 For areas that are inside the Metropolitan Service District (Metro) Boundary or the Portland Metropolitan Urban Growth Boundary, designate Habitat Conservation Areas as required by Title 13 of the Metro Urban Growth Management Functional Plan, a Statewide Planning Goal 5 program for riparian corridors, wetlands, and wildlife habitat.

3.D.2 Regulate development in Habitat Conservation Areas, and on parcels that contain Habitat Conservation Areas, in a manner consistent with Metro's acknowledged Goal 5 inventory, significance determination, and Economic, Social, Environmental, and Energy analysis.

3.D.3 Implement Habitat Conservation Area regulations by adopting by reference Metro's Habitat Conservation Areas Map, establishing an overlay zoning district, and applying development standards consistent with Metro's Habitat Conservation Areas model ordinance.

**3.E Water Quality Resource Area Policies**

3.E.1 For areas that are inside the Metropolitan Service District (Metro) Boundary or the Portland Metropolitan Urban Growth Boundary, designate Water Quality Resource Areas as required by Title 3 of the Metro Urban Growth Management Functional Plan, a Statewide Planning Goal 6 program for water quality.

3.E.2 Regulate development in Water Quality Resource Areas by adopting by reference Metro's Water Quality Resource Areas Map, establishing an overlay zoning district, and applying development standards consistent with Metro's Water Quality Resource Areas model ordinance.

3.E.3 Use Metro's Water Quality Resource Areas Map as a reference document, but rely on the text of the Zoning and Development Ordinance to establish criteria for the identification of protected water resources and the location of the boundaries of Water Quality Resource Areas.

*Clackamas County Comprehensive Plan***3.F Wetlands Policies**

- 3.F.1 For areas that are outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary, prevent disturbance of natural wetlands (marshes, swamps, bogs) associated with river and stream corridors. Adjacent development shall not substantially alter normal levels or rates of runoff into and from wetlands. Site analysis and review procedures specified in the Open Space and Floodplains section of the Land Use chapter shall apply. (See Wildlife Habitats and Distinctive Resource Areas of this chapter).
- 3.F.1.1 Develop guidelines for compatible uses on wetlands and their peripheries, and for wetland restoration. Table 3-1 shall be used as a guide. Wetland restoration decisions shall be made on a site-specific basis.
- 3.F.1.2 The County recognizes the U.S. Department of the Interior, Fish and Wildlife Service National Wetlands Inventory as a resource document for wetland identification in the County. Individual site development of inventoried lands will be reviewed for compliance with wetlands policies.
- 3.F.1.3 The County has insufficient information as to location, quality, and quantity of wetland resources outside of the Mt. Hood urban area and the Portland Metropolitan Urban Growth Boundary to develop a management program at this time. If such information becomes available, the County shall evaluate wetland resources pursuant to Goal 5 and OAR Chapter 660, Division 16, prior to the next Periodic Review. In the interim, the County will review all conditional use, subdivision, and zone change applications and commercial and industrial development proposals to assure consistency with Section 1000 of the Zoning and Development Ordinance and goals and policies of Chapter 3 of the Plan.

**3.G Groundwater Policies**

- 3.G.1 Cooperate with appropriate state and federal agencies to inventory and catalog groundwater resources and their uses to assess groundwater potentials and establish management criteria and priorities to protect and maintain this natural asset.
- 3.G.2 Investigate the feasibility of maintaining or subsidizing a groundwater testing service, available to the County's citizens (upon request for a nominal fee) to assist in assuring adequate well water quality.



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- 3.G.3 Cooperate in the monitoring of groundwater levels and quality with the Oregon Water Resources Department.
  
- 3.G.4 Protect groundwater supplies in rural, agricultural, and forest areas.
  - 3.G.4.1 Implement large-lot zoning.
  - 3.G.4.2 Regulate all subdivisions utilizing groundwater as a potable water source to promote long-term sustainability of groundwater supplies.
  - 3.G.4.3 Regulate all development and land divisions utilizing groundwater as a potable water source located in areas classified by the State of Oregon as a groundwater limited area, critical groundwater area or other area where new groundwater appropriations are restricted by the State of Oregon, to promote long-term sustainability of groundwater supplies.
  
- 3.G.5 Develop programs to encourage the conservation of groundwater.

*Clackamas County Comprehensive Plan***AGRICULTURE**

Preliminary estimates of the County's farm income show that it added over five hundred million dollars to the State's economy in 1987. The County ranked second among Oregon counties for total farm income according to the Oregon State University Extension Service. Production of nursery stock, Christmas trees, poultry, and vegetables have increased in recent years, along with traditional County crops of berries, tree fruits, field crops, and livestock.

In addition to its economic importance, farm land is valuable open space and provides urban buffers, visual resources, and wildlife habitats.

For additional consideration of agricultural lands, see the Land Use Chapter.

**AGRICULTURE GOALS**

- Preserve agricultural lands.
- Maintain the agricultural economic base in Clackamas County and the State of Oregon.
- Increase agricultural markets, income and employment by creating conditions that further the growth and expansion of agriculture and attract agriculturally related industries.
- Maintain and improve the quality of air, water, and land resources.
- Conserve scenic areas, open space and wildlife habitats.

**3.H Agriculture Policies**

- 3.H.1 Recognize agricultural areas through appropriate zoning. All agricultural areas shall continue unencumbered by activities/land uses unrelated to agriculture in order to insure productive farm land. Specific policies relating to land use in agricultural areas are found in the Land Use Chapter of this Plan.
- 3.H.2 Investigate the feasibility of irrigation projects in cooperation with the Oregon State University Extension Service, Bureau of Reclamation, Soil Conservation Service, and other state and federal agencies.
- 3.H.3 Encourage cooperative agricultural projects in support of small agricultural businesses within the County, e.g., establishment of a receiving/shipping station for fresh produce and a farmers market for the direct exchange of local farm products between growers and the public to benefit the economic viability of agricultural businesses.

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- 3.H.4 Encourage food processing industries and services that support agriculture to locate in the County.
- 3.H.5 Cooperate with the Oregon State University Extension Service to promote education and dissemination of information on agricultural crops, methods and technology, special tax assessment programs, new farming techniques, and commercial agriculture opportunities for new farmers.
- 3.H.6 Encourage the appropriate agencies to assess agriculture's labor force problems and develop a program to alleviate these problems (e.g., provision of second job opportunities in Unincorporated Communities).

*Clackamas County Comprehensive Plan***FORESTS**

The forest resources of Clackamas County, primarily Douglas Fir, Western Hemlock and other coniferous trees, have provided thousands of jobs for many decades both in Clackamas County and the surrounding region. Timber volume is temporarily declining in the County as the old growth stands are replaced by younger forests. Sound management practices and coordination are needed by all forest owners.

Increased demand for outdoor recreation from a growing County and regional population places renewed emphasis on the need for balanced use and management of forest resources.

Development pressures pose a challenge to retaining and enhancing a healthy urban forest canopy. Accommodating growth inside the Portland Metropolitan Urban Growth Boundary should be balanced with the preservation and planting of trees for their environmental, aesthetic, and economic benefits.

For additional consideration of forest lands, see the Land Use Chapter.

**FORESTS GOALS**

- Conserve and protect forest lands.
- Provide continued employment in the forest products industry.
- Protect, maintain, and conserve open space, environmentally sensitive areas, wildlife habitat, scenic corridors, recreational uses, and urban buffers.
- Maintain and improve the quality of air, water and land resources.
- Create conditions that will maintain or further the growth of the wood products industry.
- Support principles and implementation of the Oregon Forest Practices Act.

**3.1 Forests Policies**

- 3.1.1 Protect from conflicting land uses productive forest lands and related forested areas which are environmentally sensitive or otherwise require protection (watersheds, areas subject to erosion, landslides, etc.) (see Chapter 4-Land Use). Recognize forest producing areas through appropriate zoning.
- 3.1.1.1 Ensure that forest productivity data, based on cubic foot site classes, is current and revised periodically to reflect changes in commercial forest resources.

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- 3.1.2 Encourage forest related industries, specifically firms doing secondary wood processing or those which use wood products now underutilized or considered waste--hardwoods, slash materials, etc.
- 3.1.3 Continue to support and coordinate programs of the Oregon State University Extension Service and the State Forestry Department to promote more intensive management of small woodlot forest lands, including the education and dissemination of information on timber management methods, special tax assessment incentives, and programs to aid in the marketing of small timber sales.
  - 3.1.3.1 Encourage ready availability of regeneration stock, greater opportunity for equipment-sharing co-ops, and joint timber harvest programs to assist smaller woodlot and timber tract owners.
- 3.1.4 Encourage coordinated management of major forest lands by cooperation with the U.S. Forest Service, the Bureau of Land Management, the Oregon State Board of Forestry, and the private industry sector.
- 3.1.5 Cooperate and coordinate with appropriate state and federal agencies to ensure forest management practices that recognize the multiple resource values of forest lands. Impacts on environmentally sensitive areas such as slide and erosion hazard areas, sensitive fish and wildlife habitat, scenic corridors, unique natural and/or cultural features, etc, shall be minimized.
  - 3.1.5.1 Encourage forest owners to restrict the use of off-road vehicles to specified areas where environmental damage and conflicts with other forest uses will be minimized.
  - 3.1.5.2 Encourage public agencies to acquire through purchase, exchange, or easement, scenic areas now in private ownership in order to insure their preservation.
  - 3.1.5.3 Encourage strengthening of the Oregon Forest Practices Act to include special consideration of scenic values in methods of harvesting, in addition to prompt clean up and regeneration (ref. State Forest Practices Act, Section 629-24-541(h), 1978) and ORS 527.710.
  - 3.1.5.4 Support visual management techniques on federal lands within the County, e.g., alternating smaller harvests along scenic corridors to reduce large-scale impacts. Develop incentives to increase the management of scenic/watershed resources on privately owned forest lands, e.g., tax incentives for modifying harvest techniques in designated scenic corridors.
- 3.1.6 Initiate a tree conservation and planting program inside the Portland Metropolitan Urban Growth Boundary to preserve urban forest areas and promote tree landscapes.

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- 3.1.6.1 Implement tree conservation standards in conjunction with the processing of design review, land division, and conditional use applications to minimize and regulate removal of trees and other vegetation and protection of trees during construction.
- 3.1.6.2 Discourage excessive tree removal prior to development by imposing a five-year prohibition on approval of design review, land division, and conditional use applications, if such tree removal has occurred.
  - 3.1.6.2.a Provide an exception for lands specially assessed as forestland on the effective date of the regulations.
  - 3.1.6.2.b Provide an exception for minor modifications to approved developments.
  - 3.1.6.2.c Allow unlimited removal of certain types of trees, such as those that are hazardous, diseased, or planted as a commercial crop.
  - 3.1.6.2.d Allow unlimited removal of trees for certain purposes, such as utility line maintenance, or compliance with other legal requirements.
- 3.1.6.3 Develop non-regulatory approaches to encourage and facilitate tree preservation, maintenance, and planting. Such approaches may include public education and outreach, partnerships with other community organizations, and County-sponsored tree planting.
- 3.1.6.4 Develop an urban street tree planting and maintenance program that focuses on specified arterials (e.g., boulevards) and designated neighborhoods. This should be done in cooperation with businesses and community groups.
- 3.1.7 Adopt and implement an updated Forest Management Plan for County-owned forest land, emphasizing consolidation/exchange of scattered County holdings to facilitate more intensive programs for timber management, park development and acquisition, and protection of any recognized watershed, recreation, or scenic values.

## **MINERAL AND AGGREGATE RESOURCES**

Clackamas County is rich in mineral and aggregate resources, the conservation of which is an economic necessity to our society. Haul distances and development, however, have limited many options for use of these resources. To maintain the availability of these valuable resources, areas containing significant resources must be protected from the potential limitations on their use caused by encroachment of conflicting uses.

Mining and processing these resources generates noise, truck traffic, dust and other impacts that can be a problem where there are conflicting uses like nearby houses or a school. Conflicting uses can reduce the economic viability of the resource site. Regulating some conflicting uses is necessary to allow the use of significant mineral and aggregate resources to some desired extent. Development standards are required of mining and processing to reduce the adverse effects these activities may have on surrounding land uses. The county requires reclamation of the mined land for use consistent with the comprehensive plan.

### **MINERAL AND AGGREGATE RESOURCES GOALS**

Protect and ensure the appropriate use of mineral and aggregate resources while minimizing adverse effects of mining and processing on surrounding land uses.

#### **3.J Mineral and Aggregate Resources Policies**

- 3.J.1 To identify and protect mineral and aggregate resources, the county will comply with Statewide Planning Goal 5 and administrative rules adopted by LCDC interpreting the Goal 5 planning process.
- 3.J.2 The county will maintain an inventory of mineral and aggregate resources. The inventory comprises three parts.
- A list of sites the county has determined are not significant or not in its planning jurisdiction. These sites are “other sites.”
  - A list of sites for which the county lacks specific information about the location, quality and quantity of the possible resource. These sites are “potential sites.”
  - A list of sites the county has determined are significant Goal 5 resources. These sites are “significant sites”.
- 3.J.3 Where the county has completed the Goal 5 planning process and developed a program for protection of a significant mineral or aggregate site, the county shall use a Mineral and Aggregate Overlay District. The county may use other tools to carry out its program to achieve the Goal. If any aspect of the overlay requires interpretation, the county shall rely on direction in the site-specific program in the comprehensive plan.

*Clackamas County Comprehensive Plan*

- 3.J.4 The county shall use the site plan review process for the Mineral and Aggregate Overlay District solely for determining whether an application to mine complies with the site-specific program developed through the county's Goal 5 analysis or complies with other standards of the Zoning and Development Ordinance.
- 3.J.5 Applicants may seek land use permits to mine mineral or aggregate sites not zoned with the Mineral and Aggregate Overlay District. Subject to applicable laws, on land zoned exclusive farm use, the county may only issue a permit if an aggregate site is on the county inventory of mineral and aggregate sites. The requirement that a site be on the comprehensive plan inventory shall not apply to sites zoned other than for exclusive farm use.
- 3.J.6 Before 2005, the county will review its list of potential sites to determine if information exists to judge the significance of these sites. If the county finds sites on the list of potential sites significant resources, it shall complete the Goal 5 planning process.
- 3.J.7 Before 1999, the county will complete its analysis for the Anderson Quarry site, the Canby Sandy and Gravel site, and the Oregon Asphalt Paving Company site. The county will follow administrative rules interpreting and implementing Statewide Planning Goal 5.
- 3.J.8 The county will coordinate its planning and permitting processes for mineral and aggregate resources with the Oregon Department of Geologic and Mineral Industries (DOGAMI) and Oregon Department of State Lands (DSL).
- 3.J.8.1 To assist state agency permit decisions, the county will identify post-mining land uses as part of any program to protect a significant mineral or aggregate resource site.
- 3.J.8.2 The county recognizes the jurisdiction of DOGAMI for the purpose of mined land reclamation pursuant to ORS 517.750 to 517.900 and the rules adopted thereunder.
- 3.J.8.3 Unless specifically authorized by ORS 517.830(3), DOGAMI should delay its final decision on approval of a reclamation plan and issuance of an operating permit, as those terms are defined by statute and rule, until all issues concerning local land use are decided by the county.
- 3.J.8.4 No mining or processing activity, as defined by the Zoning and Development Ordinance, shall begin until the county has issued a final land use decision and the permittee provides copies of an approved reclamation plan and operating permit issued by DOGAMI or DSL.



*Clackamas County Comprehensive Plan*

- 3.J.9 The county shall resolve issues relating to mine truck use of public roads as directed in county transportation plans and policies. The county reserves the right to make agreements with aggregate operators about the use of county roads independent from its decisions in Goal 5 analysis.

*Clackamas County Comprehensive Plan***WILDLIFE HABITATS AND DISTINCTIVE RESOURCE AREAS**

Fish and wildlife species provide an essential "background" to our daily lives and must have the environments necessary to provide food, cover, and water in order to survive.

Clackamas County's well-known distinctive resources include mountains, rivers and lakes, forest lands, agricultural lands, unique natural vegetation, geological formations, and other natural features.

The popularity of such places as the Mt. Hood Highway Corridor, the Clackamas River Corridor, and the Willamette River is testimony to the quality of scenic resources available to the Portland metropolitan area and Clackamas County.

Visual corridors along scenic roadways, rivers, and major arterials, the prominent slopes in the urban areas, and other distinctive areas are landscapes highly sensitive to alteration and development.

**WILDLIFE HABITAT AND DISTINCTIVE RESOURCE AREA GOALS**

- Maintain and improve fisheries and wildlife habitat to enhance opportunities for consumptive and non-consumptive uses.
- Retain and enhance wetlands and riparian habitat to provide areas for fisheries and wildlife and to promote species diversity, bank stabilization, and storm water runoff control.
- Protect the scenic landscapes and natural beauty of Clackamas County.
- Provide an urban environment where trees and landscape plantings abound and where significant features of the natural landscape are retained.
- Preserve and protect areas of unique and distinctive wildlife habitats, native vegetation, and geologic formations.

**3.K Wildlife Habitat and Distinctive Resource Area Policies**

- 3.K.1 Cooperate with wildlife management agencies to enhance fish and wildlife opportunities and populations. This includes cooperation with the Oregon Department of Fish and Wildlife in its habitat improvement practices and programs and Wild Fish Management Policy, and with the U.S. Fish and Wildlife Service to inventory and classify wetland environments.
- 3.K.2 Protect native plant species, wetlands, and stream bank vegetation on County-managed public lands.
- 3.K.3 Manage roadside spraying programs to minimize adverse water quality, and fish and wildlife impacts.

*Clackamas County Comprehensive Plan*

- 3.K.4 Support preferential taxation methods to encourage retention of riparian habitat, brushy fencerows, and wetlands on private lands.
- 3.K.5 Minimize adverse wildlife impacts in sensitive habitat areas, including deer and elk winter range below 3,000 feet elevation, riparian areas, and wetlands.
- 3.K.6 Encourage closure of temporary roads outside the urban area that are no longer necessary for fire protection or logging activities to reduce wildlife harassment during the critical seasons of winter and spring. Countywide, all new roads crossing streams containing anadromous fish shall provide fish passage facilities acceptable to the Oregon Department of Fish and Wildlife.
- 3.K.7 Expand, in conjunction with the cities and the County's community planning organizations, the detailed inventory of unique natural and scenic areas, including a visual resource inventory and map showing areas of outstanding visual sensitivity as well as blighted areas.
- 3.K.8 Protect areas of high visual sensitivity and/or unique natural areas by requiring development review for any development which would substantially alter the existing landscape, as specified in the Land Use Chapter of the Plan. The purpose is to integrate development with natural features, minimizing any adverse impacts.
- 3.K.9 Improve scenic quality of areas impacted by urban blight, working toward the following objectives:
  - 3.K.9.1 Regulation and/or removal of advertising billboards
  - 3.K.9.2 Screening junkyards and other unsightly areas
  - 3.K.9.3 Placing of utility lines underground
  - 3.K.9.4 Requiring landscape buffers (berms, trees, etc.) between incompatible uses and in visually sensitive areas.
- 3.K.10 When natural resource activities (e.g., commercial timber harvesting) compete with retention of visual or unique/natural resources and values, the County shall coordinate with appropriate state and federal agencies to minimize significant adverse impacts. The County also will encourage the public acquisition of land through purchase or land exchange, or conservation easements in designated scenic corridors or vistas and unique/distinctive natural areas (see Map 3-2).

*Clackamas County Comprehensive Plan*

- 3.K.11 Protect and conserve sensitive bird resources to avoid degradation of habitat by requiring development review for any development which could potentially result in adverse impacts to sensitive bird nesting and rearing areas. See maps 3-3, Molalla State Park Great Blue Heron Rookery, and 3-4, Stevens Great Blue Heron Rookery.
- 3.K.11.1 Inventory and analyze, on a periodic basis, nesting and rearing areas of sensitive bird species pursuant to the Goal 5 and Oregon Administrative Review Rules 660, Division 16 provisions.
- 3.K.11.2 Establish standards and procedures for evaluating development activities that affect sensitive bird habitat areas.
- 3.K.11.3 Cooperate and coordinate with wildlife management agencies to identify sensitive bird habitat areas and protect sensitive bird populations. This includes cooperation with the Oregon Department of Fish and Wildlife and the U.S. Department of Fish and Wildlife for inventorying habitat and reviewing development activities in habitat areas.
- 3.K.12 For areas that are inside the Metropolitan Service District (Metro) Boundary or the Portland Metropolitan Urban Growth Boundary, designate Habitat Conservation Areas as required by Title 13 of the Metro Urban Growth Management Functional Plan, a Statewide Planning Goal 5 program for riparian corridors, wetlands, and wildlife habitat.
- 3.K.12.1 Regulate development in Habitat Conservation Areas, and on parcels that contain Habitat Conservation Areas, in a manner consistent with Metro's acknowledged Goal 5 inventory, significance determination, and Economic, Social, Environmental, and Energy analysis.
- 3.K.12.2 Implement Habitat Conservation Area regulations by adopting by reference Metro's Habitat Conservation Areas Map, establishing an overlay zoning district, and applying development standards consistent with Metro's Habitat Conservation Areas model ordinance.
- 3.K.13 For areas that are inside the Metropolitan Service District (Metro) Boundary or the Portland Metropolitan Urban Growth Boundary, use the performance and implementation objectives and indicators identified in Table 3.07-13e of the Metro Urban Growth Management Functional Plan as the County's performance monitoring program for wildlife habitat protection and restoration.
- 3.K.14 In accordance with Statewide Planning Goal 5, the County will consider development of additional regulatory and non-regulatory programs to protect upland wildlife habitat identified on Metro's Regionally Significant Fish and Wildlife Habitat Inventory Map.

*Clackamas County Comprehensive Plan*

## **NATURAL HAZARDS**

Policies for natural hazards protect County residents and prevent development in those areas with a potential for structural damage or destruction.

### **NATURAL HAZARDS GOALS**

- Protect life, property, private and public investments from natural or man-induced geologic and/or hydrologic hazards.
- Incorporated hazardous areas within open space networks encouraging these areas to remain natural.

### **3.L Natural Hazards Policies**

- 3.L.1 Recognize floodplains as areas where high water presents hazards to life and property, and provide protection in flood hazard areas as stated in the Land Use Chapter.
- 3.L.2 Prevent development (structures, roads, cuts and fills) of landslide areas (active landslides, slumps and planar slides as defined and mapped by the Oregon Department of Geology and Mineral Industries, DOGAMI) to avoid substantial threats to life and property except as modified by 3.L.2.1. Vegetative cover shall be maintained for stability purposes and diversion of stormwater into these areas shall be prohibited.
- 3.L.2.1 Allow mitigation of identified landslide hazards based on established and proven engineering techniques, and related directly to an approved specific plan that avoids adverse impacts (see Land Use Chapter). Developers should be made aware of liability in such cases for protection of private and public properties from damage of any kind.
- 3.L.3 Apply appropriate safeguards to development on organic/compressible soils, high shrink-swell soils and wet soils with high water table (as defined in DOGAMI Bulletin No. 99) to minimize threats to life, private and public structures/facilities.
- 3.L.4 Insure that data on the severity and area of natural hazards is current and revised periodically to reflect any additional information.

*Clackamas County Comprehensive Plan*

- 3.L.5 Continue cooperation with DOGAMI in the delineation of earth faults. As the information becomes available, policies governing the location of structures and land uses shall be adopted as a part of the Plan. The County Emergency Operations Plan should be reviewed and modified as necessary to prepare for volcanic eruptions, earthquakes, and other natural hazards.
- 3.L.6 Regulate the use of hillsides and steep slope hazard areas in order to direct urban area development toward more suitable lands. As slope and other adverse conditions increase, the need to regulate development also increased in order to reduce major sources of erosion and storm runoff, and public costs of maintaining development.
- 3.L.6.1 Require soils and engineering geologic studies in developments proposed on slopes of 20 percent or greater. More detailed surface and subsurface investigations shall be warranted if indicated by engineering and geologic studies to sufficiently describe existing conditions (e.g., soils, vegetation, geologic formations, drainage patterns) and where stability may be lessened by proposed grading/filling or land clearing. DOGAMI Bulletin No. 99 provides general geologic data.
- 3.L.6.2 Establish any additional standards or criteria including the density for development on hillside slope and hazard areas, as stated in the Land Use Chapter. Density Transfers shall be encouraged to take advantage of natural topographic features such as benches or terraces. Joint hillside development projects shall be encouraged.
- 3.L.6.3 Establish a consistent, uniform method for calculating slope on a site specific basis in conjunction with zoning and subdivision ordinances.

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## **ENERGY SOURCES AND CONSERVATION**

Virtually all energy used in Clackamas County is imported in one form or another from other counties, states, or in the case of petroleum and natural gas, foreign countries. There is very little the County can do to affect the supply or cost of imported energy; however, it is possible to develop supplemental energy sources, such as geothermal, solar and waste by products, and to use energy efficiently once it enters Clackamas County.

The importance of energy conservation cannot be overemphasized. Conscientious application of a broad energy conservation program to all sectors of the energy market - homes, businesses, industry and transportation -- could significantly cut the historical energy growth rate and reduce long-term energy price increases. Programs such as home weatherization produce immediate benefits due to reduced energy expenditures by the homeowner or renter, and the creation of new jobs.

### **ENERGY SOURCES AND CONSERVATION GOAL**

Conserve energy and promote energy efficiency through source development, recycling, land use and circulation patterning, site planning, building design and public education.

### **3.M Energy Sources and Conservation Policies**

3.M.1 Cooperate with the state legislature and appropriate state and federal agencies (Public Utility Commission, Geology and Mineral Industries, Forest Service, etc.) in programs to encourage alternative energy source development. Such programs will focus on (a) geothermal resources in the Cascades; (b) single building solar and wind conversion technologies; and (c) energy recoverable from solid wastes.

3.M.1.1 Support exploration, research and development of geothermal resources consistent with environmental protection policies of this Plan. The County also will cooperate in the development of any necessary transmission facilities designed to bring such energy to local industries and residences.

3.M.1.2 Cooperate with the State Department of Energy to undertake and evaluate studies on the specific nature and potential of the County's wind and solar energy resources.

3.M.2 Initiate solid waste recycling programs to reduce dependence on nonrenewable resources.

3.M.2.1 Work cooperatively with the Metropolitan Service District to develop a solid waste recycling program and refuse-derived fuel facility.

*Clackamas County Comprehensive Plan*

- 3.M.2.2 Facilitate recycling of domestic, commercial and industrial waste materials through collection franchises and conveniently located collection depots.
- 3.M.3 Encourage energy-efficient land use and circulation patterns.
  - 3.M.3.1 Locate employment centers, shopping services, parks, recreational and cultural facilities, and medical/dental services near residential developments to minimize transportation, fully utilize urban services, and encourage neighborhood self-sufficiency.
  - 3.M.3.2 Provide for high density developments near transit and major employment/shopping centers.
  - 3.M.3.3 Develop an overall circulation system for the County which promotes transportation alternatives (transit, carpooling, bicycling, and foot travel) and improves traffic flow on major arterials (synchronized signals, vacating nonessential cross streets, access controls).
  - 3.M.3.4 Design subdivisions, Planned Unit Developments, and multifamily, commercial and industrial developments to encourage the use of transit, bicycles, and pedestrian walkways (see Land Use and Transportation chapters).
  - 3.M.3.5 Encourage bike lanes/sidewalks on collector streets. Bike/pedestrian paths should be developed through long blocks and between cul-de-sacs to improve neighborhood circulation.
- 3.M.4 Encourage energy efficiency through site planning of all residential subdivisions and multifamily, commercial, and industrial projects.
  - 3.M.4.1 Permit lot configurations within subdivisions and Planned Unit Developments to make maximum use of energy-saving features of the natural environment and minimize the effects of temperature extremes.
  - 3.M.4.2 Retain natural terrain features and vegetation where practical which create micro-climates conducive to energy conservation in subdivisions, Planned Unit Developments and multifamily, commercial, and industrial developments.
  - 3.M.4.3 Encourage planting of appropriate landscape materials to reduce solar impact in the summer, minimize winter heat loss and buffer against prevailing wind sources in Planned Unit Developments and multifamily, commercial and industrial developments.
  - 3.M.4.4 Orient structures to enhance potentials for both passive and active solar collection where practical.
  - 3.M.4.5 Allow low-density residential developments to include common-wall structures or attached dwellings.
  - 3.M.4.6 Allow flexibility in yard size, setbacks, and building height to permit efficient building orientation and shapes.



*Clackamas County Comprehensive Plan*

- 3.M.4.7 Cluster structures to minimize road surfaces and utility networks and to provide the potential for common-wall construction or attached dwellings.
  - 3.M.4.8 Allow flexible road standards for more energy-efficient circulation within developments. Streets should be of such widths as to serve only necessary functions and minimize use of asphalt.
  - 3.M.4.9 Provide for adequate and convenient bicycle parking spaces in multifamily, commercial, and industrial developments.
  - 3.M.4.10 Revise parking standards to reflect the trend to smaller automobiles and use of transit. The integration and sharing of parking facilities within commercial/industrial areas should be encouraged.
  - 3.M.4.11 Permit planting of street trees in new subdivisions and along designated arterials to minimize temperature extremes, favoring deciduous trees (sun in winter and shade in summer) over evergreens and ornamentals.
  - 3.M.4.12 Encourage large employment centers to provide priority parking spaces for carpools and vanpools, as well as incentives for increasing transit ridership.
  - 3.M.4.13 Encourage eating facilities, day care facilities, and on-site recreational areas in large employment centers and large multifamily developments.
  - 3.M.4.14 Provide incentives such as density bonuses for housing proposals demonstrating exceptional examples of energy-efficient site planning.
- 3.M.5 Encourage energy efficiency through building design and weatherization of existing structures.
- 3.M.5.1 Encourage flexibility in building and zoning codes to permit energy-efficient building design, such as commonwall construction, solar collection and underground/earth-sheltered structures.
  - 3.M.5.2 Encourage architectural and design features which are conducive to energy efficiency and conservation, such as south facing windows, roof overhangs, awnings, double entry vestibules, storm windows, insulation, shutters, louvers, double glazed windows and draperies with thermal linings. Many of these same features also can be utilized in the weatherization of existing structures.
- 3.M.6 Cooperate with the cities, other agencies (e.g., educational) and energy purveyors (Portland General Electric, Northwest Natural Gas, etc.), in development of an education program to:
- 3.M.6.1 Publicize the importance of energy conservation and available weatherization programs.
  - 3.M.6.2 Serve as a forum for addressing energy-related issues (e.g., recycling of domestic wastes, code weatherization of existing residences prior to sale, and need for a Countywide Energy Advisory Commission).

*Clackamas County Comprehensive Plan*

- 3.M.7 Continue implementation of the 1983 County Energy Management Plan for County activities and property, including assessment of vehicular policy and an energy audit of County buildings.

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## **NOISE AND AIR QUALITY**

Noise and air quality affect our health, our economic interests, and our quality of life. High noise levels affect a person's mental and physical well being and ability to work. Poor air quality can be a health hazard, impair views of scenic vistas, and erode and degrade structures. Air quality management is a regional responsibility, while noise control is more local.

### **NOISE AND AIR QUALITY GOALS**

- Maintain an environment not disturbed by excessive levels of noise.
- Promote maintenance of an airshed in Clackamas County free from adverse effects on public health and welfare.

### **3.N Noise Policies**

- 3.N.1 Cooperate with public agencies and the private sector to reduce noise, and continue to enforce the County noise ordinance.
- 3.N.2 Implement a procedure to minimize the impact of external noise on sensitive land uses.
  - 3.N.1.1 Require, through the review process, buffering of noise sensitive areas or uses where appropriate. For example, adjacent to arterials, expressways, freeways or heavily used rail lines, landscaped berms or other solid barriers may be required. Encourage setbacks and/or noise insulation in structures.
  - 3.N.1.2 Noise mitigation plans, subject to County approval, shall be required of significant new noise generating land uses adjacent to or impacting established noise sensitive properties.
  - 3.N.1.3 Construction or reconstruction of high volume arterials, expressways, or freeways in or near residential areas may require sound buffers as part of the road project.

### **3.O Air Quality Policy**

- 3.O.1 Cooperate with local, regional, state, and federal agencies and industry to maintain and/or improve local air quality.

# LAND USE FILES

FILE # 20226-96-CP

## LEGAL DESCRIPTION:

3 S 1 E SECTION: 15

TAX LOT(S) 2700, 2701, 2702

# LAND USE APPLICATION

CLACKAMAS COUNTY PLANNING DIVISION  
 902 ABERNETHY ROAD, OREGON CITY, OR 97045-1100 • PHONE (503) 655-8521 • FAX (503) 650-3418

• FOR STAFF USE ONLY •

<input type="checkbox"/> TEMPORARY PERMIT FOR CARE (ST) RENEWAL _____	<input type="checkbox"/> ZONE CHANGE (Z)	File No: <u>20226-96 CP</u>
<input type="checkbox"/> TEMPORARY PERMIT USE NOT ALLOWED (ST) RENEWAL _____	<input type="checkbox"/> CONDITIONAL USE (C)	Pre-app: Staff _____ Date _____
<input type="checkbox"/> HOME OCCUPATION (HO) RENEWAL _____	<input type="checkbox"/> SUBDIVISION SHORT (1-10)(SS)	Date Received: <u>3/19/96</u> Fee <u>11084-</u>
<input type="checkbox"/> NONFARM USE (N)	<input type="checkbox"/> SUBDIVISION LONG (11+)(SL)	Hearing Date: _____
<input type="checkbox"/> FARM DWELLING _____	<input type="checkbox"/> PARTITION (M)	Staff Member: <u>CG</u>
<input type="checkbox"/> FOREST DWELLING _____	<input type="checkbox"/> VARIANCE (V)	Zone: <u>TBR</u>
	<input checked="" type="checkbox"/> OTHER <u>Comp. Plan</u>	Comp. Plan: _____
	<input type="checkbox"/> OTHER <u>Amendment</u>	Flex Lot Involved: <input type="checkbox"/> Y <input type="checkbox"/> N
		Violation # _____
		CPO _____

• APPLICANT INFORMATION •

PLEASE TYPE OR PRINT IN DARK INK

WHAT IS PROPOSED Amend Map III-1e to remove Limited Use designation and apply Multiple Use designation to the Willamette River along the property frontage.

NAME OF APPLICANT Knutson Greg  
LAST FIRST

MAILING ADDRESS 380 N. Tomahawk Island Dr CITY Portland -ST OR ZIP 97217

APPLICANT IS:  LEGAL OWNER  CONTRACT BUYER  OPTION BUYER  AGENT

NAME OF CONTACT PERSON (if other than applicant) Richard Givens, Planning Resources, Inc.

MAILING ADDRESS OF CONTACT 6564 SE Lake Rd., Milwaukie, OR ZIP 97222

PHONE NUMBERS OF: APPLICANT: WK 656-2983 HM 735-4795 CONTACT PERSON: WK 652-2478 HM \_\_\_\_\_

SITE ADDRESS Forest Cove Rd., West Linn TOTAL LAND AREA: 5.5 Acres

LEGAL DESCRIPTION: T 3 R 1E SECTION 15 TAX LOT(S) 2700, 2701, 2702

CONTIGUOUS PROPERTIES UNDER SAME OWNERSHIP: T none R \_\_\_\_\_ SECTION \_\_\_\_\_ TAX LOT(S) \_\_\_\_\_

PRESENT USE OF PROPERTY: Vacant

METHOD OF SEWAGE DISPOSAL: Septic Tank

WATER SUPPLY: Well

OTHER PERSONS (IF ANY) TO BE MAILED NOTICES REGARDING THIS APPLICATION:

Richard Givens, 6564 SE Lake Rd., Milwaukie, OR 97222 Planning Resources  
NAME ADDRESS ZIP RELATIONSHIP Consultant

NAME ADDRESS ZIP RELATIONSHIP

NAME ADDRESS ZIP RELATIONSHIP

I hereby certify the statements contained herein, along with the evidence submitted, are in all respects true and correct to the best of my knowledge.

[Signature]  
 OWNER'S SIGNATURE  
11/2/96  
 DATE

[Signature]  
 APPLICANT'S SIGNATURE  
3-12-96  
 DATE

GREG KNUTSON

FILE NO. Z0226-96-CP

HEARING DATE: 6-19-96

MINUTES:

ORDER SIGNED: 11-27-96 96-734

SENT TO PARTIES: 12-6-96

GREG KNUTSON  
380 N TOMAHAWK ISLAND DRIVE  
PORTLAND OR 97217

RICHARD GIVENS  
PLANNING RESOURCES, INC.  
6564 SE LAKE ROAD  
MILWAUKIE OR 97222

PLANNING, NAYLOR  
COUNSEL  
FILE

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of a Comprehensive  
Plan for Greg Knutson.

ORDER NO 96-734

Applicant: Greg Knutson

File No.: Z0226-96-CP

This matter coming regularly before the Board of County Commissioners, and it appearing that Greg Knutson made application for a Comprehensive Plan map amendment on property described as T3S, R1E, Section 15, Tax Lots 2700, 2701, 2702, W.M. , located on the west side of the Willamette River, roughly 1/3 mile south of Rock Island; Peach Cove area; and

It further appearing that planning staff, by its report dated May 13, 1996, has recommended approval of the application; and

It further appearing that the Planning Commission at its May 20, 1996, has recommended approval of the application; and

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners in the County Courthouse Annex at 906 Main Street, Oregon City, OR, on June 19, 1996 , in which testimony and evidence were presented, and that a preliminary decision was made by the Board on June 19, 1996;

Based upon the evidence and testimony presented, this Board makes the following findings:


1. The applicant requests approval of a Comprehensive Plan amendment to change the Willamette Greenway Design Plan designation on the subject property from "Limited Use" to "Multiple Use".
2. This request complies with the applicable Comprehensive Plan policies and with Statewide Goal 15, for the reasons stated in the Planning Staff Report and Recommendation, which is hereby adopted as the findings and conclusions of this Board.

NOW, THEREFORE, IT IS HEREBY ORDERED that the requested Comprehensive plan amendment is granted.

DATED this 27th day of November.

BOARD OF COUNTY COMMISSIONERS

  
Darlene Hooley, Chair

  
Millicent Morrison, Recording Secretary

# NOTICE OF ADOPTION

This form must be mailed to DLCD not later than 5 working days after adoption  
ORS 197.615 and OAR Chapter 660, Division 18

See reverse side for submittal requirements

Jurisdiction CLACKAMAS Co. Local File # 20226-96-CP  
Date of Adoption 11-27-96 Date Mailed 12-11-96  
Date the Notice of Proposed Amendment was mailed to DLCD 4-19-96

- Comprehensive Plan Text Amendment
- Comprehensive Plan Map Amendment
- Land Use Regulation Amendment
- Zoning Map Amendment
- New Land Use Regulation

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice of the proposed amendment, write "N/A."

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plan Map Change From Limited Use Water to Multiple Use Water  
Zone Map Change From \_\_\_\_\_ to \_\_\_\_\_

Location: West side of Willamette R; 1/3 mi south of Rock Island Acres Involved: \_\_\_\_\_  
Specify Density: Previous Density \_\_\_\_\_ New Density \_\_\_\_\_

Applicable Goals: \_\_\_\_\_ Was an Exception adopted? Yes  No

DLCD File # \_\_\_\_\_

DLCD Appeal Deadline \_\_\_\_\_



Did DLCD receive a Notice of Proposed Amendment 45 days prior to the final hearing?

- Yes  No:  The Statewide Planning Goals do not apply
- Emergency Circumstances Required Expedited Review

Affected State or Federal Agencies, Local Governments or Special Districts: DODT

Local Contact: Gary Wilson Phone: 650-3376

Address: Clatsop County Planning

### SUBMITTAL REQUIREMENTS

DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
1175 COURT STREET, N.E.  
SALEM, OREGON 97310-0590

1. Send this Form and One (1) Copy of the Adopted Amendment to:  
**Department of Land Conservation and Development  
1175 Court Street, N.E.  
Salem, Oregon 97310-0590**
2. Submit one (1) copy of adopted material, if copies are bounded please submit two (2) complete copies of documents and maps.
3. Adopted materials must be sent to DLCD not later than five (5) working days following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will be extended if you do not submit this Notice of Adoption within five working days of the final decision. Appeals to LUBA may be filed within 21 days of the date Notice of Adoption is sent to DLCD.
6. In addition to sending Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.

If you need more copies of this form, please call the DLCD at 503-373-0050 or this form may be duplicated on green paper.



# CLACKAMAS COUNTY

Department of Transportation & Development

THOMAS J. VANDERZANDEN  
DIRECTOR

NAME: Greg Knutson  
 FILE NO. Z0226-96-CP  
 REPORT AUTHOR: Gary Naylor  
 HEARING DATE: Planning Commission - May 20, 1996; Board of County  
 Commissioners - June 19, 1996  
 REPORT DATE: May 13, 1996

## PLANNING STAFF REPORT AND RECOMMENDATION TO PLANNING COMMISSION

### FACTS

#### GENERAL INFORMATION

Applicant: Greg Knutson; 380 N. Tomahawk Island Drive, Portland, OR 97217

Owner(s): Edward McAyeal

Proposal: Amend Comprehensive Plan Map III-1e, the Willamette Greenway Design Plan, to change the existing "Limited Use" designation to "Multiple Use" for the Willamette River frontage of the subject property and thus allow construction of a private boat dock.

Location: West side of the Willamette River, roughly 1/3 mile south of Rock Island; Peach Cove area.

Legal Description: T3S, R1E, Section 15, Tax Lot(s) 2700, 2701, 2702, W.M.

Zone: TBR, Timber District

Comprehensive Plan Designation: Forest

**INTRODUCTION:** The subject property is within an area designated Timber District (TBR). However, construction of a dwelling has been approved on this property by File #Z1225-95-FD. The applicant would like to construct a private boat dock on the property's river frontage. Subsection 705.04D within the Willamette River Greenway Section of the Clackamas County Zoning and Development Ordinance prohibits private noncommercial docks and moorages in the Limited Use rural portions of the greenway as identified in Chapter 3 of the Comprehensive Plan.

## RECOMMENDATION

Approval.

## CONCLUSIONS

As previously stated, Subsection 705.04D of the Zoning and Development Ordinance lists private commercial docks and moorages as a prohibited activity in the Limited Use rural portions of the Willamette River Greenway as identified in Chapter 3 of the Comprehensive Plan. Chapter 3 is the Water Resources Section of the Plan. There are several Plan policies in Chapter 3 that relate to the subject of private noncommercial docks and moorages, but the language is general and appears to provide for considerable discretion. The Planning Division staff has reviewed this application with respect to these policies and finds that:

1. Policy 1.0, under River and Stream Corridors, refers to maintaining rivers and streams in their natural state to the maximum practicable extent through sound water and land management practices. It further states consideration shall be given to natural, scenic, historic, economic, cultural, and recreational qualities of the rivers and adjacent lands. The Limited Use segment of the Willamette River the subject property is within extends generally from the downstream end of the big bend of the River known as Peach Cove to its confluence with the Tualatin River. This segment of the River is characterized by noticeably more rugged, forested terrain on both sides of the river, larger lot sizes with a smaller number of lots and a number of rocky islands within the River. However, it appears the upstream segment of this Limited Use area is more appropriately located at the northern border of a group of relatively small residential properties within Section 15AC, T3S, R1E. Immediately north of that border the river shoreline becomes rocky, the rock islands predominate and the lots are considerably larger and fewer. The subject property is within this southern portion of the Limited Use area characterized by a more accessible shoreline, no rock islands and considerably more and smaller properties. As stated by the applicant, this area is more characteristic of the Multiple Use area around the big bend of the Willamette River than the segment of the River north of Section 15AC. The requested Plan designation is consistent with this policy.
2. Policy 9.0, under Rivers and Stream Corridors, refers to establishing water-based recreational areas for activities such as swimming, fishing, and canoeing which are free from conflicts with speed boating and water skiing. This Policy seems to better describe that segment of the Willamette River north of Section 15AC where activities like speed boating and water skiing are restricted at least in the area of rocky islands and the natural and scenic qualities of the River are greater. The subject property is within an area already impacted and more suitable for speed boating and water skiing activities. The requested plan designation appears consistent with this policy.

3. Policy 15.2, under Willamette River Design Plan and Policies, refers to supporting regulation of recreational activities in the rural portion of the Willamette Greenway to minimize conflicts between water-based recreational uses, manage the intensity of recreational uses, and buffer bank side uses from water-borne recreational activities including recreational noise levels. Recreational activities are further regulated in the Limited Use area by the prohibition of private noncommercial docks and moorages. The question is whether the subject property is within a segment of the River where this greater degree of regulation is appropriate. Based on the natural and manmade characteristics of this previously described southern portion the subject property is within, the higher degree of regulation within the Limited Use area does not appear appropriate. The requested Multiple-Use designation appears consistent with this policy.
4. Policy 15.5, under the Willamette Design Plan and Policies, refers to prohibiting private noncommercial docks and moorages in limited-use rural portions of the Greenway to protect the natural river character. Again, this particular area the subject property is within does not have the same natural river character of the River north of Section 15AC. Rather, it is more similar in character to the Multiple-Use area around the big bend of the Willamette River. The requested Plan designation appears consistent with this policy.

The 1980 Rivers Planning Background Report of the Comprehensive Plan provides information considered in drafting the statements, goals, and policies within the Water Resources Section of the Plan. While this Background Report does not provide much information on the location of Limited Use and Multiple Use areas, there is a paragraph on page 13 which offers some description of the present Multiple Use areas within the Rural Greenway. It states single family housing occurs in several stretches upstream from the Molalla River Confluence. Most of this area of single family housing is designated Multiple Use. It is the staff's judgment this area of single family housing extends further downstream to the northern border of Section 15Ac which appears to be the appropriate border of the Multiple Use area. The subject property is within this area. The requested Plan designation appears consistent with this description in the Rivers Planning Background Report.

Lastly, Statewide Planning Goal 15, Willamette River Greenway, refers to protecting, conserving, enhancing, and maintaining the natural, scenic, historic, agricultural, economic, and recreational qualities of lands along the Willamette River as the Willamette River Greenway. Again, based on the natural and man-made character of the Willamette River the subject property is within, it is the staff's judgment the requested Multiple Use designation protects, conserves, enhances, and maintains the natural, scenic, and recreational qualities of this particular area.

Conditions of Approval:

1. If this Comprehensive Plan Map change is approved by the Board of County Commissioners, the Board Order shall state, Willamette River Greenway Design Plan Map III-1e shall be amended to reflect this plan change along the subject property frontage with the Willamette River extending eastward to the centerline of the River.

FINDINGS

ZONING ORDINANCE CONSIDERATIONS

Subsection 705.04D is pertinent to this application.

PLAN CONSIDERATIONS

Water Resources Policies 1.0 and 9.0 along with Willamette River Design Plan and Policies 15.2 and 15.5 are applicable to this application. The River Planning Background Report to the Comprehensive Plan is also pertinent to this application.

OTHER CONSIDERATIONS

Statewide Planning Goal 15, Willamette River Greenway is pertinent to this application.

SITE DESCRIPTION

The subject property is approximately 5.48 acres. There are several very small, old, abandoned outbuildings on the property. The property slopes downward toward the river over several levels. The property is heavily wooded except for a cleared area where there may have been a homesite. The riverbank itself slopes moderately downward to the river and is heavily wooded. It is composed of dirt, silt and sand.

VICINITY DATA

Surrounding Conditions:

There are a significant number of smaller residential properties north and south of the subject property, many of which have private docks. Homes are isolated from each other by the heavy vegetation, but appear to be visible from the river itself. Residential properties across the river are some distance south of the subject property. The subject property is approximately 1/4 mile north of the southern boundary of a Limited Use area.

Service Considerations:

Not applicable.

**RESPONSES REQUESTED**

1. West Linn School District #3.
2. Tualatin Valley Fire and Rescue.
3. Far West Community Planning Organization.
4. County Comprehensive Plan and Zoning and Development Ordinance Amendment Planner.
5. Oregon Department of Transportation, Parks and Recreation Section.
6. Division of State Lands.
7. US Army Corp of Engineers.
8. Department of Land Conservation and Development.

**RESPONSES RECEIVED**

1. Tualatin Valley Fire and Rescue: No additional comments.
2. Division of State Lands: See Exhibit #7.

**EXHIBITS**

1. Property and Zoning Map
2. Aerial Photograph
3. Site Plan
4. Official Property and Zoning Map
5. Topographic Map
6. Willamette River Greenway Design Plan Map III-1e

7. DIVISION STATE LANDS



# CLACKAMAS COUNTY

## Department of Transportation & Development

THOMAS J. VANDERZANDEN  
DIRECTOR

### PLANNING COMMISSION MINUTES

*UNCORRECTED  
MINUTES*

May 20, 1996  
7:30 PM  
Conference Room 101

#### IN ATTENDANCE:

Planning Commission Members Present: Jo Shapland, Len Waldemar, Michael Stewart, Bill Merchant, Barbara Coles, Michael Lama, and Will Newman

County Staff Representatives:, Gary Naylor, Pam Hayden, Dave Poesse, Norm Scott, Mike McCallister

Others in Attendance: Approximately 5 people

#### PUBLIC HEARING

I.. File Z0226-96-CP, Greg Knutson, amend Comprehensive Plan Map III-1e, the Willamette Greenway Design Plan, to change the existing "Limited Use" designation to "Multiple Use" for the Willamette River Frontage of the subject property and thus allow construction of a private boat dock.

Planning Division staff member Gary Naylor gave the staff presentation to include the discussion of the visual exhibits and the staff report and recommendation to the Planning Commission.

The Planning Commission members requested a response from County Counsel on what level(s) of government and government agencies have final jurisdiction of siting of docks within the Willamette River.

Rick Givens, Land Use Consultant representing the applicant, described the characteristics of the area of the Willamette River the subject property is within and how it differs from the Limited Use area farther to the north. He said he agreed with the geographic description presented by Gary Naylor.

Public Hearing Closed

the Limited Use area as was the case in an earlier application reviewed by the Planning Commission.

Planning Commissioner Barbara Coles discussed the level of development in the area the subject property is within to speak in favor of the application.

Planning Commissioner Michael Lama advised approval would render the subject property similar to others in the immediate area that have private boat docks.

Planning Commissioner Barbara Coles moved to recommend approval of this Comprehensive Plan Map Amendment to the Board of County Commissioners for the reasons identified in the staff report and recommendation to the Planning Commission. Planning Commissioner Michael Stewart seconded the motion. VOTE: 6 of the Planning Commission members voted in favor of this motion, Planning Commissioner Will Newman voted against the motion.

#### WORK SESSION

##### 1. North Bank Clackamas River/Highway 212 Beautification

County staff member Pam Hayden gave the opening remarks and presented a list of the members of the Consensus Committee to the Planning Commission. She gave a history of the meetings and the topics discussed. Reference was made to the consultants involved and a summary of the goals and policies endorsed by the North Bank Consensus Committee. Pam also gave a summary of the Hwy. 212 Beautification Program. She pointed out the four properties that are proposed for a Plan and Zone Change to Open Space. Mention was made of the Surface Water Management District proposal for pollution reduction facilities projects in this area.

There were questions regarding the 1996 flood and if it affected the North Bank Plan. The Carver Mobile Home Park was discussed as well as the activity of Metro Greenspaces (Clear Creek) in the area. The amendment of the Clackamas County Comprehensive Plan to allow Open Space Management zoning outside of the Urban Growth Boundary for natural areas was mentioned. The change to the I-3 zone was explained and discussed. The issue of residential versus industrial use along the Clackamas River led to the issue of hazardous pollutants used in the Industrial zone. The North Bank Committee used the Columbia South Shore Ordinance as a basis for recommending changes to the I-3 zone in the Clackamas River area.

Pam Hayden advised further work with the North Bank Consensus Committee will finalize the concepts so far agreed upon. She said the R-20 Residential area (Capps Road) will be



Pam Hayden advised further work with the North Bank Consensus Committee will finalize the concepts so far agreed upon. She said the R-20 Residential area (Capps Road) will be addressed by possible (willing seller and willing buyer) purchase by the Development Agency. There was discussion of the types of recreation appropriate for the area as well as floodplain and open space uses that might be appropriate. The need for passive recreation and natural areas was noted. Greenspaces and Open Spaces and the intent of the Plan was clarified.

Barbara Kemper made some statements about the Surface Water Management District Plans. She asked how effective are they and wanted to know of examples that worked. She was told that there were several successful examples.

2. Rural Communities

Planning Division staff member Clay Glasgow gave a brief presentation on the process in general. He said it is just beginning. He said the reason for the discussion tonight is to give an overview and get the Planning Commission thinking about the process. He lastly said he will get information on scheduling to the Planning Commission as soon as it is available.

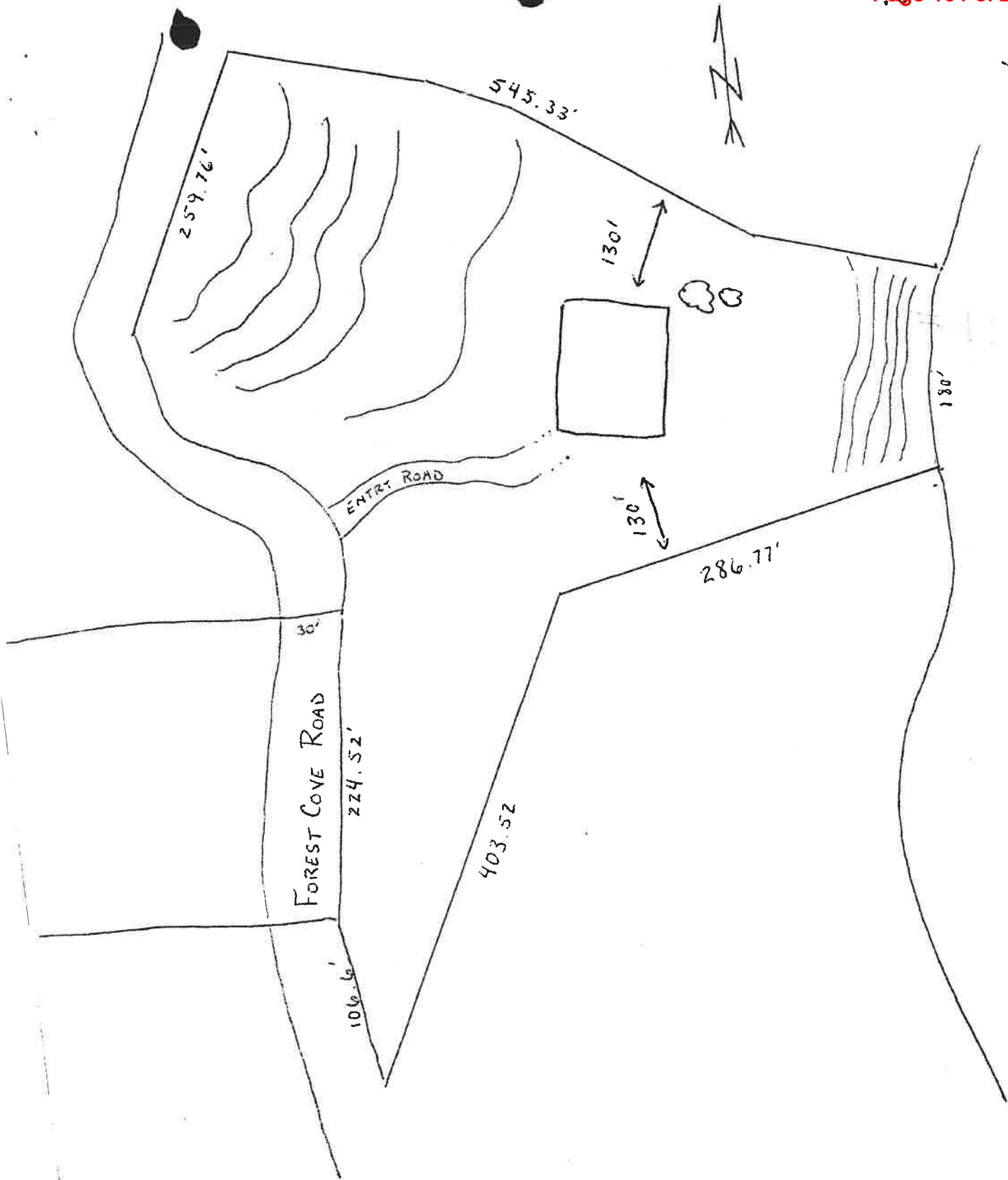
3. Planning Division staff member Mike McCallister went over draft EFU zone ordinance discussed in detail minimum lot size requirement, provisions for establishing dwellings, Also outlined reasons for going amendments discussed time lines for Hearings, which will be June/July for PC, August/September for BCC. Planning Commission wants more information as to what can and can't be amended or modified.

Approval of Minutes

Planning Commissioner Will Newman advised he was in attendance at the April 8 Planning Commission hearing. Leonard Waldemar moved to approve the April 8 minutes as amended. Planning Commissioner Will Newman seconded the motion. VOTE: The 7 members voted to approve the minutes as corrected.

Planning Commissioner Will Newman moved to adopt the April 29 minutes with the exception to the discussion of Policy 2.0 on page 14 of the report. Len Waldemar seconded the motion. VOTE: The 7 Planning Commission members voted to adopt the minutes as amended.

The Planning Commission Hearing adjourned at 11 PM.



EX. #3, 20226-96-CP

LAND USE FILES

FILE # Z0256 - 95 - CP

LEGAL DESCRIPTION:

3 S 1 E SEC. 20

TAX LOT 1400

MAP ↙

PC-4-24-95

Date Application Filed 3-13-95

APPLICATION NOTICE-DATE MAILED

Neighborhood Group 3-17-95

Property Owners 3-31-95

Newspapers 3-31-95

Applicant 3-31-95

Attorney 3-31-95

Others 3-31-95

Staff Recommendation Sent \_\_\_\_\_

BCC Hearing 5-3-95

Decision Cont'd Dec. 6/21-10:30AM

Decision Date \_\_\_\_\_

Appeal Deadline \_\_\_\_\_

Date Appeal Filed \_\_\_\_\_

APPEAL NOTICE-DATE MAILED

Neighborhood Group \_\_\_\_\_

Property Owners \_\_\_\_\_

Newspapers \_\_\_\_\_

Applicant \_\_\_\_\_

Attorney \_\_\_\_\_

Others \_\_\_\_\_

Estimated Cost-Transcript \_\_\_\_\_

Estimated Fee Received \_\_\_\_\_

Cost of Transcript \_\_\_\_\_

Additional Fee Received \_\_\_\_\_

Refund Sent \_\_\_\_\_

Transcript Mailed to \_\_\_\_\_

File Sent to BCC \_\_\_\_\_

BCC Hearing \_\_\_\_\_

Decision \_\_\_\_\_

Decision Date \_\_\_\_\_

Cont'd Hearing Date \_\_\_\_\_

Decision \_\_\_\_\_

PW-19 CCP PW-19

Exhibit 1  
Z0315-23-CP & Z0316-23-R  
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WILLAMETTE RIVERExhibit  
#8INTRODUCTION

The Willamette river is the largest water body in Clackamas County. Originating in the Eugene area, the Willamette is one of the few major rivers in the United States to flow north.

The basin accounts for roughly two-third's of the population of the state of Oregon. The state's three largest cities, Portland, Salem and Eugene, are within the basin boundaries. About 40% of Oregon's population is concentrated in the lower basin which includes the Portland metropolitan area.

The basin is roughly rectangular, with a north-south dimension of about 150 miles and an average width of 75 miles. It is bounded on the east by the Cascade Range, on the south by the Calapooya Mountains and on the west by the Coast Range. The Columbia River, from Bonneville Dam to St. Helens, forms its northern boundary. Elevations range from less than 10 feet (mean sea level) along the Columbia, to 450 feet on the valley floor at Eugene, and over 10,000 feet in the Cascade Mountains. The Coast Range attains elevations of slightly over 4,000 feet.

The Willamette Valley floor, about 30 miles wide, is approximately 3,500 square miles in extent and lies below an elevation of 500 feet. It is nearly level in many places, gently rolling in others, and broken by several groups of hills and scattered buttes.

The mainstem Willamette River forms at the confluence of its Coast and Middle Forks near Springfield. It has a total length of approximately 187 miles and, in its upper 133 miles, flows northward in a braided, meandering channel. Through most of the remaining 54 miles, roughly starting at the Newberg Pool, it

flows between higher and more well defined banks unhindered by falls or rapids, except for the basaltic intrusion which blocks the valley at Oregon City and creates Willamette Falls. The stretch below the falls is subject to ocean tidal effects which are transmitted through the Columbia River.

Most of the major tributaries of the Willamette River rise in the Cascade Range at elevations of 6,000 feet or higher and enter the main stream from the east, e.g., the Clackamas and Molalla Rivers. The Coast Fork Willamette River rises in the Calapooya Mountains. Numerous smaller tributaries, e.g., the Tualatin, rise in the Coast Range and enter the main stream from the west.

#### Some Basic Differences in the Willamette Regime

In the uppermost reaches of the Greenway, the Coast Fork and Middle Fork of the Willamette River are similar to mountain streams, e.g., the upper Clackamas, Molalla and Sandy. Above Corvallis the tendency to braided channels gradually decreases as the river's slope decreases and the bed materials become less coarse. The channel, although better defined, is still quite shallow and subject to frequent spilling at high water levels.

Between Corvallis and Salem the river continues to slow in velocity and fine grained sediments that are tributary to this reach begin to be evident. The river's sediment load becomes finer, its channel better established and more fully developed meanders appear.

Below Salem these processes continue as the river flows between well-defined banks that are over-topped only in the higher floods. The characteristics of a meandering river, such as oxbow cutoffs, become more pronounced. In places, the river's course is controlled by ranges of hills or rock outcrops through which the river has cut its way. This is particularly true of the rock sills and islands which create a series of rapids above the falls at Oregon City and the cliffs from New Era to Canema.

Below the falls, the river's flow is tidally influenced and its banks are constrained by natural and man-made barriers so that it is no longer free to adjust its bed and banks to suit the water and sediment discharge regime imposed upon it.

Flowing through the Willamette Valley, the river courses through both fertile farmland and urbanized areas. At Willamette Falls, the drainage basin approximates 10,067 square miles. With the exception of the Sandy River, the entirety of Clackamas County drains to the Willamette (see Map 1).

The first settlement in Clackamas County along the Willamette was Oregon City. Incorporated in 1849, the community grew from a Hudson Bay Company site at Willamette Falls in 1829. The Willamette Falls (Oregon City Falls) locks were opened in 1873 and have been in continuous operation since that time.

The banks of the Willamette depict both urban and rural Oregon. The area from the confluence of the Tualatin River north to the Multnomah/Clackamas County line is representative of the Portland Metropolitan urban area. South of the Tualatin confluence, urbanization is less apparent. Single family housing occurs in several stretches upstream from the Molalla River confluence. Adjacent land uses are agrarian with a heavy predominating band of streamside vegetation. In essence, the Clackamas County portion of the Willamette River represents both metropolitan Oregon and the agriculturally oriented rural Willamette Valley.

Map 2 depicts existing land uses in the Willamette, Greenway boundaries and designations.

#### WATER QUALITY

Figures 1 & 7 through 10 depict water volume, temperature and dissolved oxygen levels. Figure 2 represents average flow

contributions of the major tributaries to the Willamette. Water quality is considered good and is an example of a concentrated pollution clean up effort. Twenty years ago, water contact sports were uncommon on the river.

Perhaps the most dramatic of pollution clean-up success stories, the lower portion of the river is now increasingly used for water contact sports. Swimming, water skiing, boating and angling activities are becoming more numerous yearly. In addition to various non-game species of fish, the Willamette supports warmwater fish populations of bass, crappie, bluegill, perch, and catfish. Anadromous (migratory) species must utilize the Willamette. The "hog-line" (see photo) is an active spring chinook salmon fishery. Other anadromous species include coho (silver salmon), winter and summer steelhead and migratory cutthroat. Some white sturgeon are also present.

Many municipalities, special service districts and industries discharge effluent to the river. Maximum discharges are stipulated via regulatory permits. Extended treatment has contributed significantly to improved water quality in the past few years. Water quality currently meets minimum standards. No significant domestic water supplies utilize the river; however, Tigard, Tualatin and Wilsonville are currently investigating the Wilsonville pool for potential domestic supply.

Minimum streamflow established by the Oregon Water Policy Review Board is 4,700 CFS at Oregon City. Portland General Electric Company currently claims water rights at Willamette (Oregon City) Falls which exceed the average annual yield of the river. Should the proposal to develop a domestic water source at Wilsonville become reality, resolution would be required to withdraw water upstream from the Oregon City Falls.

Water levels in the Willamette are artificially maintained at nearly twice the natural low flow. This artificially maintained



APPROXIMATE MEAN ANNUAL FLOW AND TRIBUTARY CONTRIBUTION  
WATER YEARS 1976 AND 1977

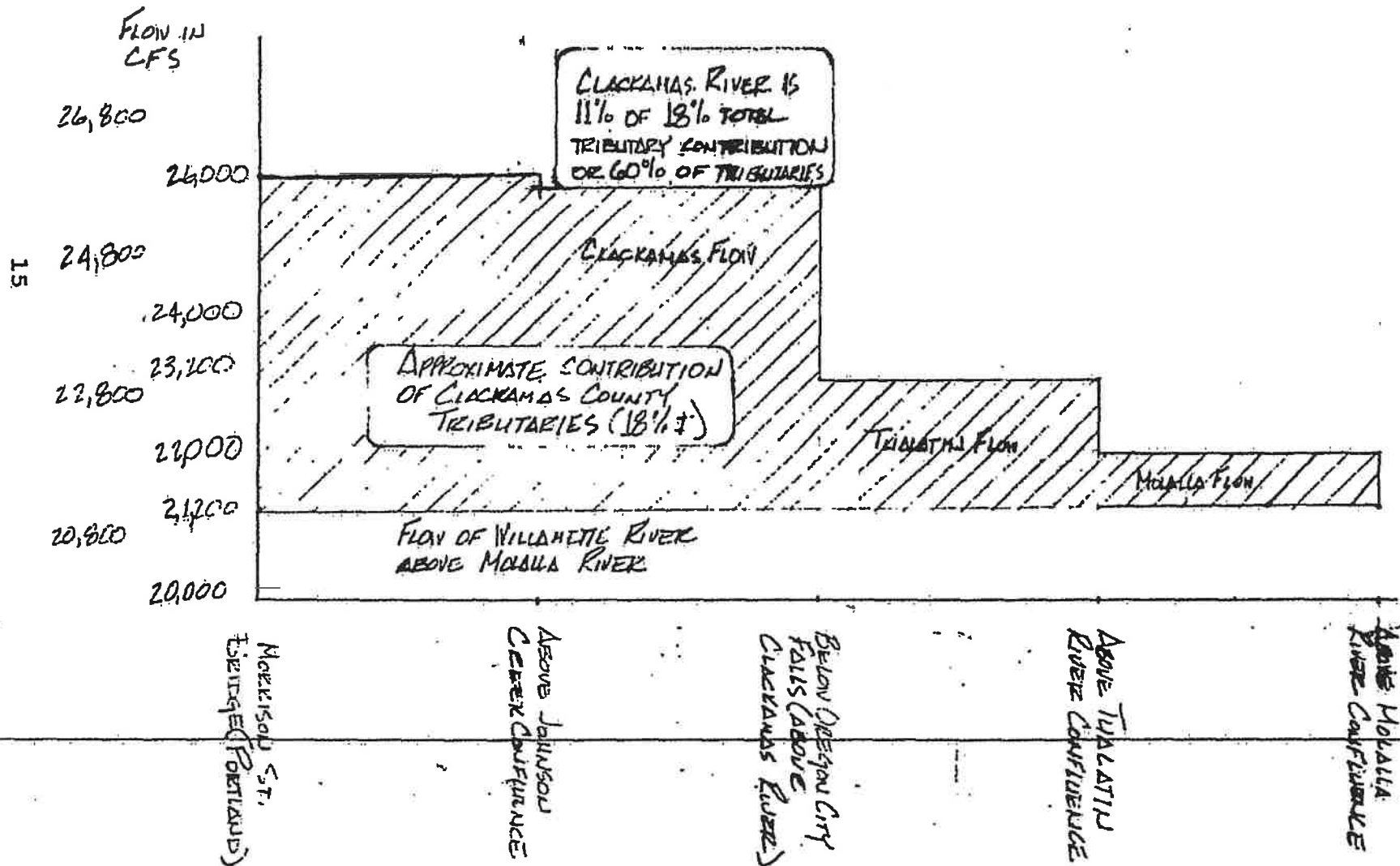


FIGURE 2

APPROXIMATE MEAN MONTHLY FLOW: WILLAMETTE RIVER AT JOHNSON CREEK CONFLUENCE  
WATER YEARS 1975 & 1977

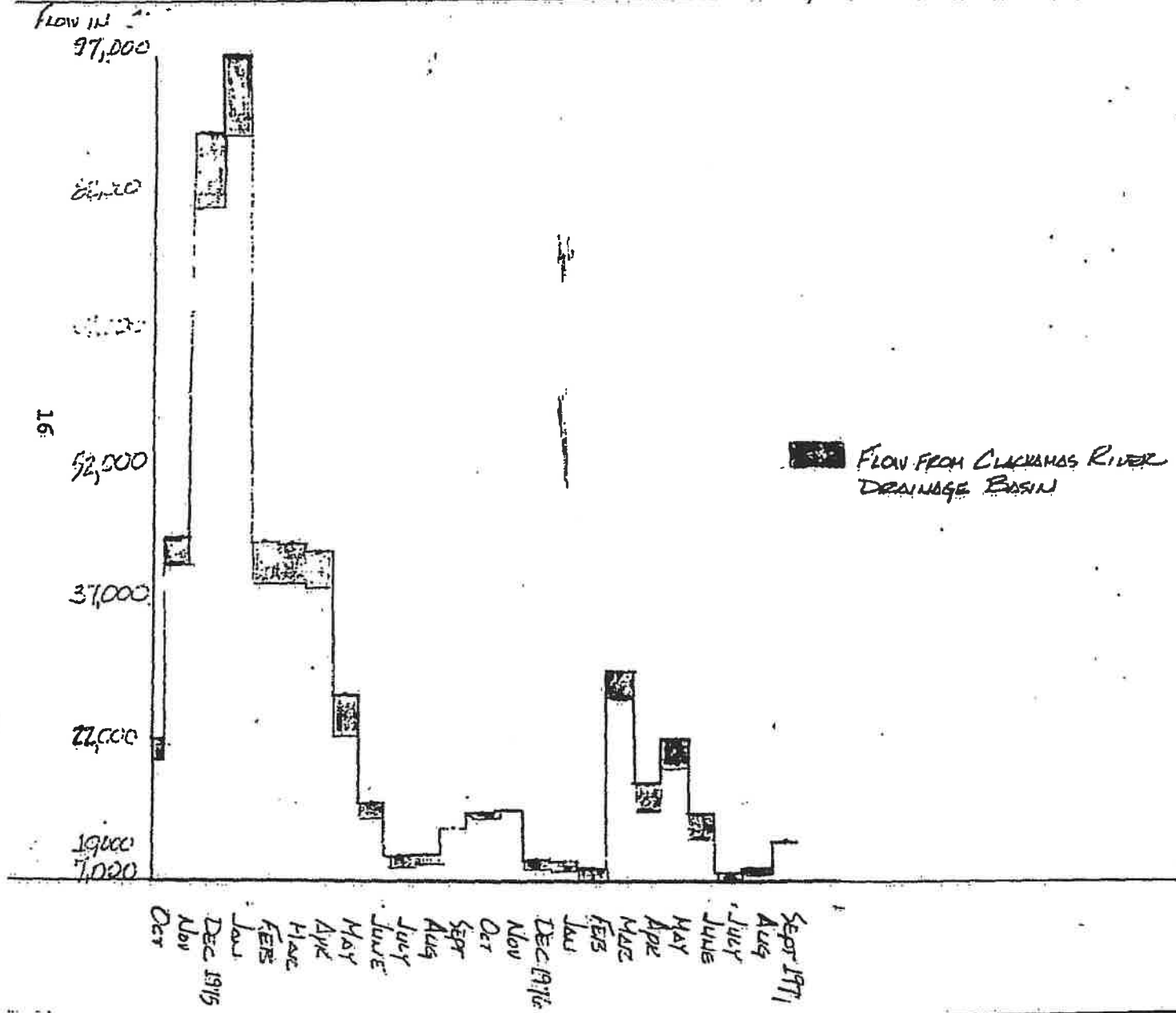
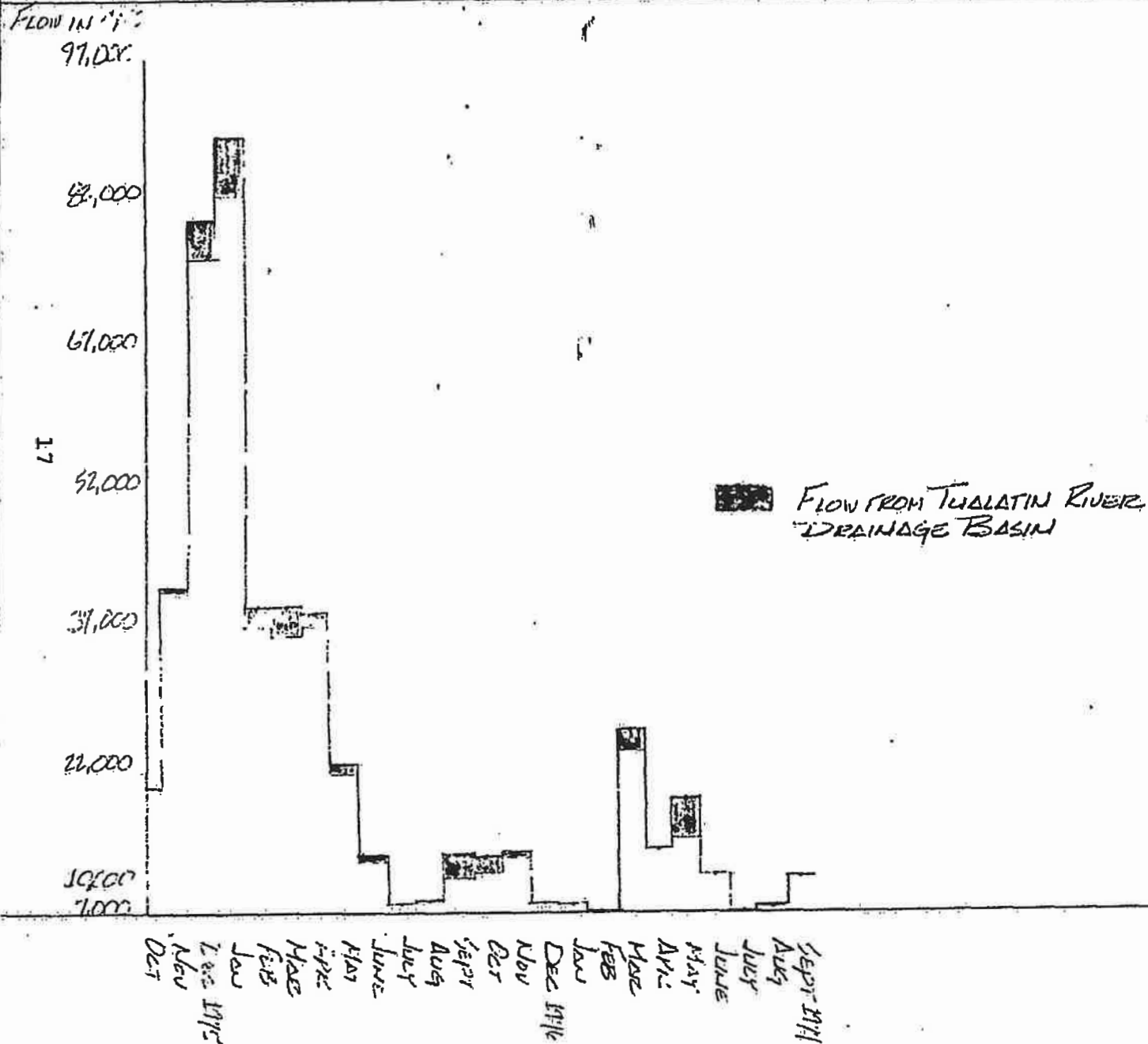
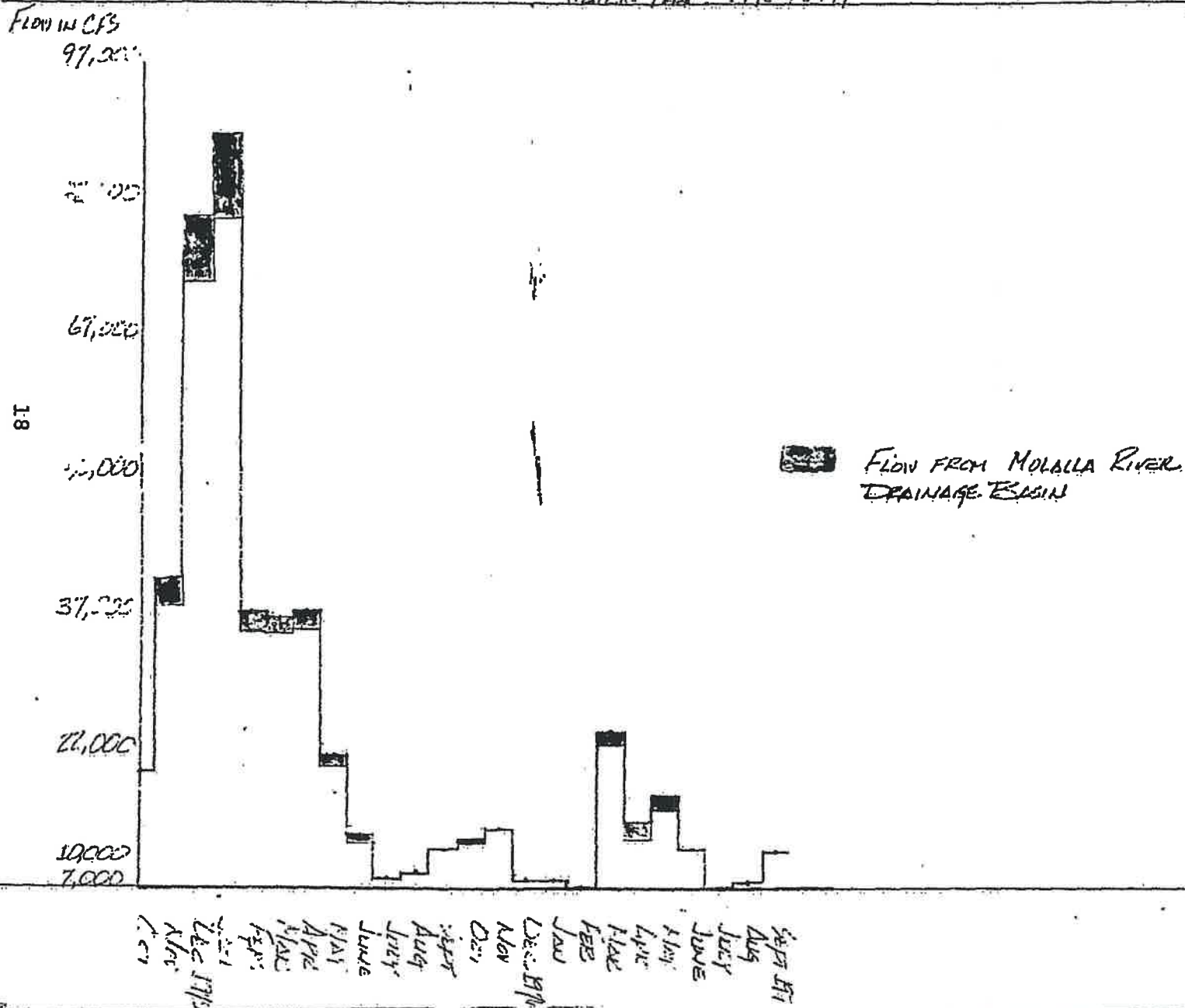


FIGURE 3

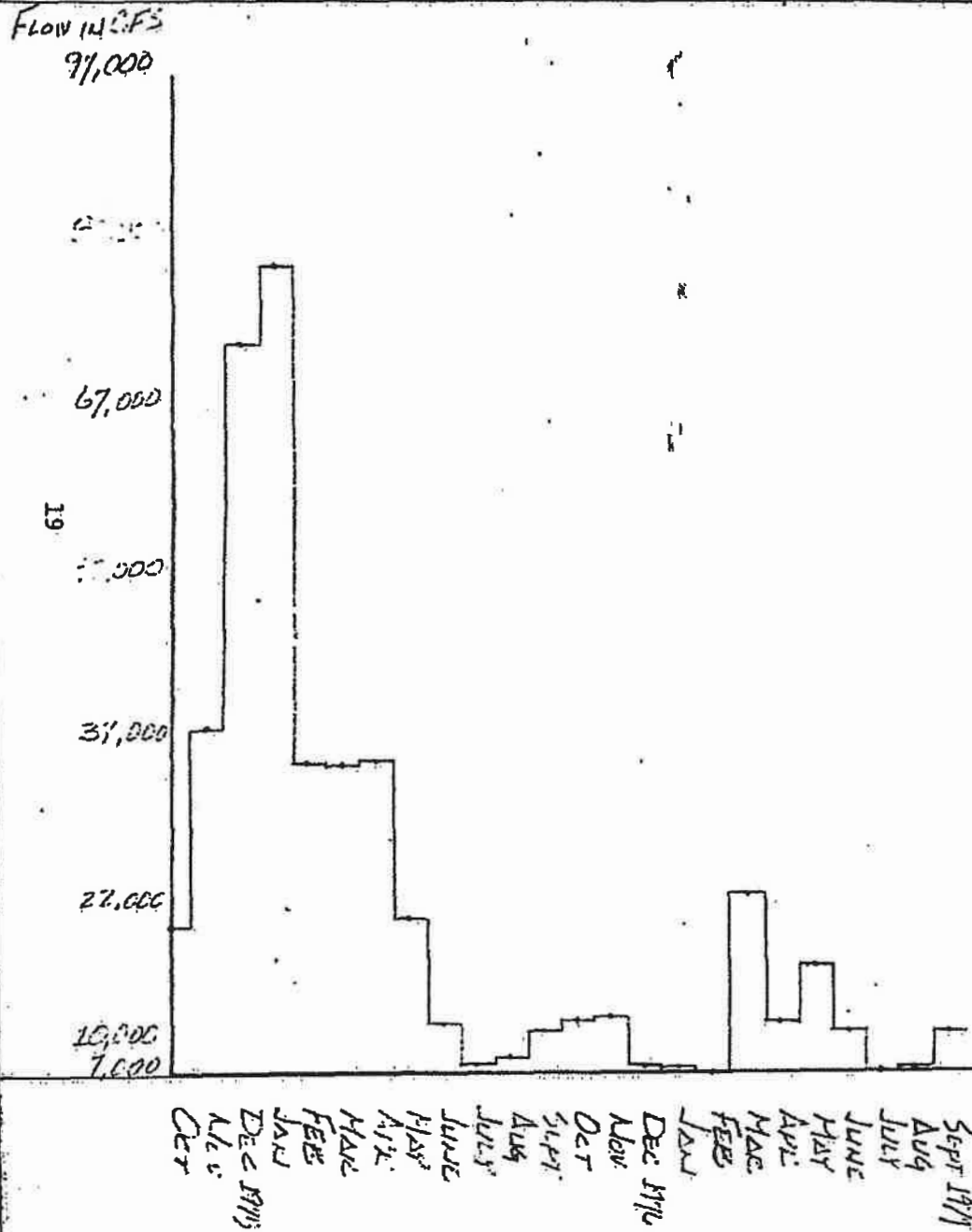
APPROXIMATE MEAN MONTHLY FLOW: WILLAMETTE RIVER BELOW CLATSOP CITY FALLS  
WATER YEARS 1976 & 1977



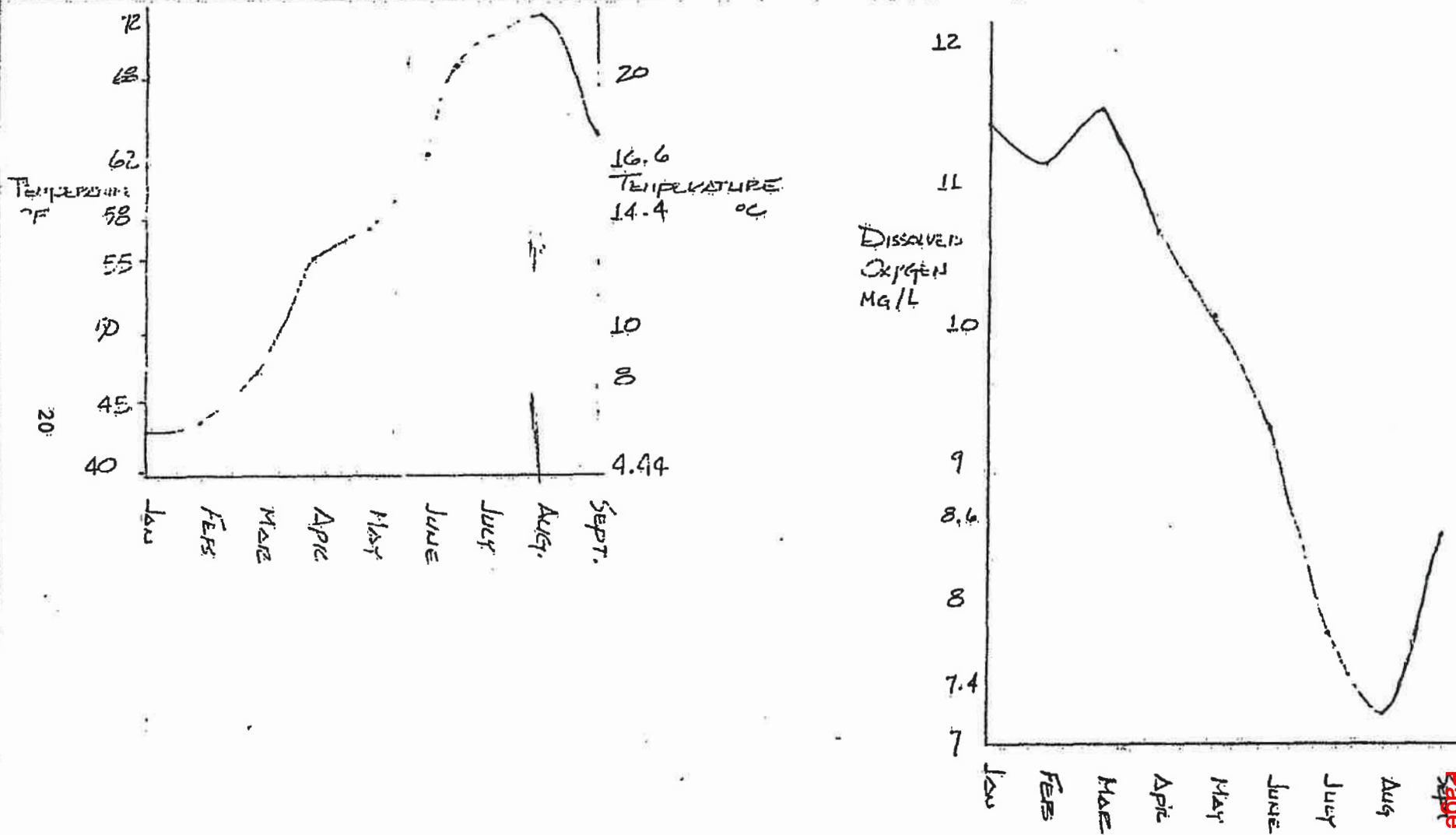
APPROXIMATE MONTHLY FLOW: WILLAMETTE RIVER LA. VE. TUALATIN PARK CONFLUENCE  
WATER YEAR: 1976-1977



APPROXIMATE MEAN MONTHLY FLOW: WILLAMETTE RIVER ABOVE HAZELLA CONFLUENCE  
WATER YEARS 1976 & 1977



VOLUME 116, NUMBER 1 OF STAFF JENNINGS, MILE 16.60  
TEMPERATURE AND DISSOLVED OXYGEN 1977\*



\* SOURCE DE-P, SECONDARY SAMPLING STATION JANUARY THROUGH SEPTEMBER 1977

FIGURE 1  
Z0315-23-CP & Z0316-23-R  
Page 113 of 256

Exhibit 1

WILLAMETTE RIVER AT SPORTCRAFT LANDING; RIVER MILE 25.50  
TEMPERATURE AND DISSOLVED OXYGEN 1977\*

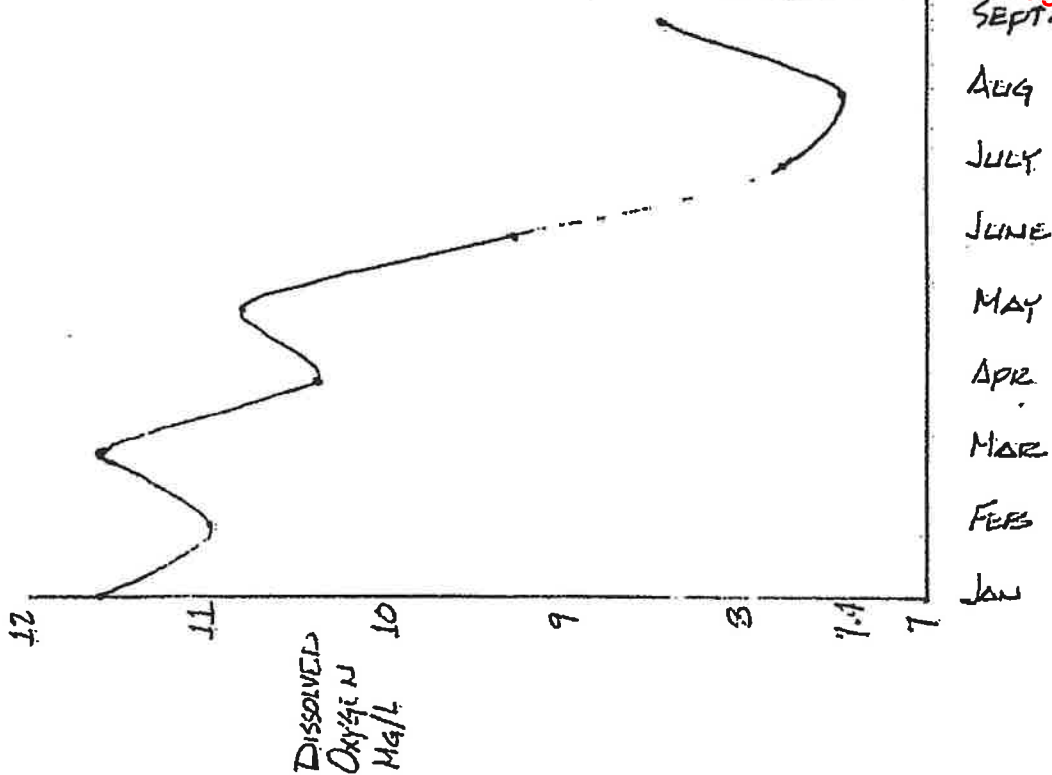
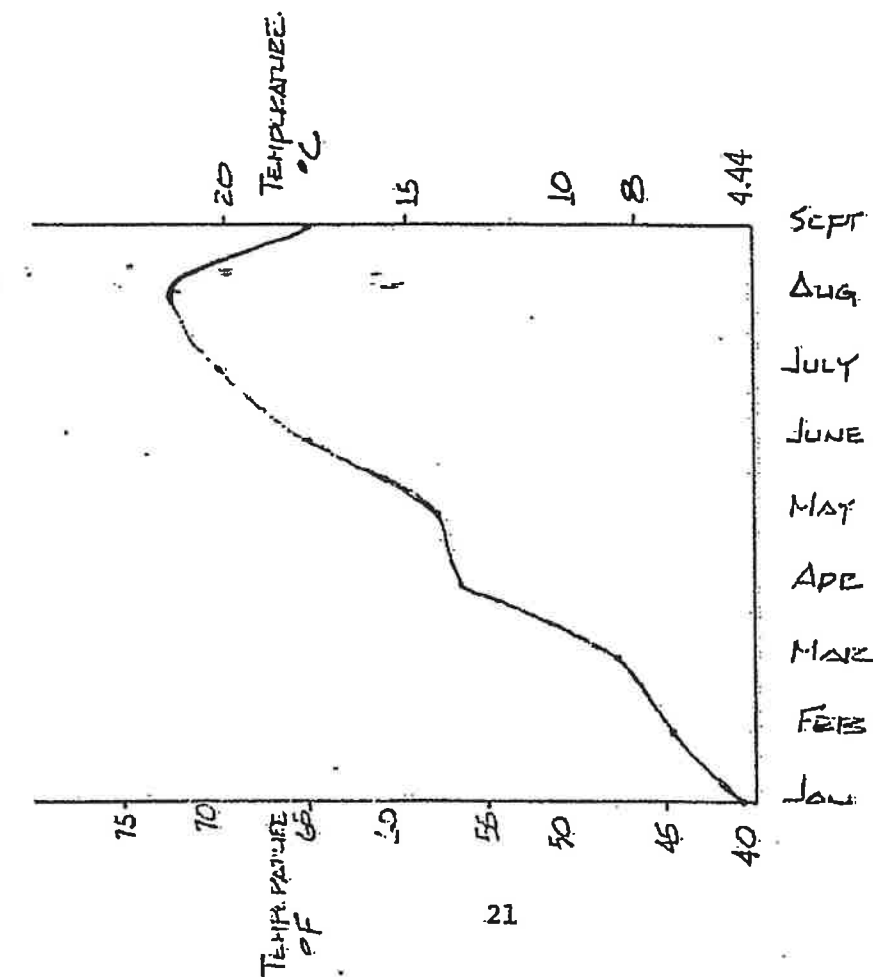


FIGURE 6

\* SOURCE DEQ SECONDARY SAMPLING STATION JANUARY THROUGH SEPTEMBER 1977

WILLAMETTE RIVER AT MARINA MART; RIVER MILE 27.80  
TEMPERATURE AND DISSOLVED OXYGEN 1977\*

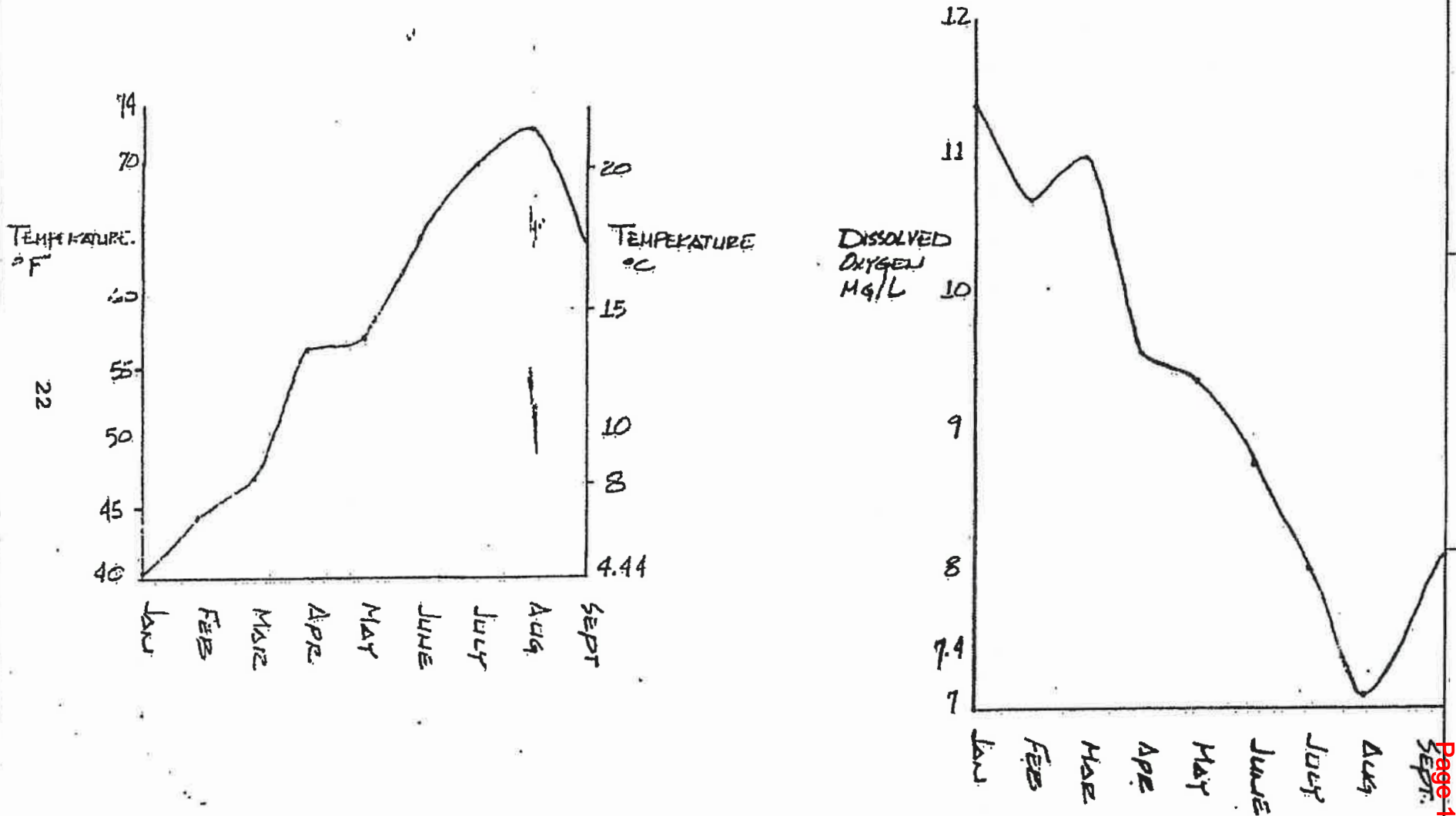
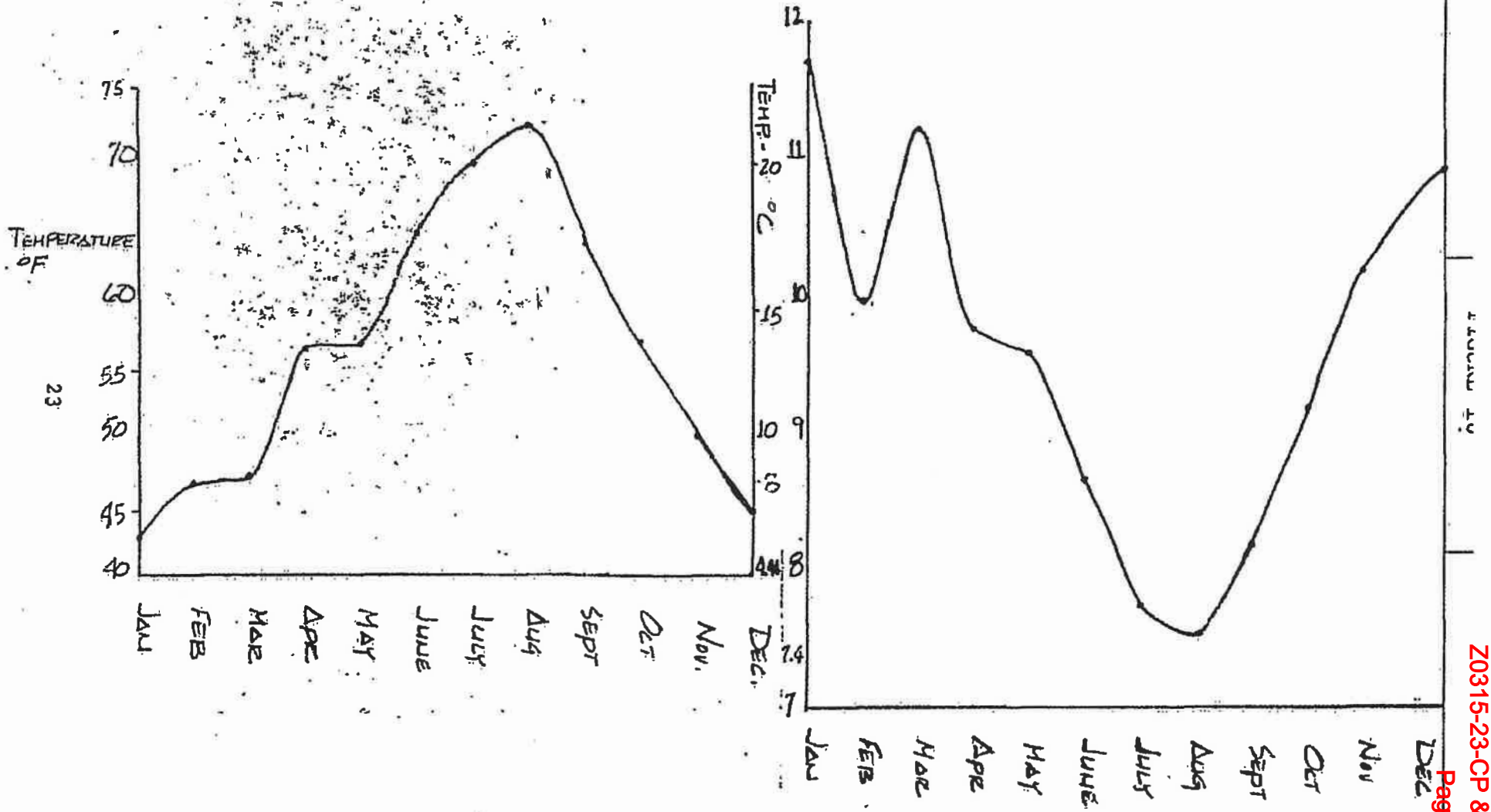


FIGURE 9

\* SOURCE DEQ SECONDARY SAMPLING STATION JANUARY THROUGH SEPTEMBER 1977



WILLAMETTE RIVER AT CANBY FERRY; RIVER MILE 34.40  
TEMPERATURE AND DISSOLVED OXYGEN 1977\*



\* SOURCE DEQ SECONDARY SAMPLING STATION JANUARY THROUGH DECEMBER 1977

Exhibit b  
Page 74 of 168

Preapp Materials

MONTH	RIVER MILE	NAME	TEMP °C	°F	DO, mg/L
JAN	31.80	PLANKTON HALET	4.5	40.1	11.4
FEB			6.7	44.1	10.7
MAR			8.4	47.1	11.0
APR			13.4	56.1	9.6
MAY			14.0	57.2	9.4
JUNE			17.9	64.2	8.3
JULY			20.9	69.6	8.0
AUG			22.5	72.5	7.1
SEPT			17.8	64.1	8.1
34.40		CANEY FERRY			
JAN			5.0	41.0	11.7
FEB			5.2	41.4	10.0
MAR			5.1	41.2	11.2
APR			13.5	56.3	9.8
MAY			13.9	57.0	9.6
JUNE			18.0	64.4	8.7
JULY			21.1	69.9	7.8
AUG			22.3	72.1	7.6
SEPT			17.8	64.0	8.2
OCT			14.0	57.2	9.2
NOV			10.0	50.0	10.2
DEC			7.0	44.6	10.9

Exhibit 5  
Page 75 of 168

Preapp Materials

1977	RIVER MILE	NAME	TEMP ° °F		DO. mg/L
	16.60	STAFF JENNINGS			
JAN			6.0	42.8	11.5
FEB			6.5	43.7	11.2
MAR			8.5	47.3	11.6
APR			12.8	55.0	10.7
MAY			14.1	57.4	10.5
JUNE			17.2	63.0	9.3
JULY			20.6	69.0	7.8
AUG			22.6	72.7	7.2
SEPT			17.8	64.1	8.5
	23.50	TRUCK CRAFT LANDING			
JAN			4.3	40.6	11.6
FEB			7.1	44.8	11.0
MAR			8.5	47.3	11.6
APR			13.4	56.1	10.1
MAY			14.4	57.9	10.8
JUNE			18.0	64.4	9.3
JULY			20.9	69.6	7.8
AUG			22.3	72.2	7.5
SEPT			17.7	64.2	8.5

level of approximately 6,000 CFS aids not only navigation but also assists in maintenance of minimum dissolved oxygen and other water quality standards. Waterborn commerce within Clackamas County on the Willamette in 1977 contributed 4,150 one-way tugboat trips, 5,850 one-way non-propelled barge trips and 34 tanker barge trips. Total ton miles (movement of one ton a distance of one mile) for 1977 was 60,233,056.

#### Non-Point Source Water Pollution

The Oregon Department of Environmental Quality has conducted a statewide inventory of non-point source pollution. Parameters addressed were streambank erosion, sedimentation, excessive debris, water withdrawals causing stream quality problems, elevated water temperatures, nuisance algae or aquatic plant growths. A composite of problems was then tabulated for all major waterways in the state.

Moderate sedimentation was identified as a problem on the Willamette. This is likely due more to tributary contributions than the river itself. The other identified problem was moderate nuisance algae growth from the Yamhill county line to Peach Cove.

Neither problem is considered serious. The Willamette is a remarkably clean river considering streamside uses and historical abuse of the resource (e.g., discharge of sewage and industrial effluent directly to the waterway).

Numerous commercial operations are located on the river. Most prevalent are log rafting operations found at various points throughout the length of the Greenway (see Map 2).

Due to increasing recreational use, conflicts with existing land and water uses are developing. Overcrowding in certain areas is becoming a hazard and in other areas is a recognized problem.

Willamette River  
Greenway

WILLAMETTE RIVER GREENWAY

The Oregon Land Conservation and Development Commission has adopted Willamette Greenway boundaries. In effect there are two classifications, urban and rural. Both designations control development and require the river be a principal consideration in land use proposals.

Chronology

The Willamette River Greenway was initiated with the enactment of ORS 390 in 1967. In 1970, five regional park sites were selected, including Molalla River State Park, in Clackamas County. A proposed Willamette River Greenway Management Plan was adopted by the Oregon Department of Transportation (ODOT) in April 1975; however, was not approved by LCDC. Goal No. 15 (Willamette River Greenway) was developed and formally adopted by LCDC December 6, 1975. The state plan showing boundaries, state and local government ownership, potential acquisition areas and proposed use intensities on state land was approved by LCDC in October, 1977.

The adoption of Goal 15 provides an interim order or short range program which is currently in effect. The long range portion of the program requires local governments to refine/update the Greenway Plan as necessary, provide for management & acquisition of necessary lands via the comprehensive plan and finally to administer the program cooperatively with ODOT.

Willamette River Greenway Law

The purpose of the Willamette River Greenway is to "protect and preserve the natural, scenic and recreational qualities of lands along the Willamette River and to preserve and restore historical sites, structures, facilities and objects on lands along the Willamette River for public education and enjoyment."

ORS 390.310-390.368, Willamette River Greenway Law; requires establishment of the Greenway, requires maximum and minimum acreages allowable within the boundary, restricts use of eminent domain, prohibits public use of scenic easements and Goal 15 limits intensification and change of use within the Greenway.

Within the Greenway, one of two designations, urban or rural is applied to each parcel. Within the urban designation, use compatibility review limits are a minimum of 150 feet from ordinary low water and may extend further.

The Greenway is designated Urban from the Multnomah County line to the confluence of the Tualatin River. The Rural designation applies south of the Tualatin River confluence with the exception of two limited areas (Canby and Wilsonville).

Use intensifications or changes within Rural boundaries require a greenway conditional use permit. If within the 150 foot distance from ordinary low water, an extraordinary exception is required.

#### Willamette River Greenway, Milwaukie

During the process of comprehensive plan adoption, the Milwaukie City Council expanded the Willamette River Greenway boundaries to include Kellogg Lake. The inclusion followed the north shoreline and added all lots within the city's jurisdiction between the south shore and McLoughlin Boulevard. Simultaneously, the city recommended a boundary for Greenway inclusion to Clackamas County.

#### Willamette River Greenway, LCDC Multnomah County

During Multnomah County's request for acknowledgement, LCDC made two important interpretations of Goal 15.

The first was that all structures in the Greenway require review. This includes structures exempted from permit requirements such as farm-related structures. In effect, LCDC said a review is required to insure compatibility with Goal 15; however, may still be exempt from obtaining a permit.

The second interpretation was regarding the non-personal or safety related harvest and propagation of timber. Goal 15 allows partial harvest of timber beyond the vegetative fringe in accord with the Forest Practices Act. The Commission action said in effect, as long as the vegetative fringe is not disturbed and the character of the river (including scenic considerations) is not altered, partial harvest is allowed. Partial was constructed to mean clearcutting a portion of a parcel, e.g. 15 acres of a 40 acre lot. In addition the commercial use is subject to Greenway Review requirements.

## INVENTORIES

### Existing Land Use

Map 2 displays agricultural lands as defined by ORS 215.203(2).

Agricultural activities predominate in the rural portion of the Greenway as do soil classes I through IV. Map 2 depicts class I through IV soils. Most soils (87% or 2,096 acres of 2,410 acres) in the Rural Greenway are agricultural class I through IV. Some areas of soil class VI and/or VII are found within the boundary, principally associated with Xerochrepts and Haploxerolls, Witzel very stony slit loam and Xerochrepts-Rock Outcrop complex. Detailed soil data are available in OR-1, soil interpretations for Oregon.

Table 5 summarizes existing land use and ownership in the Greenway. Approximately 64% (1807 acres) of the Greenway is in agricultural, forest, other open space use or is vacant. This use comprises approximately 65% (1554 acres) of the rural portion



ORS 390.310-390.368, Willamette River Greenway Law; requires establishment of the Greenway, requires maximum and minimum acreages allowable within the boundary, restricts use of eminent domain, prohibits public use of scenic easements and Goal 15 limits intensification and change of use within the Greenway.

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The Greenway is designated Urban from the Multnomah County line to the confluence of the Tualatin River. The Rural designation applies south of the Tualatin River confluence with the exception of two limited areas (Canby and Wilsonville).

Use intensifications or changes within Rural boundaries require a greenway conditional use permit. If within the 150 foot distance from ordinary low water, an extraordinary exception is required in rural areas.

#### Willamette River Greenway, Milwaukie

During the process of comprehensive plan adoption, the Milwaukie City Council expanded the Willamette River Greenway boundaries to include Kellogg Lake. The inclusion followed the north shoreline and added all lots within the city's jurisdiction between the south shore and McLoughlin Boulevard. Simultaneously, the city recommended a boundary for Greenway inclusion to Clackamas County.

#### Willamette River Greenway, LCDC Multnomah County

During Multnomah County's request for acknowledgement, LCDC made two important interpretations of Goal 15.

of the Greenway. (Molalla River State Park, 566 acres & other designated parks are excluded). The urban Greenway contains approximately 9% (253 acres) agricultural, forest, open space or vacant use.

Residential uses in the Greenway are principally single family. Overall 11% is devoted to single family uses (316 acres) and 0.2% (4.6 acres) to multiple family. Commercial activities represent 0.4% (10 acres) and industrial uses accrue 3.6% (102 acres). The rural portion contains 99 acres of industrial use, principally log transfer or log dump/sorting yards.

#### Ownership Patterns

Land within the Clackamas County Greenway is heavily parcelized. Public ownership (state and County) consists of 1005 acres of which 102 acres is urban and 903 acres rural (see Table 5). Designated state and county parks total 600 acres, of which only 21 acres are in the urban area (city & state owned parks within city limits are not included).

Riparian rights are addressed in the Appendix.

#### Access Points, Boat Ramps

Eleven access points and boat ramps are in county jurisdiction Greenway. Access points are either from the uplands or by boat only. Boat access points generally lack frontage to a public road. Access points are shown on Map 2 and listed in Table 7.

TABLE 1

SUMMARY OF PUBLIC LAND OWNERSHIP  
WITHIN WILLAMETTE RIVER GREENWAY

URBAN OREGON 79.87 ACRES

CLACK CO. 22.12 ACRES

URBAN TOTAL 101.99 ACRES

RURAL OREGON 889.12 ACRES

CLACK CO. 14.16 ACRES

RURAL TOTAL 903.28 ACRES

GREENWAY TOTAL 1005.27 ACRES

EXCLUDING MOLALA RIVER PARK 439.27 ACRES

CLACK CO. TOTAL 36.28

OREGON TOTAL 969

Exhibit 5  
Page 83 of 168

Preapp Materials

WILLAMETTE RIVER GREENWAY: LAND USES / FRONTAGE / OWNERSHIP SUMMARY

EXISTING LAND USE: TOTAL ACRES: 2840.3  
 SINGLE FAMILY  
 MULTI-FAMILY  
 COMMERCIAL  
 INDUSTRIAL  
 AG/FOREST/OPEN SPACE/VACANT  
 DESIGNATED PARKS  
 FRONTAGE TOTAL FRONTAGE: 32.9 MILES  
 ACRES OF GREENWAY PER RIVER MILE  
 PUBLIC LAND OWNERSHIP  
 CLATSOP COUNTY  
 STATE OF OREGON  
 TOTAL

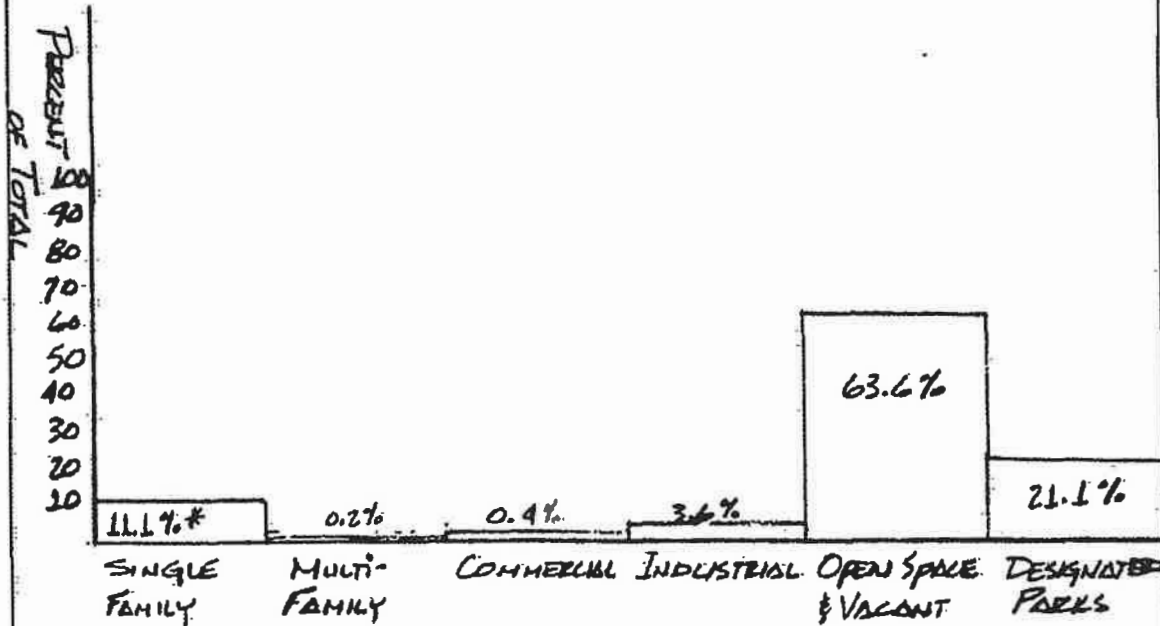
TABLE 5

Overall	Urban	Rural
316.5 ACRES 11.1%	140.7 ACRES 5.0%	175.9 ACRES 6.2%
4.6 ACRES 0.2%	4.6 ACRES 0.2%	0
10.2 ACRES 0.4%	8.2 ACRES 0.3%	2.0 ACRES 0.1%
102 ACRES 3.6%	3.0 ACRES 0.1%	98.9 ACRES 3.5%
1807.1 ACRES 63.6%	253.1 ACRES 8.9%	1554.0 ACRES 54.7%
600.0 ACRES 21.1%	20.9 ACRES 0.7%	579.0 ACRES 20.4%
32.9 MILES 86.3 AC/MILE	8.1 MILES 53.1 AC/MILE	24.8 MILES 97.1 AC/MILE
36.3 ACRES 969 ACRES 1005.3 ACRES	22.1 ACRES 79.9 ACRES 102 ACRES	14.2 ACRES 889.1 ACRES * 903.3 ACRES
		* MOLALLA RIVER STATE PARK IS 966 ACRES

Exhibit 5  
Page 85 of 168

### WILLAMETTE RIVER GREENWAY EXISTING LAND USE SUMMARY

TOTAL ACREAGE 2840 : 2410 RURAL, 430 URBAN  
TOTAL FRONTAGE



\* SINGLE FAMILY: ON LOTS LARGER THAN ONE ACRE, SFR INCLUDES ONE ACRE WITH REMAINING TO OPEN SPACE & VACANT

SEE EXISTING LAND USE MAP DESIGNATING AGRICULTURAL & FOREST USES.

TABLE 7

GREENWAY ACCESS POINTS

<u>Ownership</u>	<u>Access</u>	<u>Launching</u>	
		<u>Ramp</u>	<u>In/Near</u>
County	Upland	Yes	Oak Grove Avenue
County	Upland	No	Marylhurst
State	Boat	No	Rock Island (West Bank)
State	Boat	No	Near Coalca (East Bank)
State	Boat	No	Peach Cove
Oregon	Boat	No	Fish Eddy
County	Upland	Yes	Hebb Park
Oregon	Upland	Yes	Molalla River State Park
County	Upland	Yes	Boones Ferry Marina
State	Upland	No	Butteville
Private	Upland	Yes	Maulding's Marina

Parks, Islands

Three parks exist in county-jurisdiction Greenway: Riverville Park, county owned, is five acres and undeveloped; Hebb Park near Canby Ferry, county owned, is 13 acres and developed with a boat ramp; Molalla River State Park is state owned, 566 acres and is currently being developed as a regional park (See map 2).

Of five islands in the Greenway, three are in public ownership. Rocky Island near Marylhurst is owned by Clackamas County. Cedar Island lies to the south near Mary S. Young State Park and is privately owned on the east side, publically owned on the west side. Goat or Clackamette Island off the confluence of the Clackamas River is owned by Oregon Division of State Lands pursuant to a court decree (Dahl v. Oregon 243 OR. 152). Rock Island downstream from Coalco is owned by Crown Zellerbach. Willow Island near Peach Cove is owned by BLM. None of the islands are developed or have day use facilities.

SIGNIFICANT RIVERINE AREASEcologically Fragile Areas

Map 2 depicts areas or sites identified as ecologically fragile or representing an unique site/landform.

The Nature Conservancy under contact to LCDC identified unique and natural sites in Oregon. The inventory, Oregon Natural Areas, Clackamas County data summary is on file at DES/Planning Office. Three identified sites exist in county jurisdiction: (1) Coalca Pillar, Balancing Rock, and Canemah Bluffs. The pillar/rock are on a state owned parcel just north of New Era. Canemah cliffs extend from New Era into Oregon City and partially forms the Greenway Boundary. (2) Willow Island near Peach Cove is undeveloped and owned by the Bureau of Land Managment.

The third site, Molalla River State Park, contains 566 acres at the confluence of the Molalla and Willamette Rivers. Limited public facility development is scheduled by ODOT. (See Molalla River State Park Master Plan, 1977.) The regional park, one of the five on the Greenway, contains the second largest Great Blue Heron rookerie on the river.

Unique scenic features are prevalent including the Greenway itself. Within the Greenway, scenic vistas exist at the Rock Island Gorge, Fish Eddy (south side of the River across from Peach Cove) and at Molalla River State Park (see Map 2).

Fisheries and wildlife habitat are depicted on Map \_\_\_\_\_. Virtually all the river and adjacent land provides some type of habitat. The most significant wildlife habitat is probably Molalla River State Park. Great blue heron nests have been sighted on Goat Island.

The Willamette provides passage for anadromous fish (salmon, steelhead) and also contains various warmwater game fish. Species relying on the river below Willamette Falls include fall and spring chinook, coho, winter and summer steelhead, limited numbers of sockeye, migratory cutthroat, shad and white sturgeon. A substantial spring chinook sport fishery exists from the Clackamas confluence to the falls. The Hogline attracts anglers yearly.

Warmwater game fish species include largemouth bass, black and white crappie, bluegill, yellow perch, bullhead catfish, channel catfish, and pumpkinseeds.

The reach above the falls is important for passage and retention of all the above game species, including limited numbers of white sturgeon. This portion of the Willamette is also important for spawning and rearing of the warmwater game fish species.

Warmwater sport fisheries generally occur at areas providing good habitat and angler access (see map 2).

#### Historic Sites

Thirteen historic sites have been identified within the Greenway in the County (see Map 2). Only four are not within the jurisdiction of a city:

1. Socrates Tryon House, Stampher Road, Lake Oswego (R.M. 20.1)

Situated on Stampher Road in Lake Oswego, the Tryon House overlooks the Willamette River. Tryon constructed the house on his Donation Land Claim about 1848. The house is the only existing building from the original farm; one acre remains.



2. New Era Gristmill (R.M. 31.5)

The New Era Gristmill, located at the junction of Beaver and Parrot Creeks, three and one-half miles north of Canby, was a focal point of the community of New Era. New Era became an important shipping and trade center when a portage railroad was constructed to the mouth of Parrot Creek. This enabled boats to load and unload at New Era and ended the necessity of the trip to the Willamette Falls. Once owned by Aurora colonist, George Knight, the Gristmill remained in operation until 1950. It is the only existing building in New Era dating from the 1880's.

3. Canby Ferry

Canby Ferry was established in the late 1800's. The current ferry vessel has been used since 1953. Located north of Canby, an average of 400 autos use the ferry daily during the winter. Summer use averages 600 auto trips during the week with weekend use substantially higher.

4. Boone's Ferry and Landing Site (R.M. 36.7)

Alphonso Boone brought his family to Oregon in 1846 by the Applegate route. He was a grandson of Daniel Boone. About 1847, his son, Jesse V. Boone, began to operate a ferry across the Willamette River just east of the present site of the Oregon Electric Railway Bridge at Willsonville. A road leading south from Portland to this ferry was, and still is, known as Boones Ferry Road. Another son, Alphonso D. Boone, became associated with his brother Jesse in the ferry. Jesse was killed in 1871. Chloe Donnelly Boone, daughter of Alphonso Boone, married George L. Curry, one-time governor of Oregon, for whom Curry County was named. Boone's Ferry was an important landing during the mid and late eighteenth century. The community of Wilsonville was once called Boones Ferry.

### Hydrologic Conditions

A more detailed discussion of general hydrology can be found on page 91.

The Willamette River in Clackamas County can be characterized as well defined with regard to its channel, quite wide and slow moving. North of the Peach Cove area, the river's course is controlled in numerous areas by rock bluffs or cliffs such as in the New Era area. Upstream from Peach Cove, bankside character is similar to mid Willamette Valley areas; low rolling banks but well defined. The river is relatively broad and slow moving in contrast to the area north of Eugene. Two reaches are associated with a decrease in water velocity. The Newberg Pool extends from Ash Island to the Wilsonville area. Another velocity decrease is encountered in the Wilsonville Pool which runs from upstream of Wilsonville to Willamette Falls. Total drop in this reach is 20 feet or 1.4 feet per mile. Below the falls, the river is tidally influenced and rip-rap or similar stream bank stabilization practices are frequently seen.

Annual and 100 year floodplains are shown on Map 2. Flooding is controlled by numerous upstream dams and reservoirs. This reduces flood limits but subjects the riverbanks to longer periods of high water and resulting erosion.

Natural low flow is about 3000 CFS but is augmented to provide 6000 CFS minimum flow. This practice is quite important to maintain minimum water quality standards in the Portland Harbor. Flow augmentation also provides a higher recreational capacity. The U.S. Army Corps of Engineers maintains a dredged channel eight feet in depth to Willamette Falls to facilitate commercial traffic. Dredging activities above the falls have been suspended; (this allows dredging to resume at a later date if feasible).

POTENTIAL USEAggregate Sites

The Department of Geology and Mineral Industries (DOGAMI) recently completed an inventory of aggregate sites in the SMSA. Three sites were identified in the Greenway: (See Map 2). Willamette Sand and Gravel dredges for aggregate off the mouth of the Clackamas River and downstream a short distance from that point;

J.P. Vlahos maintained a stone quarry west of Coalca. This site is inactive.

Wilsonville Concrete Products dredges slightly upstream from the OERR Bridge (north bank) near Wilsonville. Potential sites were not identified.

Aggregate deposits are abundant in and adjacent to the river generally upstream from Salem. Should the necessity to import aggregate to the Portland area become a reality, water surface movement is a logical alternative. However, barge traffic at the locks may be limited due to the 28 foot width of the locks.

Class I through IV Soils

See page 29.

Vegetative Cover

Wildlife Habitat map depicts vegetative cover in the Willamette Greenway. The streamside tree fringe is very apparant both in the urban and rural areas. Islands, with the exception of Rock Island, are heavily wooded and/or contain a prominent brush understory.

Forest cover is depicted on the wildlife habitat maps.

### Noise

The Clackamas County Sheriff's office enforces rules and regulations on the Greenway under contractual agreement to the State Marine Board. Noise violations are inclusive of duties. No data are available relevant to noise levels at this time; however, noise is "amplified" over water. Oregon Marine Board regulations allow 84dBA at 50 feet. Although noise complaints are numerous, citations are limited. Rural area complaints center around Peach Cove. Urban area complaints are ubiquitous. Competition race boats are exempt from state noise levels.

One officer enforces marine regulations countywide. Access to the rural area is difficult due to the locks. The Oregon State Police also enforce marine and wildlife laws on the Greenway.

### Analyses

The objective of the analysis was to estimate the amount of water-dependent recreational use on the Willamette Greenway and to compare present and projected use levels and required area with existing water acreage. Use standards are based on those in the State of Oregon Comprehensive Outdoor Recreation Plan (SCORP).

Five rivers were chosen for the River Management Subelement: The Willamette, Clackamas, Molalla, Sandy and Tualatin Rivers. These are the five principal rivers within the county excluding a short reach of the Pudding which is addressed as a tributary of the Molalla. These rivers also were delineated in the 1974 Clackamas County Comprehensive Plan.

LCDC Goal No. 15 specifically addresses the Willamette Greenway, requiring a number of inventory items. Although addressed as one river in Rivers Management, methodology for this water body differed due to the inventory requirements and significance of this water body.

TABLE 8

PEAK DAY USE ANALYSIS

YEAR 1980

<u>Activity</u>	<u>No. Activity Occasions</u>	<u>% Total A/O</u>	<u>Required Space</u>	<u>Existing Space</u>	<u>Estimated Overuse</u>
Non pool Swimming	103,452	13.6	922 Lin. Ft.		
Motor Boating	189,249	24.9	1,751 Ac.		
Float Boating	19,572	2.6	361 Ac.		
Water* Skiing	449,108	58.9	13,832 Ac.		
Total	761,561	100.0	15,944 Ac.	1,869 Ac.	X 7

YEAR 2000

Non pool Swimming	159,662	13.6	1,532 Lin. Ft.		
Motor Boating	292,355	24.9	2,701 Ac.		
Float Boating	30,206	2.6	547 Ac.		
Water* Skiing	693,129	58.9	21,348 Ac.		
Total	1,175,352	100.0	24,596 Ac.		X 11

\*See methodology, 75% water skiing A/O allocated to Greenway  
 NOTE: Estimated Water Surface in Acres:  
 Urban 968 acres  
 Rural 1,018 acres  
 Total 1,986 acres

TABLE 9

AVERAGE DAY USE ANALYSISYEAR 1980

<u>Activity</u>	<u>No. Activity Occasions</u>	<u>% Total A/O</u>	<u>Required Space</u>	<u>Existing Space</u>	<u>Estimated Overuse</u>
Non pool Swimming	170	7.3	341 Lin. Ft.		
Motor Boating	364	15.6	437 Ac.		
Float Boating	75	3.2	90 Ac.		
Water* Skiing	1,728	73.9	3,454 Ac.		
Total	2,337	100.0	3,981 Ac.	1,986 Ac.	X 1

YEAR 2000

Non pool Swimming	263	7.3	526 Lin. Ft.		
Motor Boating	562	15.6	674 Ac.		
Float Boating	116	<del>3.2</del>	139 Ac.		
Water* Skiing	2,266	73.9	5,332 Ac.		
Total	3,607	100.0	6,145 Ac.	1,986 Ac.	X 2

\* See methodology, 75% waterskiing a/o allocated to Greenway.

Willamette River Greenway, ODOT Use Counts

During the summer of 1979, the Oregon Department of Transportation, Parks and Recreation Branch, flew the Willamette River and recorded recreationalists by type.

This is the first data available in the County which reflects recreational use levels and indicates major use areas. Flights were made on both weekdays and weekends. Results are shown below.

## Average Weekend Boating Use:

<u>Total</u>	<u>Powerboats</u>	<u>Urban</u>	<u>Powerboats</u>	<u>Rural</u>	<u>Powerboats</u>
243.7	228.7	134.7	124.3	109	104.3

## Average Weekday Boating Use:

<u>Total</u>	<u>Powerboats</u>	<u>Urban</u>	<u>Powerboats</u>	<u>Rural</u>	<u>Powerboats</u>
59	49	36.5	28	22.5	21

These data suggest powerboat use is fairly evenly divided between the urban and rural portions of the river during the weekend while powerboat use is about 1/3 greater in the urban area during weekdays.

Willamette River Greenway, Port

Governor Atiyeh directed the Port of Portland to conduct an assessment of the Willamette and Columbia Rivers within the tri-county area. The purpose is to investigate conflicts between commercial and recreational traffic (present and projected) identify current and anticipated support facilities to recommend to him the appropriate course of action.

A study committee has been initiated, a scope of work formalized and preliminary projections completed. The Committee includes representatives from the Tri-Counties, City of Portland, Cities of Clackamas County and the State Marine Board.

The Metro Waterway Study is a coordinated regional approach to some of the more important issues facing use on the Willamette River.

Results from a telephone survey and preliminary boating projections indicate Clackamas County and cities abutting the river in the County can anticipate substantially more use of the river in the coming years. Per capita boat ownership in the County is highest in the region (82/1000 vs. 40/1000 average). In addition, the trend is for boaters to launch at the facility closest to their residence.



ISSUES

The following is a list of concerns, problems, and issues surrounding the Greenway. This list is not all inclusive.

1. Incompatible recreational activities competing for the same area. Specifically, swimming and float boating versus skiing and motor boating.
2. High recreational activity levels impacting the river's capacity, predominately in the urban area.
3. The need to maintain the character of the rural designated Greenway, even though recreational demands impact the entire Greenway.
4. Noise levels over water due to motor boats and ski boats in the urban and rural areas. In the urban area, jurisdictional boundaries make noise management strategies difficult to implement and/or administer.
5. Vandalism and trespassing on private property during periods of heavy recreation activity.
6. High acquisition costs of public access areas, either fee simple or scenic, conservation or access easements, and costs of maintenance of areas developed for access. Urban land costs versus rural land.
7. The need to protect the vegetative fringe along the entire length of the Greenway to buffer bankside uses, and avoid indiscriminate tree cutting.

8. Existing commercial barge and log operations on the river and avoiding unnecessary restrictions.
9. Maintenance of established agricultural activities in the rural area.
10. Development of coordinated land management scheme for County/ODOT Greenway parcels, consistent with use intensities appropriate for a given reach.
11. Protection of Heron Rookeries at Molalla River State Park and Clackamette Island.
12. Maintenance of in-stream water quality for potential municipal water sources.
13. The substantial number of private boat/ski docks from Molalla River State Park to Butteville.
14. Maintaining the purpose and intent of state Greenway program in areas impacted by bankside urbanization and/or encroachment and increasing population pressures.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of a Comprehensive  
Plan Map Change  
for Ron Sloy.

Applicant: Ron Sloy  
2685 Lexington Terrace  
West Linn, OR 97068

ORDER NO: 95-710

File No.: Z0256-95-CP

This matter coming regularly before the Board of County Commissioners, and it appearing that Ron Sloy made application for a comprehensive plan map change on property described as T3S, R1E, Section 2C, Tax Lot 1400, W.M., generally located off the south side of Pete's Mountain Road at the southwest junction of the Willamette River and the Tualatin River; West Linn area; and

It further appearing that planning staff, by its report dated April 18, 1995, has recommended denial of the application; and

It further appearing that the Planning Commission at its April 24, 1995, has recommended approval of the application; and

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners in the County Courthouse Annex at 906 Main Street, Oregon City, OR, on May 31 and June 21, 1995, in which testimony and evidence were presented, and that a preliminary decision was made by the Board on June 21, 1995;


Based upon the evidence and testimony presented, this Board makes the following findings:

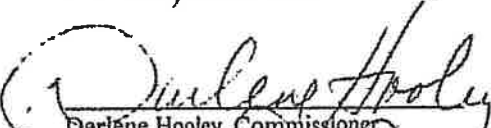
1. The applicant requests approval of a comprehensive plan amendment to change the Greenway Designation from "Limited Use" to "Multiple-Use".
2. There are no comprehensive plan goals or policies directly applicable
3. Given the topography and existing development in the immediate area, the requested change in designation is not inconsistent with Statewide Goal 15.

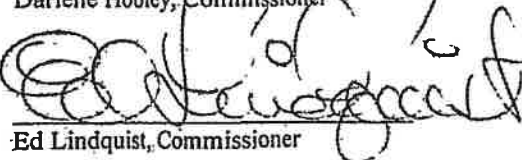
NOW, THEREFORE, IT IS HEREBY ORDERED that the requested Comprehensive plan amendment is approved.

DATED this 13<sup>th</sup> day of July, 1995.

BOARD OF COUNTY COMMISSIONERS

  
Judie Hammerstad, Chair

  
Darlene Hooley, Commissioner

  
Ed Lindquist, Commissioner

Page 99 of 100

Preapp Materials

# NOTICE OF ADOPTION

This form must be mailed to DLCD not later than 5 working days after adoption  
ORS 197.615 and OAR Chapter 660, Division 18

See reverse side for submittal requirements

Exhibit 5  
Page 100 of 168

Preapp Materials

Jurisdiction Clatsop Co Local File # 20256-95-CP

Date of Adoption July 13, 1995 Date Mailed \_\_\_\_\_

Date the Proposed Notice was mailed to DLCD May 3, 1995

- Comprehensive Plan Text Amendment
- Comprehensive Plan Map Amendment
- Land Use Regulation Amendment
- Zoning Map Amendment
- New Land Use Regulation

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

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Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice of the proposed amendment, write "N/A."

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Plan-Map Change From Limited Use to Multiple Use

Zone Map Change From \_\_\_\_\_ to \_\_\_\_\_

Location: Junction of I-5 and Willamette River Acres Involved: \_\_\_\_\_

Specify Density: Previous Density \_\_\_\_\_ New Density \_\_\_\_\_

Applicable Goals: 15 Was an Exception adopted? Yes  No

DLCD File # \_\_\_\_\_ DLCD Appeal Deadline \_\_\_\_\_

Exhibit 5  
Page 101 of 168

Preapp Materials

RON SLOY  
685 LEXINGTON TERRACE  
WEST LINN, OR 97068

FILE NO: Z0256-95-CP

HEARING DATES: MAY 31, 1995 & JUNE 21, 1995

MINUTES: NOT YET

BO SIGNED: JULY 13, 1995 #95-710

SENT TO PARTIES: JULY 26, 1995

RON SLOY  
685 LEXINGTON TERRACE  
WEST LINN, OR 97068

FRANK JOSSELSO  
JOSSELSO, POTTER & ROBERTS  
53 SW YAMHILL  
PORTLAND, OR 97204

PLANNING, CURRY  
COUNSEL  
FILE

## CLACKAMAS COUNTY BOARD OF COMMISSIONERS

LAND USE HEARING ACTIONS

June 21, 1995

9:30 a.m.

Clackamas County Courthouse Annex; 906 Main Street; Oregon City, OR 97045

Items will not begin before time noted. Interested parties may appear and be heard at the hearing at the above address. Applications may be inspected at, and calls or correspondence directed to, the Planning Division office at 902 Abernethy Road, Oregon City, OR 97045 (655-8521).

**BCC - Continued (Tolbert) for decision only to Sept. 6, 1995 at 9:30 a.m.:**

**9:30 AM:** File No. & Subject: Z1082-94-Z/Z1083-94-CP; Comprehensive Plan Amendment/Zone Change

Applicant: Lois and Jerry Tolbert

Proposal: Zoning map change from RRFF-5, Rural Residential Farm/Forest 5 Acre District to RC, Rural Commercial. The County will consider an exception to Statewide Planning Goal 14.

Location: Northwest corner of Stafford Rd. and Borland Rd.; Wankers Corner area.

Legal Description: T2S, R1E, Section 20D, Tax Lots 204, 500, W.M.

Zoning: RRFF-5; Rural Residential Farm/Forest 5 Acre District

**BCC - Approved (Sloy) for tax lot 1400 only:**

**10:30 AM:** File No. & Subject: Z0256-95-CP; Comprehensive Plan

Applicant: Ron Sloy

Proposal: Comprehensive Plan map change from "Limited Use" designation to "Multiple Use" designation for Water Classification Willamette River Greenway Design Plan.

Location: Off the south side of Pete's Mtn. Rd. at the southwest junction of the Willamette River and the Tualatin River; West Linn area.

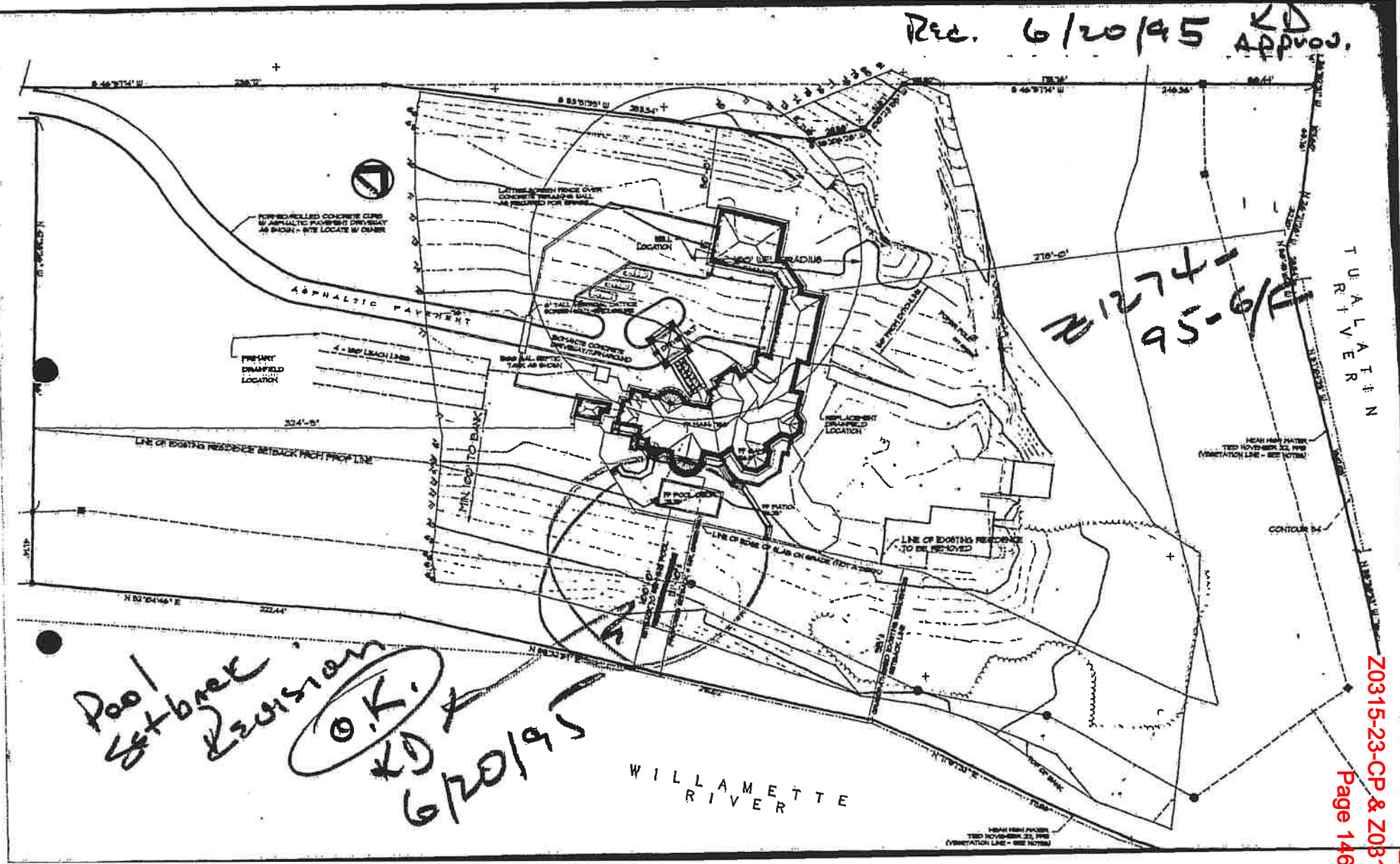
Legal Description: T3S, R1E, Section 2C, Tax Lot 1400, W.M.

Zoning: TBR, Timber District

0621/BCCagenda:eb

Updated 6/22/95

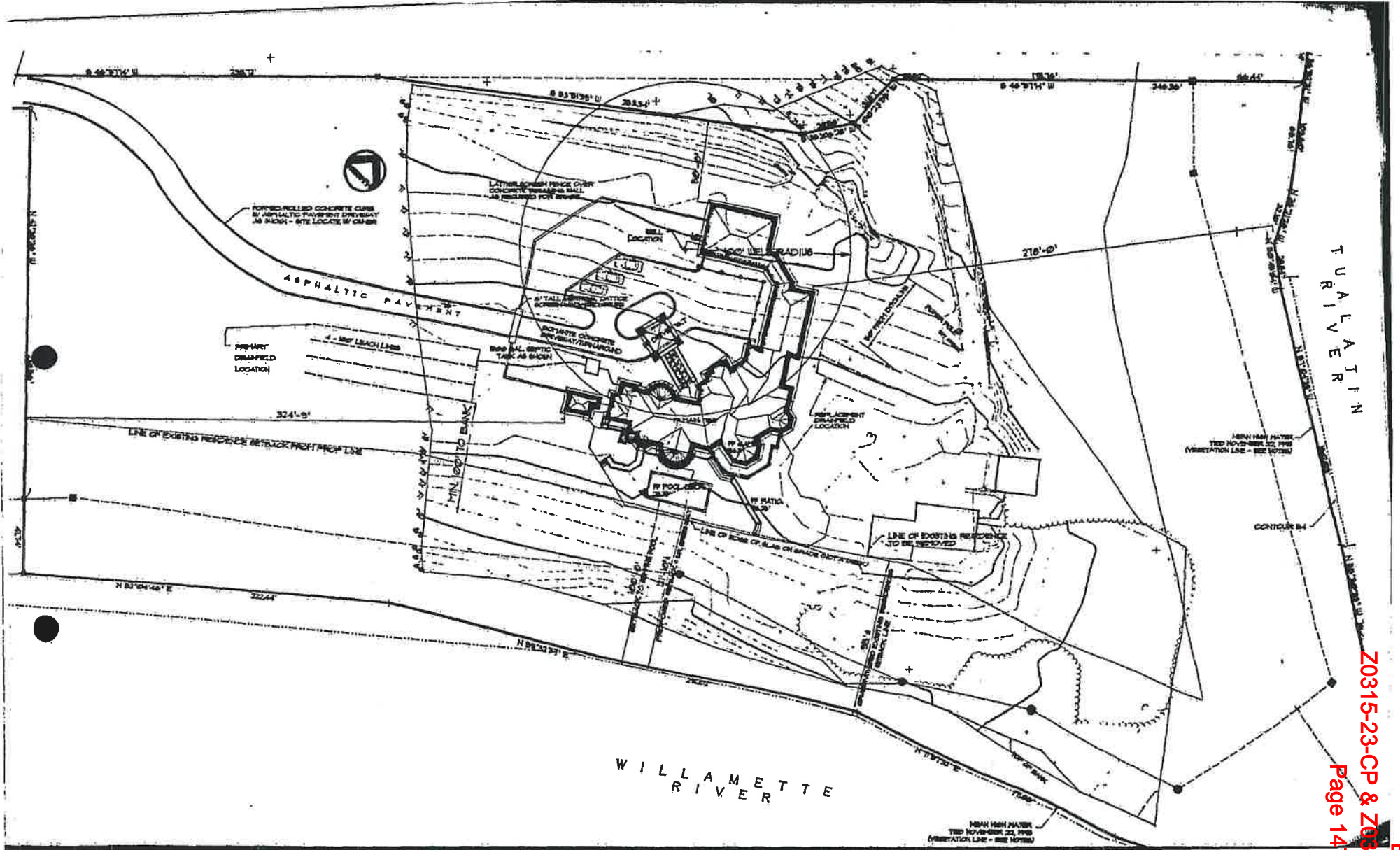
Rec. 6/20/95 KD APPROV.



Pool Set back Revision  
O.K.  
KD  
6/20/95

21274-95-6/A

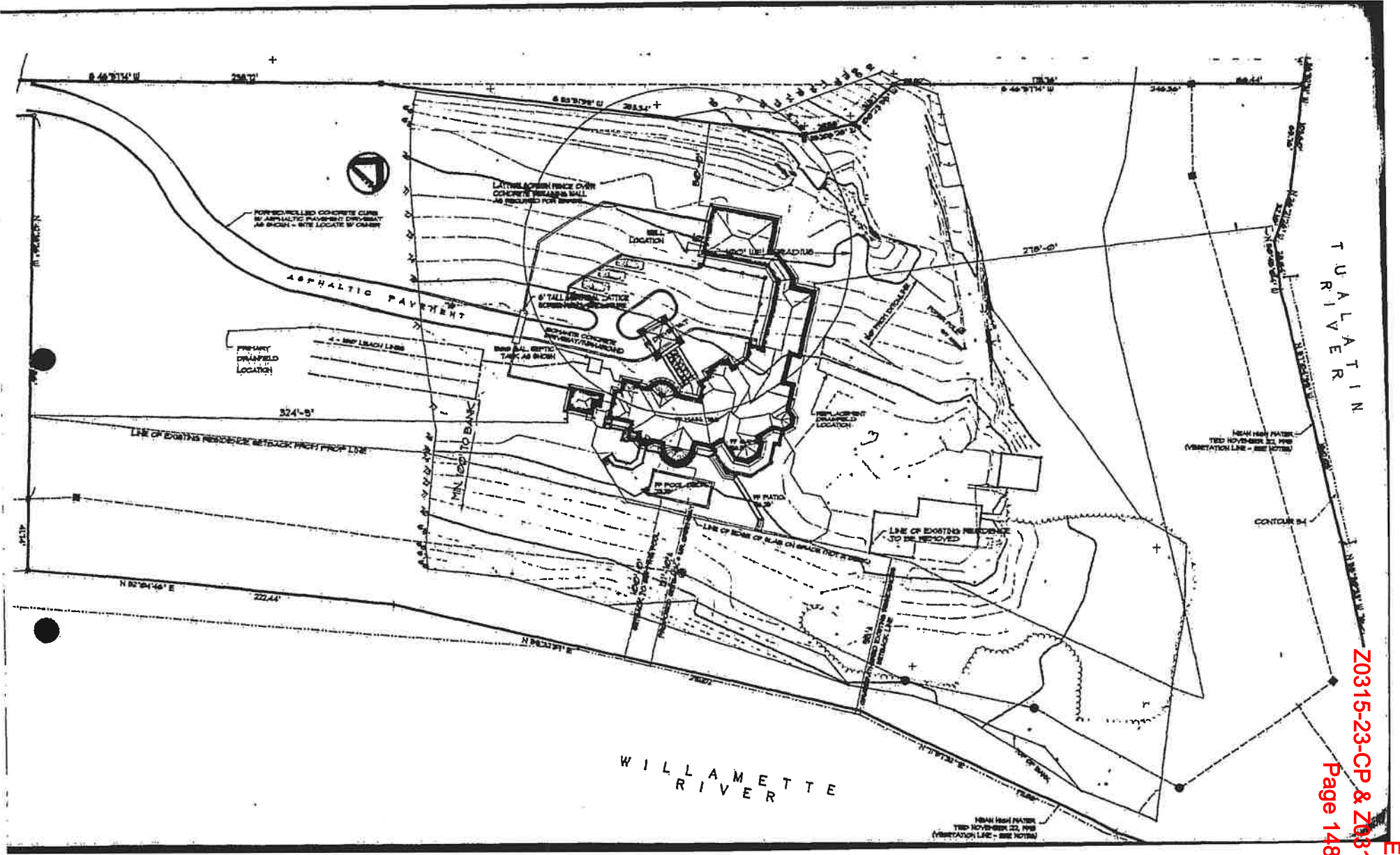
Z0315-23-CP & Z0316-23-R  
Page 146 of 256  
Exhibit 1



Z0315-23-CP & Z0316-23-R  
Page 147 of 256

Exhibit 1





Z0315-23-CP & Z0316-23-R  
Page 148 of 256  
Exhibit 1

## CLACKAMAS COUNTY BOARD OF COMMISSIONERS

LAND USE HEARING ACTIONS

May 31, 1995

9:30 a.m.

Clackamas County Courthouse Annex; 906 Main Street; Oregon City, OR 97045

Items will not begin before time noted. Interested parties may appear and be heard at the hearing at the above address. Applications may be inspected at, and calls or correspondence directed to, the Planning Division office at 902 Abernethy Road, Oregon City, OR 97045 (655-8521)

**BCC - Approved (Sheldon):**

File No. & Subject: Z0276-95-Z/Z0283-95-CP; Zone Change/Comprehensive Plan Amendment

Applicant: Carey Sheldon

Proposal: Zoning map change from R-20, Urban Low Density Residential to MR-2, Medium High Density Residential and Comprehensive Plan map change from Low Density Residential to Medium High Density Residential on part of tax lot 701. Zoning map change from MR-2, Medium High Density Residential to R-8.5, Urban Low Density Residential and Comprehensive Plan map change from Medium High Density Residential to Low Density Residential on part of tax lot 300.

Location: Off the south side of Sunnyside Rd., approximately 700 ft. west of 117th Ave. and across from 117th Ave; Sunnyside area.

Legal Description: T2S, R2E, Section 3AB, part of Tax Lots 701 and 300 W.M.

Zoning: R-20, Low Density Residential, 20,000-sq. ft. minimum lot size; MR-2, Medium High Density Residential

**BCC - Continued (Sloy) for testimony on field trip (to be conducted) and decision to June 21, 1995 at 10:30 a.m.:**

File No. & Subject: Z0256-95-CP; Comprehensive Plan

Applicant: Ron Sloy

Proposal: Comprehensive Plan map change from "Limited Use" designation to "Multiple Use" designation for Water Classification Willamette River Greenway Design Plan.

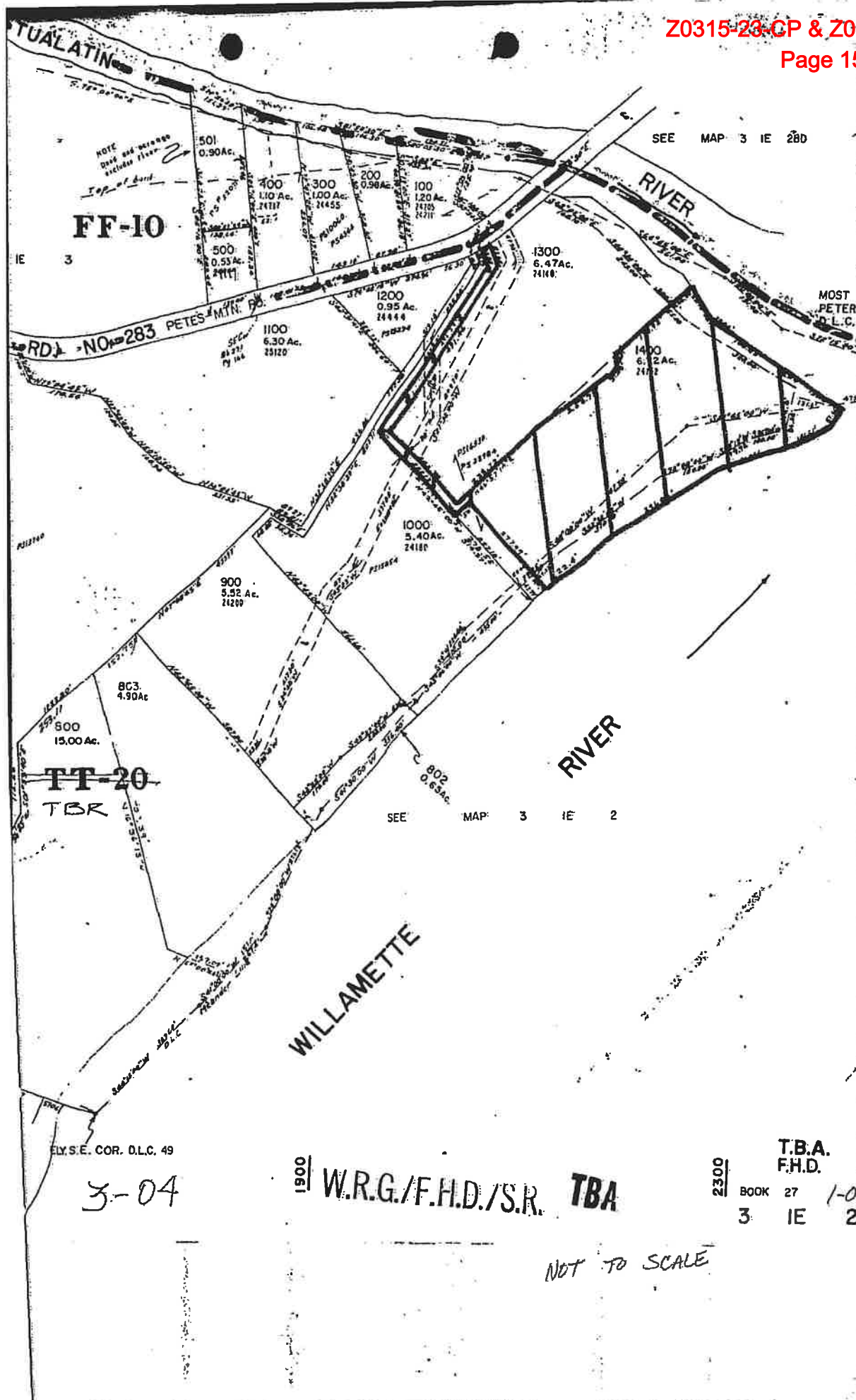
Location: Off the south side of Pete's Mtn. Rd. at the southwest junction of the Willamette River and the Tualatin River; West Linn area.

Legal Description: T3S, R1E, Section 2C, Tax Lot 1400, W.M.

Zoning: TBR, Timber District

0531/BCCagenda:eb

Updated 5/31/95



MAY 24 1995

Bill

BOARD OF COMMISSIONERS

Mr. Clair D. Silver  
25245 S. W. Pete's Mtn. Road  
West Linn, Oregon 97068

5/23/95

①

EX # 13

Clackamas County Board of Commissioners  
902 Abernathy Road  
Oregon City, Oregon 97045

Gentlemen:

I am a member of the Board of Directors of the Far West Clackamas County, Community Planning Organization

Reference is made to File No. 170256-95-CP, Comprehensive Plan, applicant Ron Hogg, application for a change of "Limited Use" designation to "Multiple-Use" designation for water classification Willamette River Greenway Design Plan.

Location off the south side of Pete's Mtn Rd at the SW junction of the Willamette River and the Tralated River, West Linn. Legal Description T3S, R1E, Section 2C, Taxlot 1400 W.M.  zoning TBR, Timber District.

Exhibit 5  
Page 108 of 168

Preapp Materials

Mr. Clair D. Silver  
25245 S. W. Pete's Mtn. Road  
West Linn, Oregon 97068

2.

As we have previously informed you, we (the CPD) have no objection to Mr. Sloy building a dock from his property, but we do object to the change of zoning for this area as we feel it will change the character of this area. We understand there will be a decision made in June and we respectfully urge you to deny this zoning change.

Thank you for your cooperation.

Sincerely

Clair D. Silver  
Board of Directors  
Farwest Clackamas  
County C.P.D.



# CLACKAMAS COUNTY

Department of Transportation &amp; Development

THOMAS J. VANDERZANDEN  
DIRECTOR

## SUMMARY

**FILE NO.:** Z0256-95-CP

**APPLICANT:** Ron Sloy

**PROPOSAL:** Comprehensive Plan map change from "Limited Use" designation to "Multiple Use" designation for Water Classification Willamette River Greenway Design Plan.

**STAFF RECOMMENDATION:** Denial

**CPO RECOMMENDATION:** None

**SIGNIFICANT ISSUES:** No criteria in Plan for applying, changing or removing water use classification. Recreational use of the river. LCDC Greenway Goal (Goal 15) appears to apply only to the land. Applicant contends the county has no authority to regulate docks. Character of the river and lands.

**PLANNING COMMISSION ACTION:** Recommend that the multiple use overlay of the Willamette be moved upstream to include the addition of only Tax Lots 803, 900, 1000 and 1400, T3S, R1E, Section 02C, W.M., on the west bank of the Willamette River. Property owners of the newly included tax lots shall be provided new notice. Additional property owner notice shall be provided, as per ZDO, prior to BCC hearing.

TC/BCCSUM/240595/sl



# CLACKAMAS COUNTY

Department of Transportation & Development

THOMAS J. VANDERZANDEN  
DIRECTOR

PLANNING COMMISSION  
MINUTES

April 24, 1995

7:30 PM

Conference Room A

(Amended)

IN ATTENDANCE

Planning Commission Members: Jo Shapland, Cindy Pease, Leonard Waldemar, Barbara Coles, Michael Lama and Will Newman.

Staff Representative: Terry Curry

Others: Approximately 15.

PUBLIC MEETING

Chair Merchant was absent. Vice-Chair Coles chaired the meeting.

Public meeting called to order at 7:37 PM.

PUBLIC HEARING ITEMS:

Z0176-95-I/A; Tolbert White. Appeal of a Planning Director's interpretation that Comprehensive Plan Policy 30.0(b) precludes access for a multifamily development via SE 91st Avenue, which is a local street serving a low density residential area.

- Terry Curry gave the staff report, identifying various concerns regarding the Planning Director's letter. Of particular concern was whether anything in the letter constituted an interpretation of the Comprehensive Plan.

The only area for interpretation appears to be in the second sentence of Policy 30.0(b). This sentence states, "Siting should not result in significant traffic increase on local streets serving Low Density Residential areas." While the Planning Director did not say this language applies to all development, that could be construed as the intent.

Staff recommendation was if the Planning Director's reference to Policy 30.0(b) constitutes an interpretation, the Planning Commission should uphold that interpretation.

- CM Newman question the location of the PC's copies of exhibits 1-7.
- Staff stated they had been contained in the packet provided to the PC at the 4/10/95 hearing.

## TESTIMONY IN SUPPORT OF THE REQUEST

- Bill Dickas, attorney for the appellant, presented the proposition that "siting" in Policy 30.0(b) means the placing of the zoning district and plan designation on the property.  
Asked if access via SE 91st was still a viable option.
- CM Newman asked who had said access to SE 92nd was not available.
- Mr. Dickas stated he had been told this by Doug McClain.
- CM Waldemar asked when SE 91st had been developed and when the zoning in the area changed.
- Staff did not know when development occurred, but stated the zoning had change in 1990 or 1991.
- CM Waldemar asked how many units would be developed.
- Mr. Dickas stated 34.
- Sue Paulke, realtor, provided testimony in support of the request.
- Wes Johns, developer, stated the house on SE 91st had been built in the early 1980's, in response to an earlier question.

## CPO TESTIMONY

- None

## TESTIMONY IN OPPOSITION

- Phyllis Flowers, resident on SE 91st, was concerned about safety (traffic related) and the fact there were no sidewalks on SE 91st.
- CM Newman asked if Ms. Flowers had asked about the road classification of SE 91st at the time the property was purchased.
- Ms. Flowers stated she had not, but there were single family homes there at the time and she knew more would be built.



- Tom Hall, resident on SE 91st, stated the real estate agent who sold him his home mentioned SE 91st would never be opened up.
- Vice-Chair Coles closed the public testimony portion of the public hearing.

#### PLANNING COMMISSION DISCUSSION:

- CM Newman stated he didn't see where the Planning Director had made an interpretation.
- CM Pease stated she thought the Planning Commission should hear from the Planning Director prior to making a decision.
- VC Coles stated the applicants just may need to go through design review to see what requirements will be made. If they are unhappy with the design review decision, they could file and appeal.

#### MOTION:

- CM Newman moved the PC find the letter dated February 9, 1995, to Tom Sisul, from Dominic Mancini, Planning Director, does not constitute an interpretation of the Comprehensive Plan and we recommend a refund of appeal fee of \$100, based on a lack of clarity in the final paragraph of that letter.
- CM Pease seconded the motion.
- CM Pease said she disagreed with the portion of the motion referring to lack of clarity.
- CM Newman stated the reference to a lack of clarity could be removed from the motion.
- CM Waldemar asked if the design review committee could restrict access.
- Staff commented design review had the authority to apply conditions and limit access.
- CM Pease indicated she felt strongly the proper vehicle and forum was the Design Review Committee.

#### VOTE

Motion: The letter dated February 9, 1995, to Tom Sisul, from Dominic Mancini, Planning Director, does not constitute an interpretation of the Comprehensive Plan and we recommend a refund of the appeal fee of \$100.

6-0 in support of the modified motion.

#### FURTHER DISCUSSION

- CM Pease recommended staff advise the Design Review Committee of the Planning Commission's concern over access to the subject property via SE 91st.
- CM Lama pointed out the concern was access via SE 91st versus SE 92nd.
- VC Coles state Design Review is a public forum.
- CM Lama asked if full plans are necessary.
- Staff; yes.
- General PC discussion on whether sites are looked at, particularly in terms of access, when a Plan classification is applied.
- Staff stated the designations have been made through the review of maps. In some cases a designation is made based on a particular site having frontage on a road. Typically, staff does not stand at a property's frontage and make a call on sight distance through a plan classification application process.
- CM Pease stated a concern over adopting a zone without reviewing the site.
- VC Coles stated the County is responsible for working with the CPO's. She would like to see the development community, people and the County compromise.

Asked staff to pass along the PC comments.

(This information was passed along to Dominic Mancini, Planning Director. The matter will be placed on the agenda of an upcoming staff meeting.)

Z0256-95-CP; Ron Sloy. Comprehensive Plan map change from "Limited Use" designation to "Multiple Use" designation for Water Classification Willamette River Greenway Design Plan.

- Terry Curry gave the staff presentation. This presentation focused on the following points:
  - Staff identified its position that this request is not consistent with LCDC Goal 15, based on the portions of the goal requiring the protection of natural qualities. Staff

did point out that based on the goal, the area of protection is the land along the Willamette River. This is a problem and raises a question about the applicability of Goal 15 to this request. Staff identified that all lands adjacent to the "limited use" water designation are either Agriculture or Forest designations on the Comprehensive Plan Land Use Map. Staff pointed out that the land designations by themselves cannot preserve the natural qualities of lands along the river. The zoning of the property, combined with the water designation, act together to satisfy the goal.

- Staff presented an aerial map collage showing the distribution of dock on the Willamette River relative to the water use designation.
- Relative levels of development in "limited", "multiple" and urban use areas.
- Responded to applicant's arguments on the level of development on the river in West Linn and the fact the county has adopted new standards for docks.
- Comprehensive Plan has no guidelines for the application of either the "limited use" or the "multiple use" designations.

Staff recommended the application be denied.

- ~~CM Waldemar stated the PC would be focusing on one of the Goal 15 issues there are several elements in Goal 15 which must be considered, not just the scenic element referred to in the staff report.~~

#### TESTIMONY IN SUPPORT OF THE APPLICATION

- Rick Givens, consultant for the applicant, discussed the desires and intent of person buying river front property; to build a home on the river and build a dock.

Stated Goal 15 refers to the land along the river, not the water.

Stated the Comprehensive Plan provides no guidelines for designating the water either "limited" or "multiple" use.

- Laurie Sloy, applicant, discussed their plans for the property, to include the construction of a dock. Said they had saved for years to purchase river front property.

The realtor involved in the sale to the Sloy's had talked to county staff regarding what was required to build a home and a dock. Staff said a dock could be done through a Greenway

Conditional Use Permit. No one ever mentioned the prohibition on docks for limited use areas.

- VC Coles asked when they bought the property.
- Ms. Sloy said December 1993.
- CM Newman asked who the realtor talked to.
- Ms. Sloy didn't know.
- Frank Josselson, attorney for the applicant, explained that the realtor, Polly Jones, had talked to the County and had been given assurances the only approvals they needed were from the US Army Corps of Engineers and Division of State Lands (Mr. Josselson stated had a letter from Ms. Jones stating these points, but did not have it with him).

Explained that the Sloy's had filed Greenway Conditional Use Permits for a residence and dock. The residence was approved, the dock denied.

- CM Newman stated she should have gotten a letter from staff.
- Mr. Josselson commented that would have been nice, but wouldn't have been a basis for granting a permit.
- VC Coles asked when the Greenway Conditional Use decisions were made.
- December, 1994 (Josselson).

Mr. Josselson went on to explain they were quite surprised by the staff recommendation on this proposed amendment. Stated he had every expectation of a favorable staff report based on his discussion with Doug McClain.

- Mr. Givens stated the applicant's architect had talked to staff regarding the dock and had been told it was okay under the standards of the ZDO.

Presented exhibits (aerial photographs) and pointed out docks on the river and the launching area to the north. Discussed the character of the east side of the river versus the west side. Explained the difference in character between the two and said the proposed change wouldn't be reason for allowing changes on the east side of the river.

- CM Newman explained his understanding of Mr. Givens' position.

CM Newman felt Mr. Givens argument would apply to the east side of the river.

- Mr. Givens stated areas to the north were within the cities of West Linn and Oregon City, areas the county does not regulate.

- VC Coles identified the property also abuts the Tualatin River. Questioned if that area could be used as a dock site.
- Mr. Givens said it could not; there are too many fluctuations in the character of the Tualatin (stream flow, water level, etc.).
- Mr. Josselson summarized Mr. Given' testimony.

Stated the county does not have the authority to regulate the use of the river.

Entered into a lengthy discussion of the Federal Constitution and states rights. For cities and counties to regulate, the authority must be delegated by the state.

Discussed ORS 390.310-390.368 (Willamette River Greenway).

- CM Newman asked if Mr. Josselson felt LCDC had the authority to regulate the river.
- Mr. Josselson stated they did not; LCDC Goal 15 (Willamette River Greenway) mirrors the statute.

The only approval needed for a dock is through the Corps of Engineers/Division of State Lands Joint Permit.

- CM Pease asked if an application for the dock had been filed with the Corps of Engineers.
- Mr. Josselson stated it had not.
- CM Pease said we don't know if the Corps would deny the request.
- CM Newman added, or the State.
- Mr. Josselson said DSL may think it is controlled by county ordinance.
- CM Pease said the first step should be with the Corps.
- Mr. Josselson reiterated the county had no jurisdiction over this matter.
- CM Newman asked, if the county has no right to address docks on submersible land, what are you asking us to do; how do we have the authority to change the water use designation.
- Mr. Josselson said the courts would not go to that basic legal issue. Asked the PC to approve based on the recreational nature of the application.

Focus on common sense.

- CM Shapland asked what concerns would be addressed by the Corps.
- Navigability (Josselson).
- CM Shapland asked where the property line was on the site plan.
- Mr. Josselson and Dan Smith, architect, explained the property line location.
- CM Newman asked if Mr. Josselson felt the application of the "limited use" designation constituted a taking.
- Mr. Josselson said it comes as close to Dolan as any he can think of.
- Ron Sloy, applicant, presented a history or their intent for development on the property.
- CM Shapland asked what they would do if the request for change was not approved.
- Mr. Sloy said he didn't know. He knows further appeals will take time. Has talked to Tammy Burness at DSL, who told him the longer he waits the less the likelihood of approval.
- CM Newman asked what they paid for the property.
- CM Lama said the cost of the property shouldn't be a concern of the PC.
- VC Coles said the cost of the property was not relative relevant.
- CM Newman agreed it was not relevant, but he brought it up because the applicant brought it up.
- Tom Monahan, neighbor, stated traffic on the river has increased. Much more recreational use than in the past.
- Mr. Josselson stated the Sloy's currently have the right to build a dock up to 200 square feet without review by any agency.
- Mr. Givens restated there were no criteria in the Plan for approval or denial of this request. Requested the PC look at their back up documents and treat this property the same as others.
- VC Coles closed the public testimony portion of the hearing.

PLANNING COMMISSION DISCUSSION

- CM Pease stated the PC could not address the property rights issue.

If an application for a dock had been reviewed and approved by the Corps she would feel better.

Can the county review a dock under nonconforming use standards.

- No (staff)
- CM Lama said County Counsel would have to respond to Mr. Josselson's concerns over the county's ability to regulate the water.
- VC Coles stated the PC can only do what it has the jurisdiction to do.
- CM Lama said approving the application seems like the right thing to do, but doesn't know how to get there.

Can the county initiate the change.

- Certainly (CM Pease).
- We could request information from County Counsel and the evaluate the situation (VC Coles).
- CM Newman had the following comments:
  - . When does a recreational area start degrading its own recreational value (response to comments regarding the high level of recreational use of the river);
  - Does not feel the county's refusal to issue permits for a dock constitutes a taking;
  - The county probably doesn't have the authority to regulate docks;
  - Government is supposed to operate by a set of laws. set-up laws and rules so we can live effectively with one another. Has a problem telling these people they can't have a dock when they checked before purchasing the property. He thinks it is the our (PC's/County's) responsibility to make it right. The applicant's asked county staff at many points in the process of buying, designing and applying for permits if they would be able to build a dock. Staff always answered yes until a permit was requested.

Citizens must be able to act upon responses from regulators.

If the regulators make errors, it is their responsibility to correct the error. The burden is not the citizen's after making all reasonable efforts.;

- The central theme is there are no rules;
- Has some ideas for a motion.
- CM Pease said in order to make a decision we need to hear from:
  - County Counsel. If the Corps approves a dock, who prevails. What does County Counsel think of this;
  - If there are criteria for justifying a change;
  - A definitive statement from DSL/Corps on who prevails.
- CM Lama said the PC could request County Counsel to listen to the tapes of Mr. Josselson's testimony and make a call.
- In discussing the location of the Rural versus Urban Greenway Boundary CM Waldemar stated the current location seemed reasonable.
- CM Newman said arguments can be made for alternate locations, but it doesn't make sense to have the line between "limited" and "multiple" use in the middle of the river.

#### MOTION

- CM Pease made a motion to table for decision after receipt of information from County Counsel and the Corps. Schedule for next regularly scheduled meeting after information received.

(motion died for lack of a second)

- CM Waldemar made the following motion:

Recommend that the multiple use overlay of the Willamette River be moved upstream to include the addition of only Tax Lots 803, 900, 1000 and 1400, T3S, R1E, Section 02C, W.M., on the west bank of the Willamette River. This would be moved to a more natural break between limited use and multiple use overlays.

This is to implement the recreational portion of the Willamette River Greenway Goal, Goal 15. This portion of the Willamette River is one of the most heavily recreationally used areas of the river.

Any dock constructed shall be subject to approval by DSL and Corps of Engineers and conform to Section 705 of the Clackamas County Zoning and Development Ordinance.



Proper notification shall be provided prior to the BCC hearing (this part of the motion was added after further discussion).

- CM Pease seconded the motion
- Has a problem extending the change of overlay to other properties without property owner notification.
- CM Waldemar said the motion could be modified to require proper notification.
- CM Pease withdrew her second.
- CM Shapland seconded the modified motion.
- A general discussion followed regarding the additional notification to property owners.
- CM Pease pointed out some property owners may not want the designation changed.
- CM Lama said that argument can be made before the BCC.
- CM Pease said she was uncomfortable and that she felt the PC may be setting a precedent.
- CM Waldemar added to his motion: All affected property owners are to be informed of the recommendation through property owner notification. Proper notification shall be provided prior to BCC hearing.

(Notification was provided as directed by the PC.)

#### VOTE

Motion: Recommend that the multiple use overlay of the Willamette River be moved upstream to include the addition of only Tax Lots 803, 900, 1000 and 1400, T3S, R1E, Section 02C, W.M., on the west bank of the Willamette River. This would be moved to a more natural break between limited use and multiple use overlays.

This is to implement the recreational portion of the Willamette River Greenway Goal, Goal 15. This portion of the Willamette River is one of the most heavily recreationally used areas of the river.

Any dock constructed shall be subject to approval by DSL and Corps of Engineers and conform to Section 705 of the Clackamas County Zoning and Development Ordinance.

Proper notification shall be provided prior to the BCC hearing.

Exhibit 5  
Page 122 of 168

Preapp Materials

6-0 in support of the motion.

VC Coles closed the public hearing and reopened the public meeting.

**MINUTES:**

Approval of minutes was postponed to the next meeting.

**ADJOURNMENT**

The Planning Commission public meeting was adjourned at 11:48 pm.

TC/m/pcmin100495/180595 (Amended)



# CLACKAMAS COUNTY

Department of Transportation & Development

THOMAS J. VANDERZANDEN  
DIRECTOR

## PLANNING COMMISSION MINUTES

April 24, 1995  
7:30 PM  
Conference Room A

### IN ATTENDANCE

Planning Commission Members: Jo Shapland, Cindy Pease, Leonard Waldemar, Barbara Coles, Michael Lama and Will Newman.

Staff Representative: Terry Curry

Others: Approximately 15

### PUBLIC MEETING

Chair Merchant was absent. Vice-Chair Coles chaired the meeting.

Public meeting called to order at 7:37 PM.

### PUBLIC HEARING ITEMS:

Z0176-95-I/A; Tolbert White. Appeal of a Planning Director's interpretation that Comprehensive Plan Policy 30.0(b) precludes access for a multifamily development via SE 91st Avenue, which is a local street serving a low density residential area.

- Terry Curry gave the staff report, identifying various concerns regarding the Planning Director's letter. Of particular concern was whether anything in the letter constituted an interpretation of the Comprehensive Plan.

The only area for interpretation appears to be in the second sentence of Policy 30.0(b). This sentence states, "Siting should not result in significant traffic increase on local streets serving Low Density Residential areas." While the Planning Director did not say this language applies to all development, that could be construed as the intent.

Staff recommendation was if the Planning Director's reference to Policy 30.0(b) constitutes an interpretation, the Planning Commission should uphold that interpretation.

- CM Newman question the location of the PC's copies of exhibits 1-7.
- Staff stated they had been contained in the packet provided to the PC at the 4/10/95 hearing.

#### TESTIMONY IN SUPPORT OF THE REQUEST

- Bill Dickas, attorney for the appellant, presented the proposition that "siting" in Policy 30.0(b) means the placing of the zoning district and plan designation on the property.  
Asked if access via SE 91st was still a viable option.
- CM Newman asked who had said access to SE 92nd was not available.
- Mr. Dickas stated he had been told this by Doug McClain.
- CM Waldemar asked when SE 91st had been developed and when the zoning in the area changed.
- Staff did not know when development occurred, but stated the zoning had change in 1990 or 1991.
- CM Waldemar asked how many units would be developed.
- Mr. Dickas stated 34.
- Sue Paulke, realtor, provided testimony in support of the request.
- Wes Johns, developer, stated the house on SE 91st had been built in the early 1980's, in response to an earlier question.

#### CPO TESTIMONY

- None

#### TESTIMONY IN OPPOSITION:

- Phyllis Flowers, resident on SE 91st, was concerned about safety (traffic related) and the fact there were no sidewalks on SE 91st.
- CM Newman asked if Ms. Flowers had asked about the road classification of SE 91st at the time the property was purchased.
- Ms. Flowers stated she had not, but there were single family homes there at the time and she knew more would be built.

- Tom Hall, resident on SE 91st, stated the real estate agent who sold him his home mentioned SE 91st would never be opened up.
- Vice-Chair Coles closed the public testimony portion of the public hearing.

#### PLANNING COMMISSION DISCUSSION

- CM Newman stated he didn't see where the Planning Director had made an interpretation.
- CM Pease stated she thought the Planning Commission should hear from the Planning Director prior to making a decision.
- VC Coles stated the applicants just may need to go through design review to see what requirements will be made. If they are unhappy with the design review decision, they could file and appeal.

#### MOTION

- CM Newman moved the PC find the letter dated February 9, 1995, to Tom Sisul, from Dominic Mancini, Planning Director, does not constitute an interpretation of the Comprehensive Plan and we recommend a refund of appeal fee of \$100, based on a lack of clarity in the final paragraph of that letter.
- CM Pease seconded the motion.
- CM Pease said she disagreed with the portion of the motion referring to lack of clarity.
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- Staff commented design review had the authority to apply conditions and limit access.
- CM Pease indicated she felt strongly the proper vehicle and forum was the Design Review Committee.

#### VOTE

6-0 in support of the modified motion.

#### FURTHER DISCUSSION

- CM Pease recommended staff advise the Design Review Committee of the Planning Commission's concern over access to the subject property via SE 91st.
- CM Lama pointed out the concern was access via SE 91st versus SE 92nd.
- VC Coles state Design Review is a public forum.
- CM Lama asked if full plans are necessary.
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Asked staff to pass along the PC comments.

Z0256-95-CP; Ron Sloy. Comprehensive Plan map change from "Limited Use" designation to "Multiple Use" designation for Water Classification Willamette River Greenway Design Plan.

- Terry Curry gave the staff presentation. This presentation focused on the following points:
  - Staff identified its position that this request is not consistent with ECDC Goal 15, based on the portions of the goal requiring the protection of natural qualities. Staff did point out that based on the goal, the area of protection is the land along the Willamette River. This is a problem and raises a question about the applicability of Goal 15 to this request. Staff identified that all lands adjacent to the "limited use" water designation are either Agriculture or Forest designations on the Comprehensive Plan Land Use Map. Staff pointed out that the land designations by themselves cannot preserve the natural qualities of lands along the river. The zoning of the

property, combined with the water designation, act together to satisfy the goal.

- Staff presented an aerial map collage showing the distribution of dock on the Willamette River relative to the water use designation.
- Relative levels of development in "limited", "multiple" and urban use areas.
- Responded to applicant's arguments on the level of development on the river in West Linn and the fact the county has adopted new standards for docks.
- Comprehensive Plan has no guidelines for the application of either the "limited use" or the "multiple use" designations.

Staff recommended the application be denied.

- CM Waldemar stated the PC would be focusing on one of the Goal 15 issues.

#### TESTIMONY IN SUPPORT OF THE APPLICATION

- Rick Givens, consultant for the applicant, discussed the desires and intent of person buying river front property; to build a home on the river and build a dock.

Stated Goal 15 refers to the land along the river, not the water.

Stated the Comprehensive Plan provides no guidelines for designating the water either "limited" or "multiple" use.

- Laurie Sloy, applicant, discussed their plans for the property, to include the construction of a dock. Said they had saved for years to purchase river front property.
- The realtor involved in the sale to the Sloy's had talked to county staff regarding what was required to build a home and a dock. Staff said a dock could be done through a Greenway Conditional Use Permit. No one ever mentioned the prohibition on docks for limited use areas.
- VC Coles asked when they bought the property.
- Ms. Sloy said December 1993.
- CM Newman asked who the realtor talked to.
- Ms. Sloy didn't know.

- Frank Josselson, attorney for the applicant, explained that the realtor, Polly Jones, had talked to the County and had been given assurances the only approvals they needed were from the US Army Corps of Engineers and Division of State Lands. (Mr. Josselson stated had a letter from Ms. Jones stating these points, but did not have it with him.

Explained that the Sloy's had filed Greenway Conditional Use Permits for a residence and dock. The residence was approved, the dock denied.

- CM Newman stated she should have gotten a letter from staff.
- Mr. Josselson commented that would have been nice, but wouldn't have been a basis for granting a permit.
- VC Coles asked when the Greenway Conditional Use decisions were made.
- December, 1994 (Josselson).

Mr. Josselson went on to explain they were quite surprised by the staff recommendation on this proposed amendment. Stated he had every expectation of a favorable staff report based on his discussion with Doug McClain.

- Mr. Givens stated the applicant's architect had talked to staff regarding the dock and had been told it was okay under the standards of the ZDO.

Presented exhibits (aerial photographs) and pointed out docks on the river and the launching area to the north. Discussed the character of the east side of the river versus the west side. Explained the difference in character between the two and said the proposed change wouldn't be reason for allowing changes on the east side of the river.

- CM Newman explained his understanding of Mr. Givens' position. CM Newman felt Mr. Givens argument would apply to the east side of the river.
- Mr. Givens stated areas to the north were within the cities of West Linn and Oregon City, areas the county does not regulate.
- VC Coles identified the property also abuts the Tualatin River. Questioned if that area could be used as a dock site.
- Mr. Givens said it could not; there are too many fluctuations in the character of the Tualatin (stream flow, water level, etc.).
- Mr. Josselson summarized Mr. Given' testimony.



Stated the county does not have the authority to regulate the use of the river.

Entered into a lengthy discussion of the Federal Constitution and states rights. For cities and counties to regulate, the authority must be delegated by the state.

Discussed ORS 390.310-390.368 (Willamette River Greenway).

- CM Newman asked if Mr. Josselson felt LCDC had the authority to regulate the river.
- Mr. Josselson stated they did not; LCDC Goal 15 (Willamette River Greenway) mirrors the statute.

The only approval needed for a dock is through the Corps of Engineers/Division of State Lands Joint Permit.

- CM Pease asked if an application for the dock had been filed with the Corps of Engineers.
  - Mr. Josselson stated it had not.
  - CM Pease said we don't know if the Corps would deny the request.
  - CM Newman added, or the State.
  - Mr. Josselson said DSL may think it is controlled by county ordinance.
  - CM Pease said the first step should be with the Corps.
  - Mr. Josselson reiterated the county had no jurisdiction over this matter.
  - CM Newman asked, if the county has no right to address docks on submersible land, what are you asking us to do; how do we have the authority to change the water use designation.
  - Mr. Josselson said the courts would not go to that basic legal issue. Asked the PC to approve based on the recreational nature of the application.
- Focus on common sense.
- CM Shapland asked what concerns would be addressed by the Corps.
  - Navigability (Josselson).
  - CM Shapland asked where the property line was on the site plan.

- Mr. Josselson and Dan Smith, architect, explained the property line location.
- CM Newman asked if Mr. Josselson felt the application of the "limited use" designation constituted a taking.
- Mr. Josselson said it comes as close to Dolan as any he can think of.
- Ron Sloy, applicant, presented a history or their intent for development on the property.
- CM Shapland asked what they would do if the request for change was not approved.
- Mr. Sloy said he didn't know. He knows further appeals will take time. Has talked to Tammy Burness at DSL, who told him the longer he waits the less the likelihood of approval.
- CM Newman asked what they paid for the property.
- CM Lama said the cost of the property shouldn't be a concern of the PC.
- VC Coles said the cost of the property was not relative.
- Tom Monahan, neighbor, stated traffic on the river has increased. Much more recreational use than in the past.
- Mr. Josselson stated the Sloy's currently have the right to build a dock up to 200 square feet without review by any agency.
- Mr. Givens restated there were no criteria in the Plan for approval or denial of this request. Requested the PC look at their back up documents and treat this property the same as others.
- VC Coles closed the public testimony portion of the hearing.

#### PLANNING COMMISSION DISCUSSION

- CM Pease stated the PC could not address the property rights issue.

If an application for a dock had been reviewed and approved by the Corps she would feel better.

Can the county review a dock under nonconforming use standards.

- No (staff)

- CM Lama said County Counsel would have to respond to Mr. Josselson's concerns over the county's ability to regulate the water.
- VC Coles stated the PC can only do what it has the jurisdiction to do.
- CM Lama said approving the application seems like the right thing to do, but doesn't know how to get there.

Can the county initiate the change.

- Certainly (CM Pease).
- We could request information from County Counsel and the evaluate the situation (VC Coles).
- CM Newman had the following comments:
  - When does a recreational area start degrading its own recreational value (response to comments regarding the high level of recreational use of the river);
  - Does not feel the county's refusal to issue permits for a dock constitutes a taking;
  - The county probably doesn't have the authority to regulate docks;
  - Government is supposed to set up laws and rules so we can live effectively with one another. Has a problem telling these people they can't have a dock when they checked before purchasing the property. He thinks it is the our (PC's/County's) responsibility to make it right;
  - The central theme is there are no rules;
  - Has some ideas for a motion.
- CM Pease said in order to make a decision we need to hear from:
  - County Counsel. If the Corps approves a dock, who prevails. What does County Counsel think of this;
  - If there are criteria for justifying a change;
  - A definitive statement from DSL/Corps on who prevails.
- CM Lama said the PC could request County Counsel to listen to the tapes of Mr. Josselson's testimony and make a call.
- In discussing the location of the Rural versus Urban Greenway Boundary CM Waldemar seemed reasonable.

- CM Newman said arguments can be made for alternate locations, but it doesn't make sense to have the line between "limited" and "multiple" use in the middle of the river.

## MOTION.

- CM Pease made a motion to table for decision after receipt of information from County Counsel and the Corps. Schedule for next regularly scheduled meeting after information received.

(motion died for lack of a second):

- CM Waldemar made the following motion:

Recommend that the multiple use overlay of the Willamette River be moved upstream to include the addition of only Tax Lots 803, 900, 1000 and 1400, T3S, R1E, Section 02C, W.M., on the west bank of the Willamette River. This would be moved to a more natural break between limited use and multiple use overlays.

This is to implement the recreational portion of the Willamette River Greenway Goal, Goal 15. This portion of the Willamette River is on of the most heavily recreationally used areas of the river.

Any dock constructed shall be subject to approval by DSL and Corps of Engineers and conform to Section 705 of the Clackamas County Zoning and Development Ordinance.

Proper notification shall be provided prior to the BCC hearing (this part of the motion was added after further discussion).

- CM Pease seconded the motion
- Has a problem extending the change of overlay to other properties without property owner notification.
- CM Waldemar said the motion could be modified to require proper notification.
- CM Pease withdrew her second.
- CM Shapland seconded the modified motion.
- A general discussion followed regarding the additional notification to property owners.
- CM Pease pointed out some property owners may not want the designation changed.
- CM Lama said that argument can be made before the BCC.

- CM Pease said she was uncomfortable and that she felt the PC may be setting a precedent.
- CM Waldemar added to his motion: All affected property owners are to be informed of the recommendation through property owner notification. Proper notification shall be provided prior to BCC hearing.

VOTE

6-0 in support of the motion.

VC Coles closed the public hearing and reopened the public meeting.

MINUTES

Approval of minutes was postponed to the next meeting.

ADJOURNMENT

The Planning Commission public meeting was adjourned at 11:48 pm.

TC/m/pcmin100495/180595



# CLACKAMAS COUNTY

Department of Transportation & Development

THOMAS J. VANDERZANDEN  
DIRECTOR

NAME: Ron Sloy  
 FILE NO.: Z0256-95-CP  
 REPORT AUTHOR: Terry Curry  
 HEARING DATE: Planning Commission: April 24, 1995  
 Board of County Commissioners: May 3, 1995  
 REPORT DATE: April 18, 1995

STAFF REPORT AND RECOMMENDATION  
TO THE PLANNING COMMISSION

FACTS

GENERAL INFORMATION

Applicant: Ron Sloy

Owner: Same

Proposal: Comprehensive Plan map change from "Limited Use" designation to "Multiple Use" designation for the Water Classification Willamette River Greenway Design Plan.

Location: Off the south side of Pete's Mountain Road at the southwest junction of the Willamette River and the Tualatin River; West Linn area.

Legal Description: T3S, R1E, Section 2C, Tax Lot 1400, W.M.

Zone: TBR, Timber District

Comprehensive Plan Designation: Forest

RECOMMENDATION

Denial

CONCLUSIONS

In reviewing this application and the Comprehensive Plan (CCCP), staff has come to the conclusion the CCCP gives no specific

guidance on the application of either the Multiple Use or Limited Use water designations. This conclusion is apparently shared by the applicant, who provides the following statement: "No policies or criteria are provided in the Comprehensive Plan to justify the application of these designations to specific stretches of the River." Staff has reviewed the policies dealing with River and Stream Corridors, Principal River Conservation Areas and the Willamette River Design Plan and Policies. While all of these policies apply to the Willamette River, none give guidance regarding the application of the Multiple Use or Limited Use water designations.

There are, however, other documents which may be used to consider this request. Pages 197 through 203 of the CCCP, within the appendix, lists a summary of supporting documents. This list, and the documents, are part of the acknowledged Plan. One of these documents, Planning Background Report, Rivers, can be used in this review.

Another document staff will use in this review is the Statewide Planning Goals and Guidelines. Of particular concern in this application is Goal 15, Willamette River Greenway.

These documents are addressed as follows:

1. Statewide Planning Goals and Guidelines. Statewide Planning Goal 15 deals specifically with the Willamette River Greenway. This goal reads, "To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of land along the Willamette River as the Willamette River Greenway."

Staff will offer an argument that the "Limited Use" designation is consistent with the portions of this goal requiring protection of natural qualities. The Limited Use designation has generally been applied to those areas of the rural portion of the Willamette River Greenway which has experienced a lower level of both land and water development than other areas of the rural portion of the Willamette River Greenway. All of the land adjacent to the Limited Use designation is identified as either Agriculture or Forest on the Clackamas County Land Use Plan Map (see exhibit #6). This designation alone will limit the level of development which can occur in these areas. However, the land designation cannot, by itself, preserve the natural qualities of lands along the river. The majority of lands adjacent to the Multiple Use designation are also within an Agriculture or Forest Plan designation.

The zoning, combined with the water designation of either "Limited" or "Multiple" use, act together to satisfy this portion of the Statewide Planning Goal. A review of aerial photographs of the entire rural portion of the Willamette River demonstrates Clackamas County did not indiscriminately

apply this designation (see exhibit #7). The Limited Use designation has been applied to those areas which have generally experienced a much lower level of development than those areas designated Multiple Use.

Staff will find the retention of the Limited Use designation for the area under consideration through this application is consistent with Land Conservation and Development Commission (LCDC) Goal 15. Given the limited amount of on water development on this portion of the rural Willamette River Greenway, staff will find approval of this request would bring about the potential for development which is not consistent with LCDC Goal 15.

2. Planning Background Report, Rivers. As previously stated, this document is a supportive document of the CCCP and has been acknowledged as part of the Plan. Pages 11 through 26 of this document discuss the Willamette River. Pages 27 through 47 discuss the Willamette River Greenway (pages 11-47 of this document are identified as exhibit #8).

The applicant has identified the improvement of boat launching and parking facilities at Willamette Park, in West Linn, as having changed the character of this section of the river. Staff cannot accept this argument. Willamette Park is located within the Urban Willamette River Greenway. The types and level of uses allowed within urban Greenway areas are different than those allowed within the rural Greenway. The rural Greenway uses are purposely less intensive than those in the urban Greenway. Staff does not believe development in an urban area, when it is permitted development, should be considered when determining uses in adjacent or nearby rural areas. This situation is similar to dealing with urban growth boundaries. It is not uncommon with rural cities to have development adjacent to rural or natural resource areas outside the growth boundary. The urban level development is not a factor when determining what uses can be allowed outside the boundary. The distinction between urban and rural greenways is discussed on page 28 of the Rivers background report. It should be further noted that the presence of a boat launching area within or nearby a Limited Use area was not a determining factor in the application of that designation. Greenway access points are identified in Table 7, on page 35 of the background report. The access point and launching ramp at Molalla River State Park are listed. This area is within the Limited Use designation.

It is clear to staff that the use of the land, while a consideration, is not the determining factor in applying the Limited Use designation; the intensity of improvements on the water does appear to be a stronger factor. As previously stated, and demonstrated on exhibit #7, Limited Use areas generally have a lower intensity of on water improvements.



In its closing statement, the applicant's submittal identifies factors they believe justify the approval of this application. Staff will identify and respond to these factors as follows:

1. The character of use of this section of the river changed dramatically with improvements to the boat launch and parking facilities at Willamette Park.

Staff has discussed this matter above. If the level of on water development had increased within the Limited Use area of the river, consideration should be given. However, this increase is not only outside the Limited Use designation, it is also outside the Rural portion of the Greenway.

Staff does not find this argument to be persuasive.

2. The County has adopted standards for the construction of rural private docks which will ensure that the visual impact of the proposed dock is minimal.

Staff could accept this argument if the Plan and ordinances had made some provision for private docks in Limited Use areas. Prior to the amendments even small "environmentally sensitive" docks were prohibited in the Limited Use area. They still are. Staff cannot find the establishment of any dock on the river would be consistent with protecting the natural qualities of the lands along the river.

Staff finds this factor is not a factor. The visual impact of a dock at this site should not be considered since no proposal to delete the language prohibiting private docks in Limited Use areas has been proposed. Without a change in this language, the positive or negative impacts of a private dock at this location is not an issue to be considered in changing the Limited Use designation.

Staff will find this request is not consistent with LCDC Goal 15, since it would not result in the protection of natural the qualities of lands along the Willamette River.

Staff will further find the applicant has not provided compelling arguments as to why the designation should be changed from "Limited Use" to "Multiple Use".

#### EXHIBITS

1. To Scale Site Plan
2. Reduced Site Plan
3. State of Oregon, Division of State Lands comments

4. Tualatin Valley Fire and Rescue comments
5. State of Oregon, Department of Land Conservation and Development comments
6. Clackamas County Nonurban Area Land Use Plan Map
7. Aerial photograph collage
8. Pages 11 through 47 of Planning Background Report, Rivers
9. LCDC Goal 15.
10. Willamette River Greenway Design Plan, Map III-1e
11. *Aerial - story res.  
June 14, 1963*
12. *Aug 24, 1994 aerial of story prep  
plan*
13. *Mr. Silver Letter*
14. *POLLY JONES LETTER*

TC/r/z0256-95/200495

EX#9  
2025095

## GOAL 15: WILLAMETTE RIVER GREENWAY

To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River, as the Willamette River Greenway.

### A. GENERAL

1. The qualities of the Willamette River Greenway shall be protected, conserved, enhanced and maintained consistent with the lawful uses present on December 6, 1975. Intensification of uses, changes in use or developments may be permitted after this date only when they are consistent with the Willamette Greenway Statute, this goal, the interim goals in ORS 215.515(1) and the statewide planning goals, as the case may be, and when such changes have been approved as provided in the Preliminary Greenway Plan or similar provisions in the completed plan as appropriate.

2. The Willamette Greenway Program shall be composed of cooperative local and state government plans for the protection, conservation, enhancement and maintenance of the Greenway, and of implementation measures including management through ordinances, rules, regulations, permits, grants as well as acquisition and development of property, etc. It shall also become a part of all other local and state plans and programs within and near the Greenway.

3. The Greenway Program shall include:

- a. Boundaries within which special Greenway considerations shall be taken into account;
- b. Management of uses on lands within and near the Greenway to maintain the qualities of the Greenway;
- c. Acquisition of lands or interests in lands from a donor or willing seller or as otherwise provided by law in areas where the public's need can be met by public ownership.

### B. INVENTORIES AND DATA

Information and data shall be collected to determine the nature and extent of the resources, uses and rights associated directly with the Willamette River Greenway. These inventories are for the purpose of determining which lands are suitable or necessary for inclusion within the Willamette River Greenway Boundaries and to develop the plans and management and acquisition programs.

Each of the following items shall be inventoried<sup>1</sup> as it relates to the Greenway objectives:

1. All agricultural lands as provided in Goal 3. This includes all land currently in farm use as defined in ORS Chapter 215.203(2);
2. All current aggregate excavation and processing sites, and all known extractable aggregate sources;
3. All current public recreation sites, including public access points to the river and hunting and fishing areas;
4. Historical and archaeological sites;
5. Timber resources;
6. Significant natural and scenic areas, and vegetative cover;
7. Fish and wildlife habitats;
8. Areas of annual flooding and flood plains;
9. Land currently committed to industrial, commercial and residential uses;
10. The ownership of property, including riparian rights;
11. Hydrological conditions;
12. Ecologically fragile areas;
13. Recreational needs as set forth in Goal 8;
14. Other uses of land and water in or near the Greenway;
15. Acquisition areas which include the identification of areas suitable for protection or preservation through public acquisition of lands or an interest in land. Such acquisition areas shall include the following:

<sup>1</sup> When information on such items is not available through previous studies, information will be maintained by the agencies for those portions of the plan for which they are responsible. This requirement shall not limit units of government from collecting information on other items.

- a. Areas which may suitably be protected by scenic easements;
- b. Scenic and recreational land for exclusive use of the public;
- c. Sites for the preservation and restoration of historic places;
- d. Public access corridors;
- e. Public parks;
- f. Ecologically fragile areas; and
- g. Other areas which are desirable for public acquisition may also be identified if the reasons for public acquisition for the Greenway are also identified.

### C. CONSIDERATIONS AND REQUIREMENTS

The Oregon Department of Transportation (DOT) Greenway Plan, the portions of each city and county comprehensive plan within the Greenway, and the portions of plans and programs and implementation measures of all special districts, state and federal agencies within the Greenway shall be based on the following factors:

#### 1. General Considerations and Requirements

- a. Statutory requirements in ORS Chapter 390.010 to 390.220 and in ORS Chapter 390.310 to 390.368;
- b. City, county and regional comprehensive plans adopted pursuant to ORS Chapter 197 for jurisdictions along the river;
- c. Statewide planning goals and guidelines adopted pursuant to ORS Chapter 197 by LCDC;
- d. Interim goals set forth in ORS Chapter 215.515(1).

#### 2. Boundary Considerations and Requirements<sup>1</sup>

The temporary and preliminary Greenway boundaries shall be reviewed as to their appropriateness and refined as needed based on the information contained in the inventories. The refined boundaries shall include such lands along the

<sup>1</sup> See ORS Chapter 390.318(1) for specific statutory language. "There shall be included within the boundaries of the Willamette River Greenway all lands situated within 150 feet from the ordinary low water line on each side of each channel of the Willamette River and such other lands along the Willamette River as the department and units of local government consider necessary for the development of such Greenway; however, the total area included within the boundaries of such Greenway shall not exceed, on the average, 320 acres per river mile along the Willamette River, however, for the purpose of computing the maximum acreage of lands within such Greenway, the acreage of lands situated on such islands and within state parks and recreation areas shall be excluded."

Willamette River as are necessary to carry out the purpose and intent of the Willamette River Greenway through a coordinated management and acquisition program.

Within farm areas, consideration shall be given to the ability of agricultural land adjacent to the Willamette River Greenway to enhance and protect the Greenway.

**3. Use, Management Considerations and Requirements.** Plans and implementation measures shall provide for the following:

- a. **Agricultural lands** -- The agricultural lands identified in the inventory shall be preserved and maintained as provided in Goal 3 as an effective means to carry out the purposes of the Greenway including those agricultural lands near the Greenway. Lands devoted to farm use which are not located in an exclusive farm use zone shall be allowed to continue in such farm use without restriction as provided in ORS 390.314(2)(c), ORS 390.332(4) and ORS 390.334(2);

#### b. Recreation --

- (1) Local, regional and state recreational needs shall be provided for consistent with the carrying capacity of the land;
- (2) Zoning provisions shall allow recreational uses on lands to the extent that such use would not substantially interfere with the long-term capacity of the land for farm use as defined in ORS 215.203;
- (3) The possibility that public recreation use might disturb adjacent property shall be considered and minimized to the greatest extent practicable;
- (4) The public parks established by section 8a of Chapter 558, 1973 Oregon Laws, shall be set forth in Oregon Laws; shall be set forth on the appropriate comprehensive plans and zoning established which will permit their development, use and maintenance;

- c. **Access** -- Adequate public access to the river shall be provided for, with emphasis on urban and urbanizable areas;

- d. **Fish and wildlife habitat** -- Significant fish and wildlife habitats shall be protected;
- e. **Scenic qualities and views** -- identified scenic qualities and viewpoints shall be preserved;
- f. **Protection and safety** -- The Willamette River Greenway Program shall provide for the maintenance of public safety and protection of public and private property, especially from vandalism and trespass in both rural and urban areas to the maximum extent practicable;
- g. **Vegetative fringe** -- The natural vegetative fringe along the River shall be enhanced and protected to the maximum extent practicable;
- h. **Timber resource** -- The partial harvest of timber shall be permitted beyond the vegetative fringes in areas not covered by a scenic easement when the harvest is consistent with an approved plan under the Forest Practices Act, or, if not covered by the Forest Practices Act, then with an approved plan under the Greenway compatibility review provisions. Such plan shall insure that the natural scenic qualities of the Greenway will be maintained to the greatest extent practicable or restored within a brief period of time;
- i. **Aggregate extraction** -- Extraction of known aggregate deposits may be permitted when compatible with the purposes of the Willamette River Greenway and when economically feasible, subject to compliance with ORS 541.605 to 541.695; ORS 517.750 to 517.900 and subject to compliance with local regulations designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, streamflow, visual quality, noise, safety and to guarantee necessary reclamation;
- j. **Development away from river** -- Developments shall be directed away from the river to the greatest possible degree; provided, however, lands committed to urban uses within the Greenway shall be permitted to continue as urban uses, including port, industrial, commercial and residential uses, uses pertaining to navigational requirements, water and land access needs and related facilities;
- k. **Greenway setback** -- A setback line will be established to keep structures separated from the river in order to protect, maintain preserve and enhance the natural, scenic, historic and

recreational qualities of the Willamette Greenway, as identified in the Greenway Inventories. The setback line shall not apply to water-related or water-dependent uses.

#### 4. Areas to be Acquired -- Considerations and Requirements

Areas to be acquired must:

- a. Have potential to serve the purposes of the Greenway;
- b. To the maximum extent practicable, be consistent with non-interference or non-interruption of farm uses as defined in ORS Chapter 215.203(2);
- c. Be suitable for permitting the enforcement of existing statutes relating to trespass and vandalism along the Greenway, and be suitable for allowing maintenance of the lands or interests acquired.

#### D. DOT GREENWAY PLAN

The DOT will prepare and keep current, through appropriate revisions, a Greenway Plan setting forth the state interests in the Greenway. The plan will show:

- 1. The boundaries of the Willamette River Greenway;
- 2. The boundaries of the areas in which interests in property may be acquired. These shall be depicted clearly on maps or photographs together with the nature of the acquisition such as fee title or scenic easement; the general public purposes of each such area, and the conditions under which such acquisition may occur.
- 3. Use Intensity Classifications for the areas acquired by the State for Greenway purposes; and
- 4. The locations of public access, either already existing or to be acquired.

The DOT plan or revision thereto will be reviewed by the Land Conservation and Development Commission (LCDC) as provided in ORS 390.322. When the Commission has determined that the revision is consistent with the statutes and this goal it shall approve the plan for recording.

#### E. COMPREHENSIVE PLANS OF CITIES AND COUNTIES

Each city and county in which the Willamette River

Greenway is located, shall incorporate the portions of the approved DOT Greenway Plan in its comprehensive plan and implementing ordinances and other implementation measures.

1. **Boundaries:** Boundaries of the approved Willamette River Greenway shall be shown on every comprehensive plan.

2. **Uses:** Each comprehensive plan shall designate the uses to be permitted for the rural and urban areas of each jurisdiction, which uses shall be consistent with the approved DOT Greenway Plan, the Greenway Statutes and this Goal.

3. **Acquisition Areas:** Each comprehensive plan shall designate areas identified for possible public acquisition and the conditions under which such acquisition may occur as set forth in the approved DOT Willamette Greenway Plan and any other area which the city or county intends to acquire.

#### F. IMPLEMENTATION MEASURES

Implementation of the Greenway Program shall occur through the cooperative efforts of state and local units of government and shall be consistent with the approved DOT Greenway Plan and the city and county comprehensive plans, the goals and appropriate statutes.

1. **Boundaries:** Willamette River Greenway boundaries shall be shown on city and county zoning maps and referred to in the zoning ordinance and the subdivision ordinance.

2. **Uses:** Measures for managing uses within the Greenway shall include at least:

- a. Exclusive farm use zoning of all agricultural land within and adjacent to the Greenway;
- b. Flood plain zoning of all areas subject to flooding;
- c. Open space zoning (see ORS Chapter 308.740) of all open space areas; and
- d. Provisions for the use management considerations and requirements set forth in C3 of this Goal.

3. **Greenway Compatibility Review:** Cities and counties shall establish provisions by ordinance for the review of intensifications, changes of use or developments to insure their compatibility with the Willamette River Greenway. Such ordinances shall include the matters in a. through e. below:

- a. The establishment of Greenway compatibility review boundaries adjacent to the river within

which review of developments shall take place. Such boundaries in urban areas shall be not less than 150 feet from the ordinary low water line of the Willamette River; in rural areas such boundaries shall include all lands within the boundaries of the Willamette River Greenway;

b. The review of intensification, changes of use and developments as authorized by the Comprehensive Plan and zoning ordinance to insure their compatibility with the Greenway statutes and to insure that the best possible appearance, landscaping and public access are provided. Such review shall include the following findings, that to the greatest possible degree:

- (1) The intensification, change of use or development will provide the maximum possible landscaped area, open space or vegetation between the activity and the river;
- (2) Necessary public access will be provided to and along the river by appropriate legal means;

- c. Provision is made for at least one public hearing on each application to allow any interested person an opportunity to speak;
- d. Provision is made for giving notice of such hearing at least to owners of record of contiguous property and to any individual or groups requesting notice; and
- e. Provision is made to allow the imposing of conditions on the permit to carry out the purpose and intent of the Willamette River Greenway Statutes.
- f. As an alternative to the review procedures in subparagraphs 3(a) to 3(e), a city or county governing body may prepare and adopt, after public hearing and notice thereof to DOT, a design plan and administrative review procedure for a portion of the Greenway. Such design plan must provide for findings equivalent to those required in subparagraphs 3(b)(1) and (2) of paragraph F so as to insure compatibility with the Greenway of proposed intensification, changes of use or developments. If this alternative procedure is adopted and approved by DOT and LCDC, a hearing will not be required on each individual application.

#### G. NOTICE OF PROPOSED INTENSIFICATION, CHANGE OF USE OR DEVELOPMENT

Government agencies, including cities, counties, state agencies, federal agencies, special districts, etc., shall not authorize or allow intensification, change of

use or development on lands within the boundaries of the Willamette River Greenway compatibility review area established by cities and counties as required by paragraph F 3.a without first giving written notice to the DOT by immediately forwarding a copy of any application by certified mail--return receipt requested. Notice of the action taken by federal, state, city, county, and special districts on an application shall be furnished to DOT.

#### H. AGENCY JURISDICTION

Nothing in this order is intended to interfere with the duties, powers and responsibilities vested by statute in agencies to control or regulate activities on lands or waters within the boundaries of the Greenway so long as the exercise of the authority is consistent with the legislative policy set forth in ORS 390.310 to 390.368 and the applicable statewide planning goal for the Willamette River Greenway, as the case may be. An agency receiving an application for a permit to conduct an activity on lands or waters within the Greenway shall immediately forward a copy of such request to the Department of Transportation.

#### I. DOT SCENIC EASEMENTS

Nothing in this Goal is intended to alter the authority of DOT to acquire property or a scenic easement therein as set forth in ORS 390.310 to 390.368.

#### J. TRESPASS BY PUBLIC

Nothing in this Goal is intended to authorize public use of private property. Public use of private property is a trespass unless appropriate easements and access have been acquired in allowance with law to authorize such use.

#### K. DEFINITIONS FOR WILLAMETTE RIVER GREENWAY GOAL

1. **Change of Use** means making a different use of the land or water than that which existed on December 6, 1975. It includes a change which requires construction, alterations of the land, water or other areas outside of existing buildings or structures and which substantially alters or affects the land or water. It does not include a change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated. Change of use shall not include the completion of a structure for which a valid permit had been issued as of December 6, 1975 and under which permit

substantial construction has been undertaken by July 1, 1976. The sale of property is not in itself considered to be a change of use. An existing open storage area shall be considered to be the same as a building.

Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements shall not be considered a change of use for the purposes of this Goal.

2. **Lands Committed to Urban Use** means those lands upon which the economic, developmental and locational factors have, when considered together, made the use of the property for other than urban purposes inappropriate. Economic, developmental and locational factors include such matters as ports, industrial, commercial, residential or recreational uses of property; the effect these existing uses have on properties in their vicinity, previous public decisions regarding the land in question, as contained in ordinances and such plans as the Lower Willamette River Management Plan, the city or county comprehensive plans and similar public actions:

3. **Intensification** means any additions which increase or expand the area or amount of an existing use, or the level of activity. Remodeling of the exterior of a structure not excluded below is an intensification when it will substantially alter the appearance of the structure. Intensification shall not include the completion of a structure for which a valid permit was issued as of December 6, 1975 and under which permit substantial construction has been undertaken by July 1, 1976. Maintenance and repair usual and necessary for the continuance of an existing use is not an intensification of use. Reasonable emergency procedures necessary for the safety or the protection of property are not an intensification of use. Residential use of lands within the Greenway includes the practices and activities customarily related to the use and enjoyment of one's home. Landscaping, construction of driveways, modification of existing structures or construction or facilities adjacent to the residence or placement of such subsidiary structures as are usual and necessary to such use and enjoyment shall not be considered an intensification for the purposes of this Goal. Seasonal increases in gravel operations shall not be considered an intensification of use.

Exhibit 5  
Page 144 of 168

NOTICE OF APPLICATION TO BE  
HEARD AT PUBLIC HEARING

EX #4

TO: Tualatin Valley Fire & Rescue

DATE: March 17, 1995

FROM: Clackamas County Planning Division  
902 Abernethy Road  
Oregon City, Oregon 97045  
Phone No. 655-8521

FILE NUMBER & NAME: Z0256-95-CP - Ron Sloy

TYPE OF APPLICATION: Comprehensive Plan map change from "Limited Use" designation to "Multiple Use" designation for Water Classification Willamette River Greenway Design Plan.

ZONING: TBR, Timber District

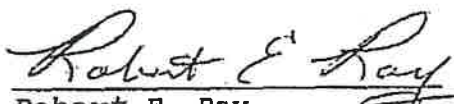
CONTACT PERSON: Terry Curry

The Planning Division would like your comments on the attached application. The application is subject to Comprehensive Plan Willamette River Greenway Design Plan map 111-1 and accompanying policy 15.0. If you do not have a copy of the current ordinance, copies of specific sections are available at the Planning Division office. Please contact us if you need ordinance sections to review this application. Please indicate any information which would assist the county in acting on this application. Comments received by April 10, 1995 will be included with the Planning Division report to the hearings body. If more information is needed, please call the Planning Division. PLEASE RETURN THIS FORM ONLY.

"THIS IS NOT AN APPROVAL"

*The fire district has no problem with the request made on this planning application. Prior to construction however, applicant must submit to this office plans showing emergency access roadway for review and approval.*

*Access roadway shall comply with the Uniform Fire Code requirements. If there are questions regarding these requirements, please feel free to call the fire district at 526-2469.*

  
Robert E. Ray  
Deputy Fire Marshal

Date: 3-22-95

Please return to address above  
Z0256-95-CP:eb

Preapp Materials



23 MAR 95 11:

Z0315-23-CP & Z0316-23-R  
Page 188 of 256

Exhibit 1

Exhibit 5  
Page 146 of 168

27  
56  
108

Oregon



March 24, 1995

EX#3

Clackamas County Planning Division  
902 Abernethy Road  
Oregon City, OR 97045

DIVISION OF  
STATE LANDS

STATE LAND BOARD

JOHN A. KITZHABER  
Governor

PHIL KEISLING  
Secretary of State

JIM HILL  
State Treasurer

775 Summer Street NE  
Salem, OR 97310-1337  
(503) 378-3805  
FAX (503) 378-4844  
TTY (503) 378-4615

RE: Clackamas County File No. Z0256-95-CP/Ron Sloy  
DSL Project No. LE 9281

Dear Sir or Madam:

I have received and reviewed a copy of an application for a request for a Comprehensive Plan map change in Clackamas County. This project may involve lands or interests managed or regulated by the Division of State Lands (Willamette River).

The proposed project (a dock structure) affects land owned or regulated by the Division, according to ORS 274, the applicant must have a lease for the use of this land. Mr. Sloy has been sent an application form for a lease, but it has not been returned.

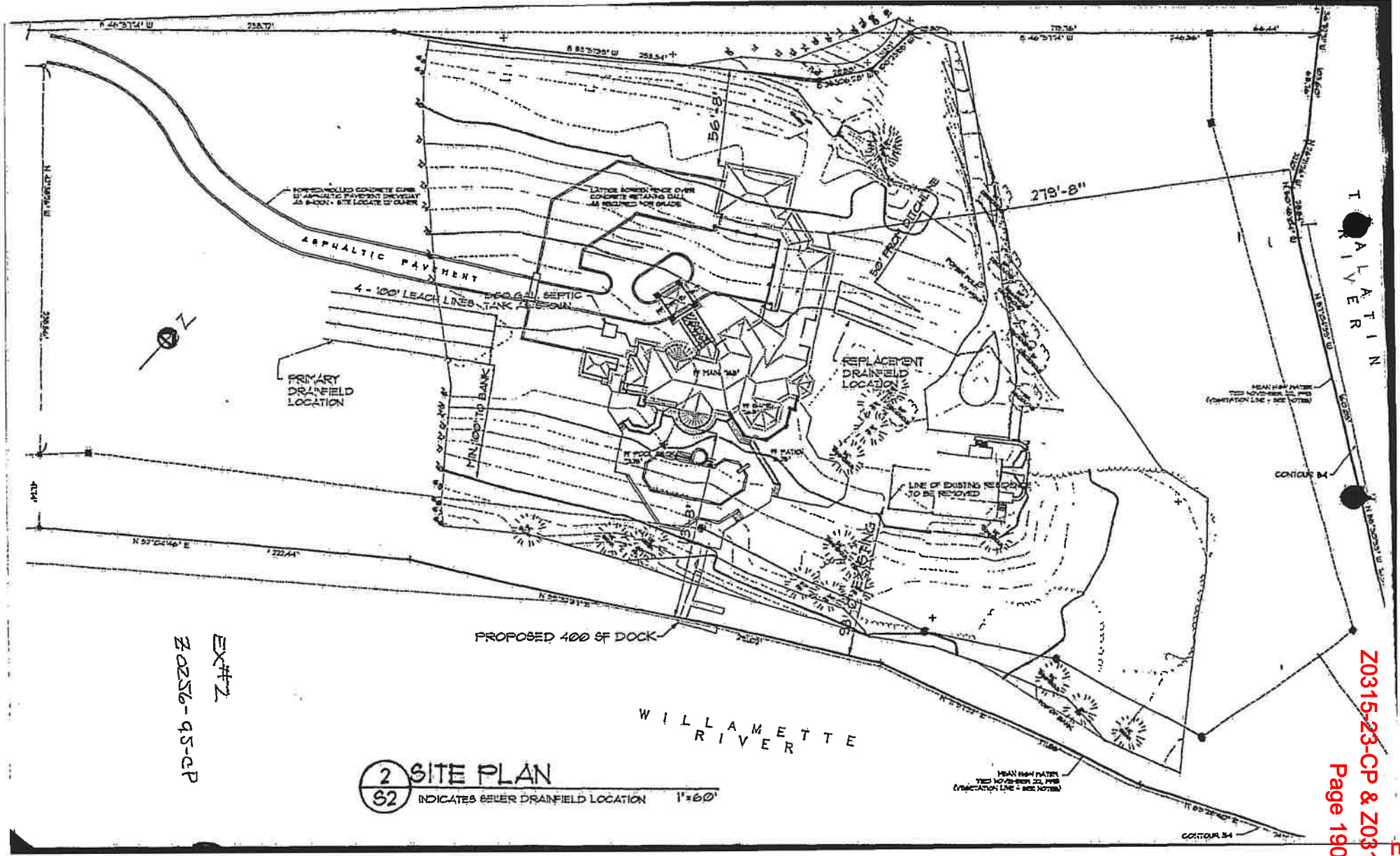
Thank you for the opportunity to comment. A copy of the plan and this response has been forwarded to Tami Burness, Resource Coordinator. For further information and assistance, please contact Tami at the Salem Office, 775 Summer St. NE, Salem, OR 97310, or by calling 378-3805 ext. 272.

Sincerely,

Jane Le Blanc  
Planning and Policy Section

cc: John Lilly  
Steve Purchase  
Tami Burness

Preapp Materials



EX#2  
Z0256-95-CP

2 SITE PLAN  
62 INDICATES BEILER DRAINFIELD LOCATION 1"=60'

Z0315-23-CP & Z0316-23-R  
Page 190 of 256  
Exhibit 1

APR-25-95 TUE 14:22

JOSSelson POTTER ROBERTS

FAX NO. 503 228 0171

Exhibit 5  
Page 148 of 168

LAW OFFICES OF

JOSSelson, POTTER & ROBERTS  
53 SW YAMHILL STREET  
PORTLAND, OREGON 97204

Telephone (503) 228-1455  
Facsimile (503) 228-0171

TELECOPY COVER SHEET

TELECOPIER TO NO: 650-3418

DATE: 4-25-95

TIME: 3:00

NO. PAGES: 2 (including cover sheet)

TO: Terry Conry

FROM: Frank Josselson

MESSAGE:

This fax is also being sent by regular mail.

This is only being sent by fax.

The information contained in this telecopy is confidential and is intended only for the use of the individual or entity to whom it is addressed. It may contain information protected by the attorney-client privilege.

If you do not receive all pages, please call (503) 228-1455 and ask for Cheryl or Linda.

Preapp Materials

APR-25-95 TUE 14:22

JOSSELSON POTTER ROBERTS

FAX NO. 503 228 0171

3900 146TH PL SE, STE 450  
PO BOX 97015  
BELLEVUE, WA 98007

Exhibit 5  
Page 149 of 168

Preapp Materials

April 23, 1995

TO: FRANK JOSSELSON

FROM: POLLY JONES

Dear Frank:

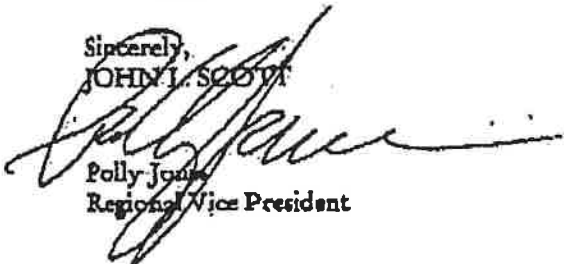
As you know I was the selling and listing agent for the lot that Mr. & Mrs. Ron Sloy purchased on the river.

Prior to actually taking the listing, I had several conversations with the owner, Mrs. Dwyer, regarding boat dock availability. In all of her records there was no indication that a dock couldn't be placed on the river. Additionally, I contacted the Clackamas County Building & Planning Departments to check on any problems that might arise for a purchaser with regards to a boat dock. The authorities I spoke to assured me there was no problem and advised me that the Army Corps of Engineers were the ones to deal with.

After negotiating the sale for the Sloy's, I double checked again, and again was told the same thing. Additionally, because of the change in lot lines and an additional river access river being added for Dr. Lisac's daughter, further checks were made. At no time did anyone in the County indicate that there might be a problem with a boat dock for this property.

As for the value attached to any lot, with or without, boat access, frankly it is a little hard to say. I would say that any good appraiser could do the evaluation. This property is so unique because of the considerable frontage it has, and the price paid was substantial, because of that uniqueness. If I may be of further assistance, please contact me.

Sincerely,  
JOHN L. SCOTT



Polly Jones  
Regional Vice President

QUALITY STREET

**John L. Scott**  
REAL ESTATE

APR-25-95 TUE 14:22

JOSSelson POTTER ROBERTS

FAX NO. 503 228 0171

Exhibit 5  
Page 150 of 168

LAW OFFICES OF  
**JOSSelson, POTTER & ROBERTS**  
23 S.W. YAMHILL STREET  
PORTLAND, OREGON 97204

TELEPHONE (503) 228-1156  
FACSIMILE (503) 228-0171

April 25, 1995

Preapp Materials

Terry Curry  
Clackamas County Planning Dept.  
Telefax No. 650-3418

Dear Mr. Curry:

Please include this letter in the record of the Sloy proceeding. Thank you.

Sincerely yours,



Frank Josselson

FJ/cb  
Enclosure

**MODIFIED NOTICE****NOTICE OF PUBLIC HEARINGS**  
**CLACKAMAS COUNTY PLANNING COMMISSION**  
**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**

Clackamas County Board of Commissioners, May 31 1995, 11:55 AM 9:30-a.m., Courthouse Annex, 906 Main Street, Oregon City, Oregon 97045

TO: Property owners within 700 feet

Subject: Comprehensive Plan

File No.: Z0256-95-CP

Applicant: Ron Sloy; 2685 Lexington Terrace; West Linn, OR 97068

Owner of Property: Same

Proposal: Comprehensive Plan map change from "Limited Use" designation to "Multiple Use" designation for Water Classification Willamette River Greenway Design Plan, **as recommended by the Planning Commission.**

Comprehensive Plan Criteria: Willamette River Greenway Design Plan Map III-1 and accompanying policy 15.0.

Location: Off the south side of Pete's Mountain Road at the southwest junction of the Willamette River and the Tualatin River; West Linn area.

Site Address: N/A

Legal Description: T3S, R1E, Section 2C, Tax Lot(s) 1400, 803, 900 and 1000 W.M.

Total Area Involved: Approximately 22.54 acres

Zoning: TBR, Timber District

Citizens Planning Organization For Area: Far West Clackamas County; Sparkle Anderson; 27480 SW Stafford Road; Wilsonville, OR 97070; 682-1132

This organization has been notified of this application. You are welcome to attend this organization's meeting.

Planning Division Staff Contact: Terry Curry

All interested citizens are invited to attend the hearing. An agenda will be provided at the hearing. Testimony and evidence should address those criteria identified above and any other criteria relevant to the application. Failure to raise an issue at the hearing, or by letter, or failure to provide sufficient specificity to afford the Planning Commission or Board of Commissioners an opportunity to respond to an issue precludes appeal to the Land Use Board of Appeals based on that issue. The following procedural rules have been established to allow an orderly hearing:

Z0256-95-CP  
Page 2

1. The length of time given to individuals speaking for or against an item will be determined by the chairperson prior to the item being considered.
2. A spokesperson representing each side of an issue is encouraged.
3. Only specifically relevant testimony to the item being considered will be allowed. Only testimony concerning relevant new points will be taken.

A staff report for the application will be available seven (7) days prior to the hearing. The staff report, applicable criteria, application, and all documents and evidence relied on by the applicant are available for inspection and may be purchased at reasonable cost at the Clackamas County Planning Division, 902 Abernethy Road, Oregon City, Oregon 97045 (655-8521). Direct all calls and written correspondence to the Planning Division.

To receive written notification of the Board of County Commissioners' decision, provide this office with a stamped, self-addressed envelope indicating the application file number.

**NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.**

0503/501pc



**AFFIDAVIT OF NOTICE**

**STATE OF OREGON  
COUNTY OF CLACKAMAS**

I, Emma Baer  
(name)

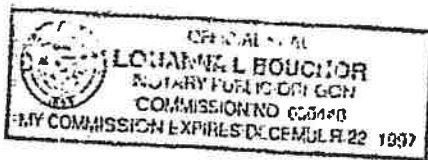
Office Specialist II —depose and say that I provided for  
(title)

mailing the Notice of Hearing for file number Z0256-95-CP,  
a copy of said notice being marked Exhibit "A" and hereto attached;  
that I requested said notice to be mailed to those property owners  
listed in Exhibit "B," hereto attached, in accordance with Oregon  
Laws Chapter 761, Section 10a.

By Emma Baer, Affiant

Subscribed and sworn to before me this 31st day of  
March, 1995.

Louanna L. Boucher  
Notary Public for Oregon  
My commission expires \_\_\_\_\_



NOTICE OF PUBLIC HEARINGS  
CLACKAMAS COUNTY PLANNING COMMISSION  
CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Clackamas County Planning Commission, April 24, 1995, 7:30 p.m., Department of Transportation and Development, Conference Room A, 902 Abernethy Road, Oregon City, Oregon.

Clackamas County Board of Commissioners, May 3, 1995, 9:30 a.m., Courthouse Annex, 906 Main Street, Oregon City, Oregon 97045

TO: Property owners within 700 feet

Subject: Comprehensive Plan

File No.: Z0256-95-CP

Applicant: Ron Sloy; 2685 Lexington Terrace; West Linn, OR 97068

Owner of Property: Same

Proposal: Comprehensive Plan map change from "Limited Use" designation to "Multiple Use" designation for Water Classification Willamette River Greenway Design Plan.

Comprehensive Plan Criteria: Willamette River Greenway Design Plan Map III-1 and accompanying policy 15.0.

Location: Off the south side of Pete's Mountain Road at the southwest junction of the Willamette River and the Tualatin River; West Linn area.

Site Address: 24152 Pete's Mountain Road

Legal Description: T3S, R1E, Section 2C, Tax Lot(s) 1400, W.M.

Total Area Involved: Approximately 6.72 acres

Zoning: TBR, Timber District

Citizens Planning Organization For Area: Far West Clackamas County; Sparkle Anderson; 27480 SW Stafford Road; Wilsonville, OR 97070; 682-1132

This organization has been notified of this application. You are welcome to attend this organization's meeting.

Planning Division Staff Contact: Terry Curry

All interested citizens are invited to attend the hearing. An agenda will be provided at the hearing. Testimony and evidence should address those criteria identified above and any other criteria relevant to the application. Failure to raise an issue at the hearing, or by letter, or failure to provide sufficient specificity to afford the Planning Commission or Board of Commissioners an opportunity to respond to an issue precludes appeal to the Land Use Board of Appeals based on that issue. The following procedural rules have been established to allow an orderly hearing:

Z0256-95-CP

Page 2

1. The length of time given to individuals speaking for or against an item will be determined by the chairperson prior to the item being considered.
2. A spokesperson representing each side of an issue is encouraged.
3. Only specifically relevant testimony to the item being considered will be allowed. Only testimony concerning relevant new points will be taken.

A staff report for the application will be available seven (7) days prior to the hearing. The staff report, applicable criteria, application, and all documents and evidence relied on by the applicant are available for inspection and may be purchased at reasonable cost at the Clackamas County Planning Division, 902 Abernethy Road, Oregon City, Oregon 97045 (655-8521). Direct all calls and written correspondence to the Planning Division.

To receive written notification of the Board of County Commissioners' decision, provide this office with a stamped, self-addressed envelope indicating the application file number.

**NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.**

0503/501pc

Exhibit 5  
Page 156 of 168



# CLACKAMAS COUNTY

Department of Transportation & Development

THOMAS J. VANDERZANDEN  
DIRECTOR

March 31, 1995

West Linn Tidings  
P.O. Box 548  
Lake Oswego, OR 97034

RE: Notice of Public Hearings, April 24 and May 3, 1995

Attached is a notice for public hearings before the Clackamas County Planning Commission and the Board of County Commissioners. Please publish this notice on April 13, 1995.

Please return two (2) copies of the Affidavit of Publication together with your statement. Please send statement to Clackamas County Finance Department (attn: Chris), 902 Abernethy Rd., Oregon City, OR 97045. Thank you.

Emma Baer, Secretary  
Land Use and Environmental Planning Division

Enclosure  
0503/502

Preapp Materials

NOTICE OF PUBLIC HEARINGS

Clackamas County Planning Commission, April 24, 1995, 7:30 p.m., Department of Transportation and Development, Conference Room A, 902 Abernethy Road, Oregon City, Oregon 97045.

Clackamas County Board of Commissioners, May 3, 1995, 9:30 a.m., Courthouse Annex, 906 Main Street, Oregon City, Oregon 97045.

File No. & Subject: Z0256-95-CP; Comprehensive Plan

Applicant: Ron Sloy

Proposal: Comprehensive Plan map change from "Limited Use" designation to "Multiple Use" designation for Water Classification Willamette River Greenway Design Plan.

Location: Off the south side of Pete's Mtn. Rd. at the southwest junction of the Willamette River and the Tualatin River; West Linn area.

Legal Description: T3S, R1E, Section 2C, Tax Lot 1400, W.M.

Zoning: TBR, Timber District

All interested citizens are invited to attend the hearings. An agenda will be provided at the public hearings, as there may be other items considered in addition to the one listed above.

The above application(s) is/are available for inspection at the Clackamas County Planning Division (address above). The Planning Commission and Board of County Commissioners will give careful consideration to all written correspondence.

0503/522

# NOTICE OF PROPOSED ACTION

Must be sent to DLCD 45 days prior to the final hearing  
See OAR 660-18-020

Jurisdiction Clackamas County

Date Mailed March 17, 1995 - Local File Number Z0256-95-CP

Date Set for Final Hearing on Adoption May 3 1995  
Month Day Year

Time and Place for Hearing 9:30 a.m. - Board of County Commissioners  
Courthouse Annex - 906 Main St.-OR City, OR 97045

Type of Proposed Action (Check all that apply)

Comprehensive Plan Amendment       Land Use Regulation Amendment       New Land Use Regulation

Please Complete (A) for Text Amendments and (B) for Map Amendments

A. Summary and Purpose of Proposed Action (Write a brief description of the proposed action. Avoid highly technical terms and stating "see attached"):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. For Map Amendments Fill Out the Following (For each area to be changed, provide a separate sheet if necessary. Do not use tax lot number alone):

Current Plan Designation: Limited Use Water Classification      Proposed Plan Designation: Multiple Use Water Classification

Current Zone: \_\_\_\_\_      Proposed Zone: \_\_\_\_\_

Location: Southwest junction of Willamette River and Tualatin River; West Linn area.

Acreage Involved: Subject property river frontage.

Does this Change Include an Exception?       Yes       No

For Residential Changes Please Specify the change in Allowed Density in Units Per Net Acre:

Current Density: \_\_\_\_\_      Proposed Density: \_\_\_\_\_

Exhibit 5  
Page 158 of 168

Preapp Materials

Exhibit 5  
Page 159 of 168

Preapp Materials

List Statewide Goals Which May Apply to the Proposal:

15

List any State or Federal Agencies, Local Government or Local Special Service District Which may be Interested in or Impacted by the Proposal:

State Parks & Recreation, Division of State Lands, Corps of Engineers.

Direct Questions and Comments To: Terry Curry/DTD/Planning

902 Abernethy Rd.

Oregon City, OR 97045

(Phone) 655-8521

Please Attach Three (3) Copies of the Proposal to this Form and Mail To:

Department of Land Conservation and Development  
1175 Court Street, N.E.  
Salem, Oregon 97310-0590

NOTE: If more copies of this form are needed, please contact the DLCD office at 373-0050, or this form may be duplicated on green paper. Please be advised that statutes require the "text" of a proposal to be provided. A general description of the intended action is not sufficient. Proposed plan and land use regulation amendments must be sent to DLCD at least 45 days prior to the final hearing (See OAR 660-18-020).

\* \* \* FOR DLCD OFFICE USE \* \* \*

DLCD File Number \_\_\_\_\_ # Days Notice \_\_\_\_\_

<pa>proposedform

# LAND USE APPLICATION

CLATSOP COUNTY PLANNING DIVISION  
902 ALBERTHEIM ROAD, OREGON CITY, OR 97045-1100 • PHONE (503) 653-8521 • FAX (503) 650-3418

• FOR STAFF USE ONLY •

<input type="checkbox"/> TEMPORARY PERMIT FOR CARE (ST) RENEWAL _____	<input type="checkbox"/> ZONE CHANGE (Z) _____	File No: <u>20256-95CP</u>
<input type="checkbox"/> TEMPORARY PERMIT USE NOT ALLOWED (ST) RENEWAL _____	<input type="checkbox"/> CONDITIONAL USE (C) _____	Pre-app: Staff _____ Date _____
<input type="checkbox"/> HOME OCCUPATION (HO) RENEWAL _____	<input type="checkbox"/> SUBDIVISION SHORT (1-10)(SS) _____	Date Received: <u>3/13/95</u> Fee: <u>1620-</u>
<input type="checkbox"/> NONFARM USE (N) _____	<input type="checkbox"/> SUBDIVISION LONG (11+)(SL) _____	Hearing Date: _____
<input type="checkbox"/> FARM DWELLING _____	<input type="checkbox"/> PARTITION (M) _____	Staff Member: <u>DP</u>
<input type="checkbox"/> FOREST DWELLING _____	<input type="checkbox"/> VARIANCE (V) _____	Zone: <u>TBR</u>
	<input checked="" type="checkbox"/> OTHER: <u>Comp Plan Amend</u>	Comp. Plan: _____
	<input type="checkbox"/> OTHER _____	Flex Lot Involved: <input type="checkbox"/> Y <input type="checkbox"/> N
		Violation #: _____
		CPO: _____

• APPLICANT INFORMATION •

PLEASE TYPE OR PRINT IN DARK INK.

WHAT IS PROPOSED: Quasi-judicial map amendment to Map III-1e to change the Limited Use designation to Multiple Use along the frontage of the subject property.

NAME OF APPLICANT: Sloy Ron  
LAST FIRST

MAILING ADDRESS: 2685 Lexington Terrace city West Linn ST OR ZIP 97088

APPLICANT IS:  LEGAL OWNER  CONTRACT BUYER  OPTION BUYER  AGENT

NAME OF CONTACT PERSON: (If other than applicant) Rick Givens, Planning Resources, Inc.

MAILING ADDRESS OF CONTACT: 6564 SE Lake Road, Milwaukie, OR ZIP 97222

PHONE NUMBERS OF: APPLICANT: WK 274-1958 HM 655-6335 CONTACT PERSON: WK 652-2478 IM \_\_\_\_\_

SITE ADDRESS: 2452 Pete's Mountain Road

LEGAL DESCRIPTION: T 3S R 1E SECTION 2C - TAX LOT(S) 1400

CONTIGUOUS PROPERTIES UNDER SAME OWNERSHIP: T \_\_\_\_\_ R \_\_\_\_\_ SECTION \_\_\_\_\_ TAX LOT(S) None

PRESENT USE OF PROPERTY: Pre-existing dwelling removed pending construction of new home.

METHOD OF SEWAGE DISPOSAL: Septic tank & drainfield

WATER SUPPLY: Private well

OTHER PERSONS (IF ANY) TO BE MAILED NOTICES REGARDING THIS APPLICATION:

NAME Frank Josselson ADDRESS 53 SW Yamhill, Portland, OR ZIP 97204 RELATIONSHIP Attorney

NAME Dan Smith ADDRESS PO Box 219284 Portland, OR ZIP 97225 RELATIONSHIP Architect

NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_ ZIP \_\_\_\_\_ RELATIONSHIP \_\_\_\_\_

I hereby certify the statements contained herein, along with the evidence submitted, are in all respects true and correct to the best of my knowledge

OWNER'S SIGNATURE (IF APPLICANT IS AGENT OR OPTION HOLDER) [Signature] APPLICANT'S SIGNATURE \_\_\_\_\_  
DATE 3-10-95 DATE \_\_\_\_\_

PLOT PLAN

ASSESSOR MAP

SUPPLEMENTAL FORMS CHECKED





DEPARTMENT OF  
LAND  
CONSERVATION  
AND  
DEVELOPMENT

EX# 5  
Z0256-95-CP

March 31, 1995

Terry Curry  
Clackamas County Planning  
902 Abernethy Road  
Oregon City, Oregon 97045

Dear Terry:

We have reviewed the application submitted by Roy Sloy requesting an amendment of Comprehensive Plan Map III-1e, Willamette River Greenway Design Plan, to change the existing "Limited Use" designation to "Multiple Use" for the Willamette River frontage located along a 6.72 acre parcel on the south side of the Tualatin River at its confluence with the Willamette River (Local File Z0256-95-CP). The amendment would allow the construction of a private boat dock. We have several concerns regarding this proposal.

Change in River Usage: According to the application, "the nature of river usage has changed dramatically with the improvement of river access at Willamette Park" (located in the City of West Linn) as these "improvements have greatly increased public access and associated river traffic on the designated 'Limited Use' section of the Willamette River ...." We do not believe that increased recreational use resulting from improved river access on park land designated "Multiple Use" justifies additional development in the designated Limited Use area. Increased river usage is going to occur with additional development of the "Multiple Use" areas. However, this does not justify removal of the Limited Use designation. If anything, it justifies retention.

The limitations on private boat docks under Section 705 of the Zoning and Development Ordinance does not justify an amendment to the Comprehensive Plan designation, which is intended to maintain the natural appearance of this section of the river. Concerns with the increasing number of private boat docks on the river relates not only to their size but to their location as well. As explained below, Clackamas County has done a good job minimizing conflicts. This proposal appears to undermine these efforts.

We also disagree with the finding that the applicant's use of a private dock outweighs the impacts resulting from adding to the existing overflow parking situation at the park. Accepting this rationale would set the wrong precedent for future developments on the Limited Use areas.

John A. Kitzhaber  
Governor



1175 Court Street NE  
Salem, OR 97310-0590  
(503) 373-0050  
FAX (503) 362-6705

3 APR 55 10: 13

Exhibit 5  
Page 161 of 168

Preapp Materials

Terry Curry

- 2 -

March 31, 1995.

Comprehensive Plan Policies: According to the application, no policies or criteria are provided in the plan to justify the application of the "Limited Use" and "Multiple Use" designations, and, therefore, the change is justified. We disagree. The Rivers Background Report (June 1980) is the supporting document to the comprehensive plan. It provides the basis for the plan policies and designations. Page 13 of this report identifies the "rural" designated Greenway and adjacent lands south of the Tualatin River confluence as "agrarian with a heavy predominating band of streamside vegetation."

Page 46 of the report includes a list of "issues." Among them are the following:

3. The need to maintain the character of the rural designated Greenway, even though recreational demands impact the entire Greenway.
7. The need to protect the vegetative fringe along the entire length of the Greenway to buffer bankside uses, and avoid indiscriminate tree cutting.
8. Existing commercial barge and log operations on the river and avoid unnecessary restrictions.

The information provided does not address this and other information contained in the acknowledged Rivers Background Report.

Contrary to the findings provided, there is, in fact, a "correlation" between the adjacent land use designations and the water use categories at issue here. A comparison between the county's Land Use Plan Map IV-7 and the Willamette River Design Map III-1e, particularly downstream from Canby, shows the following correlations:

- (1) "Limited Use" watercourse designation is located along all lands designated Forest;
- (2) "Multiple Use" watercourse designation is located along all lands designated Rural; and
- (3) Between Wilsonville and Canby, both watercourse designations are located along lands designated Agriculture. However, lands along the river consist of many small parcels much the same as areas designated Rural.
- (4) Upstream from Wilsonville, the "Multiple Use" watercourse designation is located along lands designated Rural and Agriculture.

The information above shows a logical correlation between the two watercourse designations and adjacent lands. Traveling downstream the change in watercourse designations, at Molalla State Park, Canby Ferry, Balancing Rock Parcel and then at the Tualatin River confluence, clearly coincides with changes in the adjacent land use. Therefore, the applicants' finding on this point also does not justify the plan amendment.

Terry Curry

- 3 -

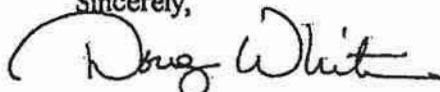
March 31, 1995

Clackamas County's 1991 Assessment of Cumulative Effects: As part of periodic review, Clackamas County was required to assess conditional use permits approved along the rural Willamette River Greenway from 1981 through 1989 (DLCD Order No. #00073, Task 1). This assessment included a review of boat docks and pilings. Clackamas County completed this assessment and concluded that cumulative effects resulting from boat docks has not be significant. This assessment focused on the distribution and rate of development, i.e., 3.8 docks per year. During this review (March 31, 1993), the county adopted the amendments to Section 705 (discussed above) to address the issue of dock sizes. DLCD concluded that this assessment, coupled with the changes made to Section 705, satisfied the cumulative effects requirement to address Goal 15 resources and approved this assessment on July 21, 1994 (DLCD Order No. #00097). We believe that the county's acknowledged comprehensive plan policies and watercourse designations are the primary reasons why they have been able to maintain the Greenways integrity. The proposed findings appear to disregard these factors.

Without a more comprehensive review of this issue along the entire rural portion of the Greenway, we believe that the "Limited Use" watercourse designation needs to be retained. We recommend that the request be denied.

Please enter this letter into the record of these proceedings. We request that the record be kept open to allow us an opportunity to respond to any other evidence that is submitted pursuant to ORS 197.763(3).

Sincerely,



Doug White  
Plan/Policy Analyst

DW/dw

&lt;j:&gt;

cc: Gary Miniszewski, Parks and Recreation Department  
Mel Lucas, Field Representative  
PA File 010-95

## QUASI-JUDICIAL

## COMPREHENSIVE PLAN AMENDMENT APPLICATION

Applicant: Ron Sloy  
2685 Lexington Terrace  
West Linn, OR 97045

Legal Description: Tax Lot 1400  
Assessor's Map No. 3 1E 2C

Location: East of Pete's Mountain Road on the south side of the Tualatin River at its confluence with the Willamette River.

Site Area: 6.72 Acres

Comprehensive Plan: Forest

Existing Zoning: TBR, Timber District

Requested Action: Amendment of Comprehensive Plan Map III-1e, Willamette River Greenway Design Plan, to change the existing "Limited Use" designation to "Multiple Use" for the Willamette River frontage of the subject property. The proposed change is being requested to permit the construction of a private boat dock on the subject property. Such docks are prohibited for properties abutting the "Limited Use" designation.

## BACKGROUND INFORMATION:

The subject property is an irregularly shaped tract which fronts on both the Tualatin and Willamette Rivers. The applicant has received Greenway and Floodplain development permit approvals to construct a replacement dwelling on the subject property (see File No. Z1278-94-F/Z1279-94-GS). The applicant's concurrent request for approval of a boat dock was denied based upon staff's determination that the "Limited Use" designation had been applied to the property's frontage on the Willamette River. Subsection 705.04D of the Clackamas County Zoning and Development Ordinance (ZDO) precludes such facilities in the "Limited Use" sections of the Willamette River Greenway. The applicant has filed an appeal which is on hold pending the outcome of this request to amend Map III-1e. The approval of this application will result in the application of the Multiple Use water classification being applied to the portion of the Willamette River along the frontage of the subject property, thereby allowing the approval of the applicant's proposed private dock.

**REASON FOR REQUEST:**

The applicant purchased this riverfront property for the purpose of constructing a home and a boat dock to enjoy direct access to the Willamette River. The real estate agent listing this property represented to Mr. Sloy that a boat dock could be built on this property. It was only during the review of the Willamette River Greenway development permit application that the issue of the "Limited Use" restriction on this stretch of the river was raised by County staff. The proposed comprehensive plan map amendment is necessary to allow the applicant to achieve his goals for this property.

Two major changes have occurred since the adoption of the Comprehensive Plan which justify this requested amendment to Map III-1e:

1. The City of West Linn made major improvements to the boat launch facilities at Willamette Park immediately across the Tualatin River from the subject property. This improvement has greatly increased public access and associated river traffic on the designated "Limited Use" section of the Willamette River from the park to the narrowing of the channel at the islands approximately one mile south of the Tualatin River. This stretch of the Willamette is broad and is well-suited to recreational boat traffic.

Discussions with Mr. Ken Worster, West Linn Parks Director, indicate that Willamette Park is now improved with parking facilities for 46 vehicles with boat trailers. The park's busy season lasts from May 1st through October 31st. On weekends during this period Mr. Worster estimates that parking overflows onto surrounding streets with approximately an additional 25 vehicles with boat trailers. Because of the proximity of the park to Willamette Falls to the north, Mr. Worster estimates that 90 percent of the boat traffic heads south, into the Limited Use Section of the River, towards the narrows area and Hebb Park. Mr. Worster stated his belief that the area of the river designated for recreational use needs to be expanded due to increasing demands of a growing population. When asked specifically about the impact of an additional private boat dock being located on this stretch of the river, he stated that in his opinion the impact would be negligible. He further stated that he would rather have the applicant use a private boat dock rather than adding to the existing overflow parking situation at Willamette Park.

2. Since the time of adoption of the Comprehensive Plan, Clackamas County has adopted text amendments to the Zoning and Development Ordinance which impose limitations on private boat docks. Specifically, Section 705 was amended to restrict the size of such facilities in order to limit their visual impact upon the river. These new standards achieve much of the intent of maintaining the natural appearance of the Rural sections of the River without the outright prohibition on use associated with the Limited Use designation of Map III-1e.

**COMPLIANCE WITH COMPREHENSIVE PLAN POLICIES:**

The Clackamas County Comprehensive Plan provides direction for use management within the Willamette River Greenway through the Design Plan depicted on Map III-1e in the Natural Resources and Energy chapter of the Plan. Specific policies which relate to this map and uses within the Willamette River Greenway are found on pages 20 and 21 of the Plan.

Two classifications of water use are established in the Willamette River Greenway Design Plan: Limited Use and Multiple Use. The general uses identified for the Limited Use designation are described as:

*"Uses compatible with limited use recreation. Other uses are existing residential, commercial and industrial water-dependent and water related uses. Allows continuation of waterborne commerce (e.g. log rafts, etc.)"*

The Design Plan describes general uses for the Multiple Use designation as:

*"Encourages multiple-use recreation activities. Continues existing uses with no restriction on waterborne commerce. Activities must meet jurisdictional noise requirements"*.

Both water use designations are applied in the Design Plan to various areas of the Willamette River above Willamette Falls. No policies or criteria are provided in the Comprehensive Plan to justify the application of these designations to specific stretches of the River. In the non-urban portion of the Greenway, the Design Plan identifies adjacent land classifications as "Natural Resource" or "Low Intensity Rural". However, there does not appear to be any correlation between the adjacent land use designation and the water use category applied. Both designations are applied to various stretches of the river abutting Low Intensity Rural and/or Natural Resource lands. As discussed in the preceding section of this report, the nature of river usage has changed dramatically with the improvement of river access at Willamette Park. In the absence of any direct policies requiring the continued application of the "Limited Use" designation, the proposed change to "Multiple Use" is reflective of current river use patterns and, therefore, is justified.

Specific Plan policies for the Willamette River Design Plan are as follows:

*15.1 Implement the design plan for the Willamette River according to the following map which illustrates uses. Management activities and land use classifications shown on the map are consistent with land use policies and designations in the Land Use Chapter. Official maps showing precise boundaries and sites (scale 1"=2000') are on file at the Clackamas County Department of Transportation and Development.*

Comment: Map III-1e of the Comprehensive Plan is the map referenced in this policy. There are no policies in the Land Use Chapter which relate to the "Limited Use" or "Multiple Use" river designations on this map. With the approval of the proposed amendment to Map III-1e, approval of the proposed private dock will be consistent with this policy.

- 15.2 *Support regulation of recreational activities in the rural portion of the Willamette Greenway to minimize conflicts between water-based recreational uses, manage the intensity of recreational uses, and buffer bankside uses from water-borne recreational activities including recreational noise levels. The County shall develop a joint land management program with the Oregon State Parks and Recreation Department for all County- and state-owned lands in the rural greenway.*

Comment: The Design Plan permits both the "Limited Use" and "Multiple Use" water designation in rural sections of the greenway. With the change in character of the use of this stretch of the river, due to increased use associated with Willamette Park, the application of the Multiple Use designation to the river frontage of the subject property is consistent with this policy. The river is wide in this area, allowing for safe maneuvering of both commercial and recreational river traffic. Further, because of the width of the river and the limited land use associated with adjacent Natural Resource zoning, the noise impact from multiple use in this area is less than it would be in other stretches of the rural greenway.

- 15.3 *Provide for recreational activities in the urban portion of the Willamette River Greenway . . .*

Comment: Not applicable. The subject property is located in the rural portion of the Greenway.

- 15.4 *Exempt specified modifications of single family residences from the existing Greenway Conditional Use procedure. For all other uses, change of use, modifications, and intensifications, require Willamette River Greenway Conditional Use approval and compliance with provisions of the design plan and Policies 10.2 and 10.3 of this Chapter.*

Comment: The applicant has applied for Willamette River Greenway Conditional Use approval for the proposed construction of the new residence and private dock. Compliance of the proposed new construction with all applicable standards and plan policies is demonstrated in that application. The construction of the residence has been approved, but the denial of the private dock is on appeal pending resolution of this proposed amendment to Map III-1e.

- 15.5 *Prohibit private noncommercial docks and moorages in limited-use rural portions of the Greenway to protect the natural river character.*

Comment: With the approval of this map amendment, the river frontage along the subject property will be changed to Multiple Use and this policy will no longer apply. Because of the increased river traffic from the Willamette Park boat launch, the character of the river in this area has changed such that the Limited Use designation is no longer appropriate.

- 15.6 *Allow private noncommercial docks and moorages in urban and multiple-use rural portions of the Greenway through the Greenway Conditional Use provisions of the Zoning Ordinance which require an extraordinary exception in the rural portion.*

Comment: With the approval of this proposed map amendment, the Multiple Use designation will be applied to the river along the frontage of the subject property and the applicant will continue with his pending Greenway Conditional Use application to seek approval of a private dock as allowed by this policy.

- 15.7 *Limit development and intense recreational activities on sites designated Protection Resource Areas on the Design Plan Map. Islands shall not be developed.*

Comment: Not applicable. There are no Protection Resource Areas designated on the Design Plan map in the vicinity of the subject property and no island development is proposed.

- 15.8 *Encourage new public access points to minimize trespass and vandalism on private property. Emphasis shall be directed to the area from Gladstone to Milwaukie.*

Comment: Not applicable. A proposed public trail access easement is designated on the Design Plan to the south of the subject property but does not affect this site.

#### CONCLUSION:

The applicant wishes to make reasonable use of the river frontage of the subject property by constructing a small private dock facility. The character of use of this section of the river changed dramatically with improvements to the boat launch and parking facilities at Willamette Park. This change in character makes questionable the continued application of the "limited use" designation by Clackamas County in the vicinity of the subject property because, in point of fact, the existing use is anything but limited. Further, the County has adopted standards for the construction of rural private docks which will ensure that the visual impact of the proposed dock is minimal. With these changes in circumstances, it is appropriate for the County to apply the application of the "Multiple Use" designation along the frontage of the subject property. Approval of this amendment to Map III-1e is hereby requested.





**Planning and Zoning**  
**Department of Transportation and Development**  
 Development Services Building  
 150 Beavercreek Road | Oregon City, OR 97045  
 503-742-4500 | zoninginfo@clackamas.us  
 www.clackamas.us/planning

**STAFF USE ONLY**

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**RECEIVED**

AUG - 7 2023

Z0316-23

Clackamas County  
 Planning & Zoning Division

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Staff Initials: BJ File Number: \_\_\_\_\_

Land use application for:

# WILLAMETTE RIVER GREENWAY DOCK OR BOATHOUSE

**Application Fee: \$1,470**

APPLICANT INFORMATION			
Applicant name: Everett Griffin	Applicant email: n/a	Applicant phone: (503) 970-5130	
Applicant mailing address: 540 NW River Park Place	City: Canby	State: OR	ZIP: 97013
Contact person name (if other than applicant):	Contact person email:	Contact person phone:	
Contact person mailing address:	City:	State:	ZIP:

PROPOSAL
Brief description of proposal: New private noncommercial dock in WRG (Comp Plan amendment WRG Limited Use to Multiple Use submitted concurrently)

SITE INFORMATION		
Site address: 540 NW River Park Place	Comprehensive Plan designation: Land: Ag; Water: WRG LU to MU req	Zoning district: EFU
Map and tax lot #:  Township: <u>3S</u> Range: <u>1E</u> Section: <u>21BC</u> Tax Lot: <u>700</u> Township: _____ Range: _____ Section: _____ Tax Lot: _____ Township: _____ Range: _____ Section: _____ Tax Lot: _____	Land area:  0.45 acre	
Adjacent properties under same ownership:  Township: _____ Range: _____ Section: _____ Tax Lot: _____ Township: _____ Range: _____ Section: _____ Tax Lot: _____		

Printed names of all property owners: Everett Griffin	Signatures of all property owners: 	Date(s): 8/4/23
<p><b>I hereby certify that the statements contained herein, along with the evidence submitted, are in all respects true and correct to the best of my knowledge.</b></p>		
Applicant signature: 		Date: 8/4/23

## A. Review applicable land use rules:

This application is subject to the provisions of [Section 705, Willamette River Greenway \(WRG\)](#) of the [Clackamas County Zoning and Development Ordinance](#) (ZDO).

It is also subject to the ZDO's definitions, procedures, and other general provisions, as well as to the specific rules of the subject property's zoning district and applicable development standards, as outlined in the ZDO.

Per ZDO Subsection 705.04(G)(4), all docks located on state-owned submerged and/or submersible land must be leased or registered with the Oregon Division of State Lands, according to state law. Per ZDO Subsection 705.05(B), a dock or moorage in the limited use rural portions of the Willamette River Greenway (WRG) identified on Comprehensive Plan [Map III-1e, Willamette River Greenway Design Plan](#) is prohibited.

## B. Turn in all of the following:

- Complete application form:** Respond to all the questions and requests in this application, and make sure all owners of the subject property sign the first page of this application. Applications without the signatures of *all* property owners are incomplete.
- Application fee:** The cost of this application is **\$1,470**, unless it is filed with a Willamette River Greenway permit application for other development, in which case there is one combined fee for both applications. Payment can be made by cash, by check payable to "Clackamas County", or by credit/debit card with an additional card processing fee using the [Credit Card Authorization Form](#) available from the Planning and Zoning website. Payment is due when the application is submitted. Refer to the FAQs at the end of this form and to the adopted [Fee Schedule](#) for refund policies.
- Site plan:** Provide a site plan (also called a plot plan). A [Site Plan Sample](#) is available from the Planning and Zoning website. The site plan must be accurate and drawn to-scale on paper measuring no larger than 11 inches x 17 inches. The site plan must illustrate all of the following (when applicable):
  - Lot lines, lot/parcel numbers, and acreage/square footage of lots;
  - Contiguous properties under the same ownership;
  - All existing and proposed structures, fences, roads, driveways, parking areas, and easements, each with identifying labels and dimensions, and all proposed tree cutting/removal activity;
  - Setbacks of all proposed structures from lot lines and easements;
  - Identification and location of existing vegetation (Note: photos may be submitted, with notes on the site plan identifying where the photos were taken and the direction of view);
  - The Willamette River and other significant natural features (rivers, streams, wetlands, slopes of 20% or greater, geologic hazards, mature trees or forested areas, drainage areas, etc.); and
  - Location of utilities, wells, and all onsite wastewater treatment facilities (e.g., septic tanks, septic drainfield areas, replacement drainfield areas, drywells).
- Design plans:** Provide accurate, to-scale plans of all proposed structures. The plans must label the length and width of all sections of the structure(s), as measured to outer edges and identify square footage.
- Color details:** Identify the proposed colors of all proposed docks, boathouses, and pilings with attached color samples and/or photos.

- Boathouse elevation drawings:** If you propose a boathouse, attach elevation drawings of the boathouse. The drawings must be to-scale and must show each side of the structure, and include scaled measurements of its height (as measured from the platform of the dock to the roof peak), length, and width.
- Evidence of leasing or registration:** If you propose to locate a dock on state-owned submerged and/or submersible land, provide evidence that the land is leased or registered with the Oregon Division of State Lands, according to state law.
- Buffer or filter strip cross-sections:** Provide a cross-section drawing of any area where grading, filing, or excavating will occur.

**C. Answer the following questions:**

Accurately answer the following questions in the spaces provided. Attach additional pages, if necessary.

1. Which of the following do you propose?
  - Private noncommercial dock
  - Private noncommercial boathouse  
*(Note: Boathouses are prohibited from the Oregon City Falls to the Multnomah County line.)*
  
2. ZDO Section 705 has the following purposes:
  - Protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River;
  - Maintain the integrity of the Willamette River by minimizing erosion, promoting bank stability, and maintaining and enhancing water quality and fish and wildlife habitats; and
  - Implement the Willamette River Design Plan set forth in [Chapter 3](#) of the County's [Comprehensive Plan](#).

Explain how your proposal is consistent with these purposes:

Please see attached narrative

3. What will be the colors of any proposed dock, boathouse, and pilings, as shown in attached color samples?

Dark natural wood colors

Painted dark earth tones (dark brown or green)

4. What is the length and width of the proposed dock and/or boathouse, as measured to the *outer edges* of the structure and as shown in attached plans?

Length: 35 -feet

Width: 20 feet

5. What is the total square footage of your proposed dock/boathouse, as measured by multiplying the length by the width you noted in Question 4?

Area: 700 -square feet

6. How many docks and boathouses are already at the riverfront of the subject lot of record?

Current number of docks: 0

Current number of boathouses: 0

7. If you are proposing a boathouse, what will be the height of the boathouse, as measured from the platform of the dock to the roof peak and as shown in attached building elevation drawings?

Boathouse height: n/a -feet

## FAQs

### **When is a Willamette River Greenway permit required for a dock or boathouse?**

Zoning and Development Ordinance (ZDO) [Section 705](#) allows private noncommercial docks and boathouses along portions of the Willamette River under certain conditions. Only one dock and boathouse is allowed per qualifying riverfront lot of record and a new or modified dock or boathouse along the river requires approval of a Willamette River Greenway land use permit.

### **What is the permit application process?**

Willamette River Greenway permits are subject to a "Type II" land use application process, as provided for in [Section 1307](#) of the ZDO. Type II decisions include notice to owners of nearby land, the Community Planning Organization (if active), service providers (sewer, water, fire, etc.), and affected government agencies. If the application is approved, the applicant must comply with any conditions of approval identified in the decision. The Planning Director's decision can be appealed to the County Land Use Hearings Officer.

### **What is needed for the County to approve a land use permit?**

Willamette River docks and boathouses *may* be permitted after an evaluation by the County of applicable standards of the ZDO. The applicant is responsible for providing evidence that their proposal does or can meet those standards. In order to address the standards, the information requested in this application should be as thorough and complete as possible. A permit will only be approved or denied after a complete application is received and reviewed. The County approves an application only if it finds that the proposal meets the standards or can meet the standards with conditions.

### **How long will it take the County to make a decision about an application?**

The County makes every effort to issue a decision on a Type II land use application within 45 days of when we deem the application to be complete. State law generally requires a final County decision on a land use permit application in an urban area within 120 days of the application being deemed complete, and within 150 days for a land use permit in a rural area, although there are some exceptions.

### **If an application is submitted and then withdrawn, will a refund be given?**

If a submitted Type II application is withdrawn before it is publicly noticed, 75% of the application fee paid, or the fee paid minus \$250, whichever is less, will be refunded. If a submitted application is withdrawn after it is publicly noticed, but before a decision is issued, 50% of the application fee paid, or the fee paid minus \$500, whichever is less, will be refunded. No refund will be given after a decision is issued.

### **Will other agency approvals be required?**

Yes. After you have contacted the Clackamas County Planning and Zoning to see if your dock or boathouse could be permitted, you should contact the U.S. Army Corps of Engineers and the State of Oregon [Department of State Lands \(DSL\)](#) to get information on their requirements. The installation of a ramp to a dock (or replacement of a ramp to a dock) may also require a Building Permit from the [County's Building Codes Division](#).

### **Who can help answer additional questions?**

For questions about the County's land use permit requirements and this application form, contact Planning and Zoning at **503-742-4500** or [zoninginfo@clackamas.us](mailto:zoninginfo@clackamas.us). You can also find information online at the Planning and Zoning website: [www.clackamas.us/planning](http://www.clackamas.us/planning).

*Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at 503-742-4545 or [drenhard@clackamas.us](mailto:drenhard@clackamas.us).*

**503-742-4545:** ¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод?  
翻译或口译? | Cán Biên dịch hoặc Phiên dịch? | 번역 또는 통역?

## APPLICATION NARRATIVE

### New Private Noncommercial Dock in WRG

#### I. Introduction

##### A. Summary of Applicant's Request

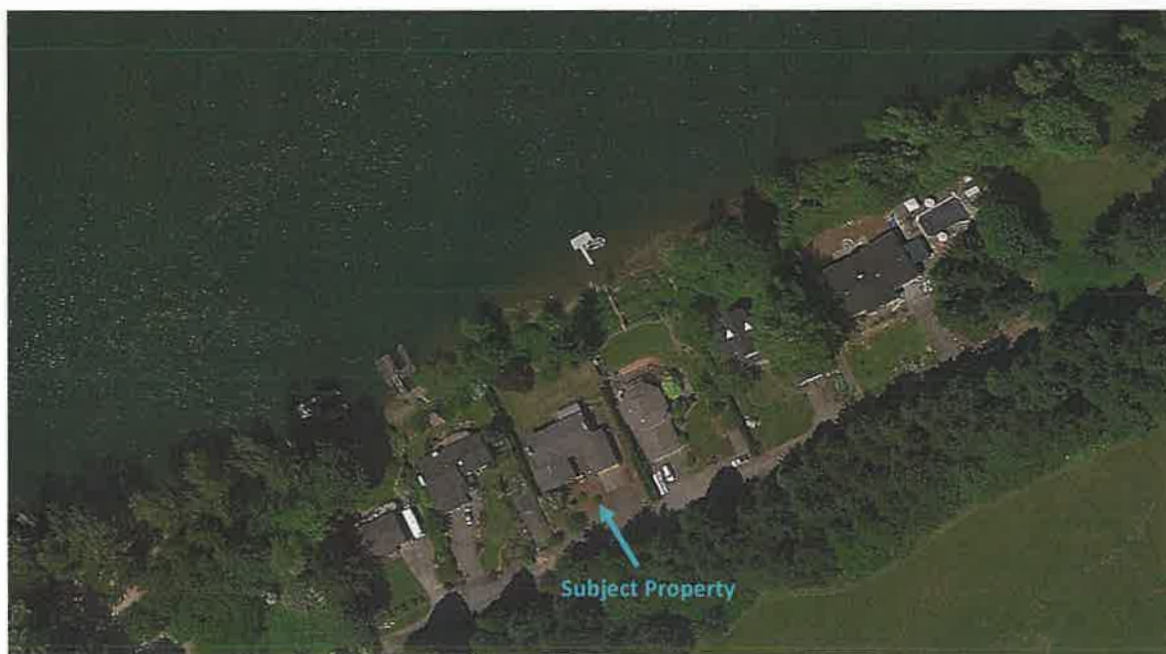
This is an application to construct a new dock on the Willamette River at the subject property. The subject property is located within the Willamette River Greenway (WRG) and is currently designated "Limited Use". An application for a Comprehensive Plan Map amendment to change the subject property's WRG designation from "Limited Use" to "Multiple Use" is submitted concurrently with this application. The Clackamas County Zoning Ordinance (ZDO) allows private noncommercial docks within Multiple Use portions of the WRG through a conditional use permit and subject to ZDO Section 705. This application demonstrates that the proposed dock is permitted, subject to County approval of the requested Comprehensive Plan amendment changing the subject property's WRG designation from "Limited Use" to "Multiple Use", and should be approved.

##### B. Description of Subject Property and General Area

The subject property is Tax Lot 700, Assessor's Map T3S, R1E, Section 21BC, W.M., located at 540 NW Riverpark Place, Canby, Oregon 97013. Exhibit 1, Assessor's Map. The property is located along the south side of the Willamette River at approximately river mile 34 between Molalla River State Park and the Canby Ferry. An aerial image of the subject property and the general area follows:



A May 2019 Google Earth image showing the subject property and adjacent properties is below:



The property is approximately 0.45 acres in size and is developed with a single-family residence. The property has a comprehensive plan designation of Agriculture (AG) and is zoned Exclusive Farm Use (EFU). The property is

oriented southeast (street front) to northwest (riverfront). The northwest portion of the property is vegetated with trees and landscaping between the residence and the river.

The property is surrounded by similarly sized parcels along NW River Park Place that are also developed with single-family residences (“NW River Park Place properties”). Properties on either side of the subject property and other NW River Park Place properties have noncommercial boat docks as shown in the photo below:



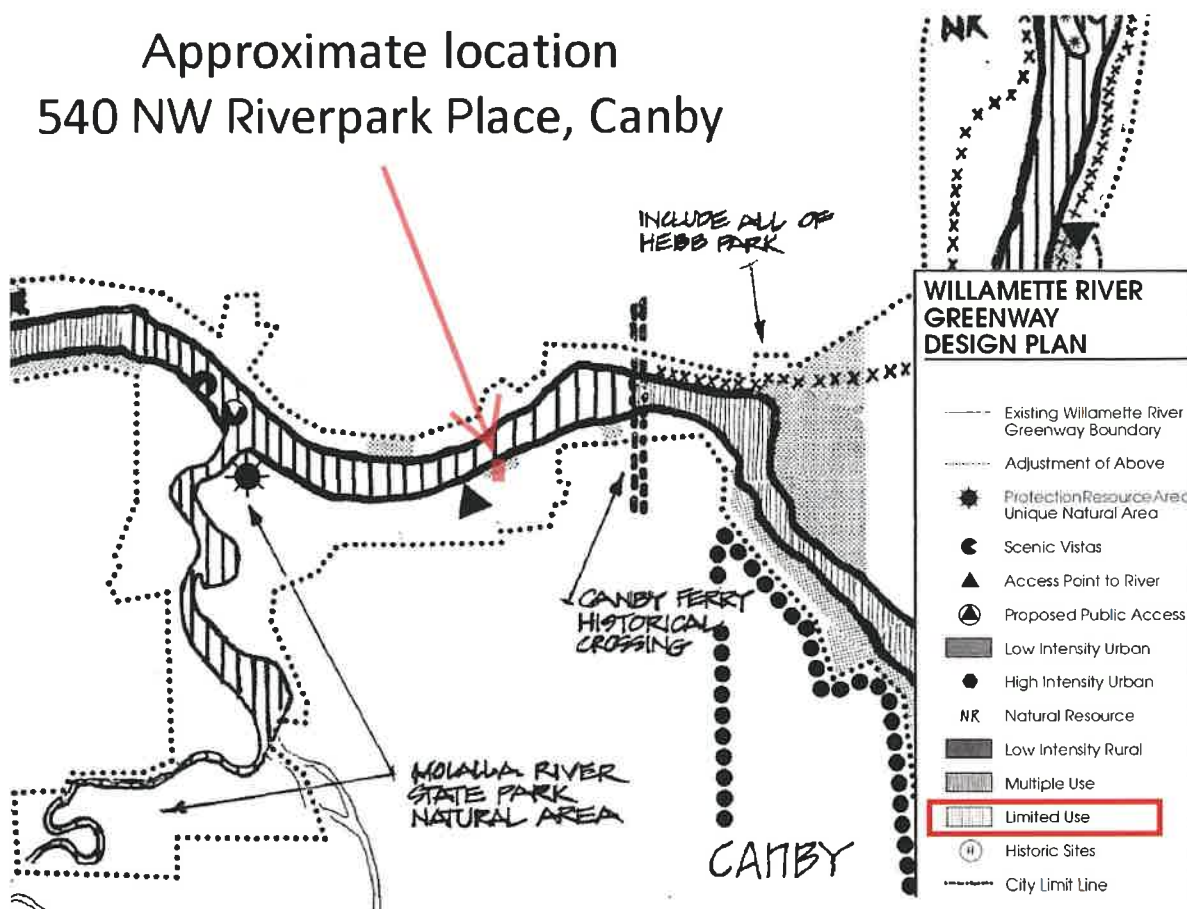


There are also several properties on the other side of the river and west of the subject property along SW Riverfront Terrace, Wilsonville (“SW Riverfront Terrace properties”), that have noncommercial boat docks as shown in the photo below:



Both residential areas are parcelized residential lots with boat docks within the “Limited Use” designated portions of the WRG on Comprehensive Plan Map III-1e, *Willamette River Greenway Design Plan*. Exhibit 2.

Approximate location  
 540 NW Riverpark Place, Canby



It is noteworthy that there have been at least four amendments to Map III-e that have removed the WRG Limited Use designation altogether on four properties, that are not reflected on this map. Those four decisions are attached as Exhibit 3.

## II. Approval Criteria

Uses in and along the Willamette River are governed by ZDO Section 705 Willamette River Greenway (WRG).

ZDO 705.04 provides that all development within the WRG requires a WRG permit. ZDO 705.02 defines "develop" to include the construction of a structure. This proposal is for the construction of a new private dock and will constitute development. Consequently, this proposal requires compliance with ZDO 705.04.

**ZDO 705.04 STANDARDS FOR INTENSIFICATION, CHANGE OF USE, OR DEVELOPMENT WITHIN THE WILLAMETTE RIVER GREENWAY**

*All intensification, change of use, or development shall require a Willamette River Greenway (WRG) permit. A WRG permit requires review as a Type II application pursuant to Section 1307 and shall be subject to the following standards and criteria:*

Response: This application is submitted pursuant to Section 1307 and the county should review the application pursuant to ZDO Section 1307's provisions for Type II applications.

*A. The request is consistent with the purposes stated in Subsection 705.01.*

Response: ZDO 705.01 provides three purposes for ZDO Section 705. Each is addressed in turn.

ZDO 705.01(A) provides:

*“Protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River;”*

Approval of the proposed dock at this location will primarily enhance the recreational qualities of the land along this stretch of the Willamette River. The planned purpose of this stretch of river is to allow “uses compatible with limited use recreation” and existing residential water-related uses, such as swimming and boating. *See Exhibit 2.* The subject property has existing water-related uses of swimming. Further, approval of this proposal will help protect, conserve, and maintain the natural and scenic qualities of this stretch of the river by preserving existing developed vegetation along the riverbank between the residence and the dock. The dock itself will be a dark natural wood color or will be painted in dark earth tones such as dark brown or green, allowing it to blend into the existing landscape, thus maximizing the natural and scenic qualities of the subject property. Approval of the proposal will also maintain the historic pattern of private residential docks along the south and north banks of the river between the Canby Ferry and Molalla River State Park.

ZDO 705.01(B) provides:

*“Maintain the integrity of the Willamette River by minimizing erosion, promoting bank stability, and maintaining and enhancing water quality and fish and wildlife habitats; and”*

Approval of this application will maintain the integrity of the river by minimizing the construction activity necessary to install the new dock. Retaining the existing developed vegetation will help prevent erosion and promote bank stability. The proposed dock will maintain current water quality and will have the added benefit of enhancing fish and wildlife habitat, because the dock will provide cover and refuge for fish under the dock.

ZDO 705.01(C) provides:

*“Implement the Willamette River Design Plan set forth in Chapter 3 of the Comprehensive Plan.”*

The Willamette River Design Plan is found under Policy 17 for Water Resources in Chapter 3, Natural Resources and Energy, of the county’s comprehensive plan. Relevant provisions of Policy 17 are addressed below:

Policy 17.1 relates to implementation of the design plan for the Willamette River according to Map III-1e (Exhibit 2). Map III-1e (the published version for which does not show amendments approved by the governing body) shows the water classification for the stretch of the Willamette River up- and downstream from the subject property to be “Limited Use”. See Exhibit 2. Map III-1e describes the Limited Use classification as:

“USES COMPATIBLE WITH LIMITED USE RECREATION. OTHER USES ARE EXISTING RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL WATER DEPENDENT AND WATER RELATED USES. ALLOWS CONTINUATION OF WATERBORNE COMMERCE (E.G., LOG RAFTS, ETC.).” See Exhibit 2.

The proposed private noncommercial dock for personal recreational water-dependent and water-related activities such as swimming and boating, is consistent with this policy.

Policy 17.2 discusses regulation of recreational activities to minimize conflicts and mitigate impacts. The County has implemented this policy through ZDO provisions that restrict docks to private, noncommercial uses, limit the size of

docks and impose vegetation/buffer requirements. As demonstrated by this application narrative and attached exhibits, the application is consistent with those regulating standards and therefore is consistent with this policy. Furthermore, the dock will be approved for noncommercial, personal recreational use which will limit the intensity and scale of the use, thus minimizing conflicts and mitigating the potential impacts from larger types of uses.

Policy 17.4 provides that uses in the Greenway require Willamette River Greenway subject to Conditional Use approval, must demonstrate compliance with provisions of the design plan as well as Natural Resources and Energy Policies 11.2 and 11.3. Because the proposal is for a new use in the WRG (a dock), the applicant submits this application for the required conditional use approval. The required Natural Resources and Energy Policies provisions are addressed below.

Policy 11.2 provides siting performance criteria in all Principal River Conservation Areas. The proposal will maintain the vegetative fringe area along the river free of structures. The ramp/gangway that will connect the dock to the shore will not disturb the vegetative fringe. The proposal will minimize erosion by retaining the existing established vegetation. Consistent with ZDO requirements, the dock, ramp/gangway, will remain a natural wood or be painted in dark earth tones to blend in with the surroundings.

Policy 11.3 provides minimum setback standards for all structures except for water-dependent uses. The dock and ramp/gangway are water-dependent uses and are exempt from this policy. No other structures are proposed. Thus, the proposal is consistent with this policy.

Policy 17.5 prohibits private noncommercial docks in the portions of the Greenway shown as *limited-use rural*. Policy 17.6 allows private noncommercial docks in the designated *urban* and *multiple-use rural* portions of the Greenway through the Greenway conditional use provisions of the ZDO. The subject property is currently designated “limited use”, but the applicant is requesting concurrently with this application, a comprehensive plan map amendment to redesignate the section of the river along the subject property to “multiple use”. Upon approval of the requested comprehensive plan map amendment, the proposal will be consistent with these policies.

The proposal is or will be made consistent with the purposes stated in ZDO 705.01.

*B. Where necessary, public access has been provided by appropriate legal means to and along the river.*

Response: The purpose of the proposed dock is to provide private, noncommercial recreational use for the owner and their guests and is not intended for public use. Nearby public access to the river is available at Molalla River State Park located west of the subject property and at Hebb County Park located east of the subject property. Public access is not necessary at this location and has been provided by appropriate legal means at these other locations.

*C. The request will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river. The depth of this area need not exceed 150 feet.*

Response: This standard is not strictly applicable because the dock is located in the Willamette River and no landscaped area, open space or shoreline vegetation will be disturbed by the dock. The gangway will cause not require any but minimal vegetation distribution and any vegetation disturbed will be restored with appropriate native vegetation.

*D. The request will result in the preservation of a buffer or filter strip of natural vegetation along the river bank. The depth of this vegetative buffer or filter strip need not exceed 150 feet, and shall be determined by consideration of the following:*

- 1. The character of the use or development;*
- 2. The width of the river;*
- 3. Steepness of the terrain;*
- 4. Type and stability of the soil; and*
- 5. The type and density of the existing vegetation.*

Response: The proposal will maintain the existing vegetation between the river bank and the lawn where the residence is located. The installation of the gangway/ramp that will connect the dock to the shore will not disturb the existing vegetation. The property is in residential use with a single-family residence. At this location, the river is approximately 500 feet wide. The shoreline of the property slopes slightly upward and is naturally vegetated with established dense bushes and trees that are about 50 feet deep and act as a buffer strip as required by this standard.

*E. Structures shall observe a minimum setback between 100 and 150 feet from the mean low water level. The setback shall be determined by evaluation of the criteria stated in Subsection 705.04. Residential lots of record and water-dependent uses unable to meet this requirement shall be exempt from this setback.*

Response: The proposed dock is a water-dependent use and is thus exempt from the setback standard. This standard is not applicable.

*F. The maximum height of a dwelling or structure accessory to a dwelling shall be 35 feet.*

Response: The proposed dock is not a dwelling or a structure accessory to a dwelling, rather it is an independent river structure. This standard is not applicable.

*G. Private noncommercial docks and boathouses shall be subject to the following standards, in addition to the other standards in Subsection 705.04:*

*1. General Provisions:*

*a. Private noncommercial docks, boathouses, and pilings shall either be dark natural wood colors, or painted dark earth tones (dark brown or green).*

Response: The dock is proposed to be a dark natural wood color or to be painted in dark earth tones such as dark brown or green. See Exhibit 5. This standard is met.

*b. The square footage of docks and boathouses is measured as the length times the width of the outer edge of the structure.*

Response: The site plan of the proposed dock indicates that the dock was measured as the length times the width (35' x 20') of the outer edge of the structure. See Exhibit 4. This standard is met.

*c. The length-to-width ratio of a private noncommercial dock shall not exceed 3:1.*

Response: The length-to-width ratio of the proposed dock is 1.75:1 which does not exceed the maximum ratio of 3:1. See Exhibit 4. This standard is met.

*d. Only one dock and boathouse is allowed per riverfront lot of record.*

Response: The applicant is proposing only one (1) private noncommercial boat dock for the subject lot of record property. There is no other existing dock or boathouse on the subject property. This standard is met.

\* \* \* \* \*

3. *Oregon City Falls to Marion County line:*

- a. Private noncommercial docks shall not exceed 700 square feet.*
- b. Private noncommercial boathouses shall not exceed 500 square feet.*
- c. Private noncommercial boathouses shall not exceed 12 feet in height, measured from the platform of the dock to the roof peak.*

Response: The subject property is located on the stretch of the Willamette River between Oregon City Falls and the Marion County Line. The use of the proposed dock will be for private, noncommercial recreational purposes. The proposed dock will be approximately 700 square feet in size. See Exhibit 4. This standard is met.

*4. All docks located on state-owned submerged and/or submersible land must be leased or registered with the Oregon Division of State Lands, according to state law.*

Response: The applicant will submit a Waterway Structure Registration Application for the dock with DSL once he secures the land use approval requested in this application.

The application satisfies all of the ZDO 705.04 approval standards for development in the Willamette River Greenway.

#### **ZDO 705.05 PROHIBITED USES**

*The following uses are prohibited in the Willamette River Greenway (WRG):*

- A. Low head hydroelectric dam facilities, which adversely impact fisheries or the scenic and water quality of the river; and*

Response: The application does not propose a hydroelectric dam facility. This standard is not applicable.



*B. Private noncommercial docks and moorages in the limited use rural portions of the WRG identified on Comprehensive Plan Map III-1e, Willamette River Greenway Design Plan.*

Response: This application proposes a private noncommercial dock within a stretch of the Willamette River Greenway Design Plan area that is currently designated as “Limited Use”. See Exhibit 2. However, the applicant has submitted concurrently with this application, an application for a Comprehensive Plan map amendment to change the subject property’s WRG designation from “Limited Use” to “Multiple Use”. If the County approves the Comprehensive Plan amendment, the requested dock will not be prohibited by ZDO 705.05(B). This standard can be met.

**ZDO 705.06 SUBMITTAL REQUIREMENTS**

*In addition to the submittal requirements identified in Subsection 1307.07(C), an application for a Willamette River Greenway Permit shall include:*

- A. A site plan showing existing vegetation and development, and locations of proposed development or activity;*
- B. Elevations of any proposed structures;*
- C. Exterior materials list for any proposed structures, including type and colors of siding and roofing; and*
- D. Cross section of any area within the vegetative buffer or filter strip where grading, filling, or excavating will occur.*

Response: The application includes a site plan (Exhibit 4) that shows the location of the proposed dock. There is no existing vegetation or development near the proposed dock.

An elevation of the dock is provided in Exhibit 4.

The dock will be comprised of a steel frame with polyethylene floats and wrapped in composite decking in dark natural wood colors or dark earth tones, such as dark brown or green. See Exhibit 5. The gangway/ramp will be aluminum.

There is no area within the vegetative buffer where grading, filling or excavation may occur.

The application complies with the submittal requirements of ZDO 705.06.

**ZDO 1307.07(C) Application Submittal:** *Type I, II, and III land use permit applications are subject to the following submittal requirements:*

1. *The following shall be submitted for an application to be complete:*
  - a. *A completed application form, such form to be prescribed by the Planning Director, and containing, at a minimum, the following information:*
    - i. *The names, mailing addresses, and telephone numbers of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;*
    - ii. *The address of the subject property, if any, and its assessor's map and tax lot number;*
    - iii. *The size of the subject property;*
    - iv. *The Comprehensive Plan designation and zoning district of the subject property;*
    - v. *The type of application being submitted;*
    - vi. *A brief description of the proposal; and*
    - vii. *Signature(s) of the applicant(s) and all owners or all contract purchasers of the subject property, or the duly authorized representative(s) thereof, authorizing the filing of the application.*

Response: The applicant has submitted the required application form, this application narrative and supporting evidence, which addresses each of the above-enumerated requirements.

- b. *A completed supplemental application form, such form to be prescribed by the Planning Director, or a written statement addressing each applicable approval standard and standard and each item on the supplemental application form;*

Response: The applicant has submitted the required Willamette River Greenway Conditional Use – Dock Only application form and required materials together with this application narrative and supporting evidence addressing each applicable approval standard.

- c. *Any additional information required under this Ordinance for the specific land use permit sought; and*

Response: This application includes all of the materials required under the ZDO and application forms for a private noncommercial dock on the Willamette River.

*d. Payment of the applicable fee, pursuant to Subsection 1307.15.*

Response: This application was submitted with the requisite fee.

### **III. Conclusion**

The application, written narrative and supporting evidence demonstrate that the proposal complies with all ZDO requirements for a private noncommercial dock on the Willamette River. The Planning Director should approve the application for a dock as proposed.

### **Exhibits**

Exhibit 1 – Assessor’s Map

Exhibit 2 – Comprehensive Plan Map III-1e, *Willamette River Greenway Design Plan*

Exhibit 3 – Board Order 95-710; Board Order on File No. Z1148-95-CP; Board Order 96-734; Hearings Officer Final Order Z0785-98-R

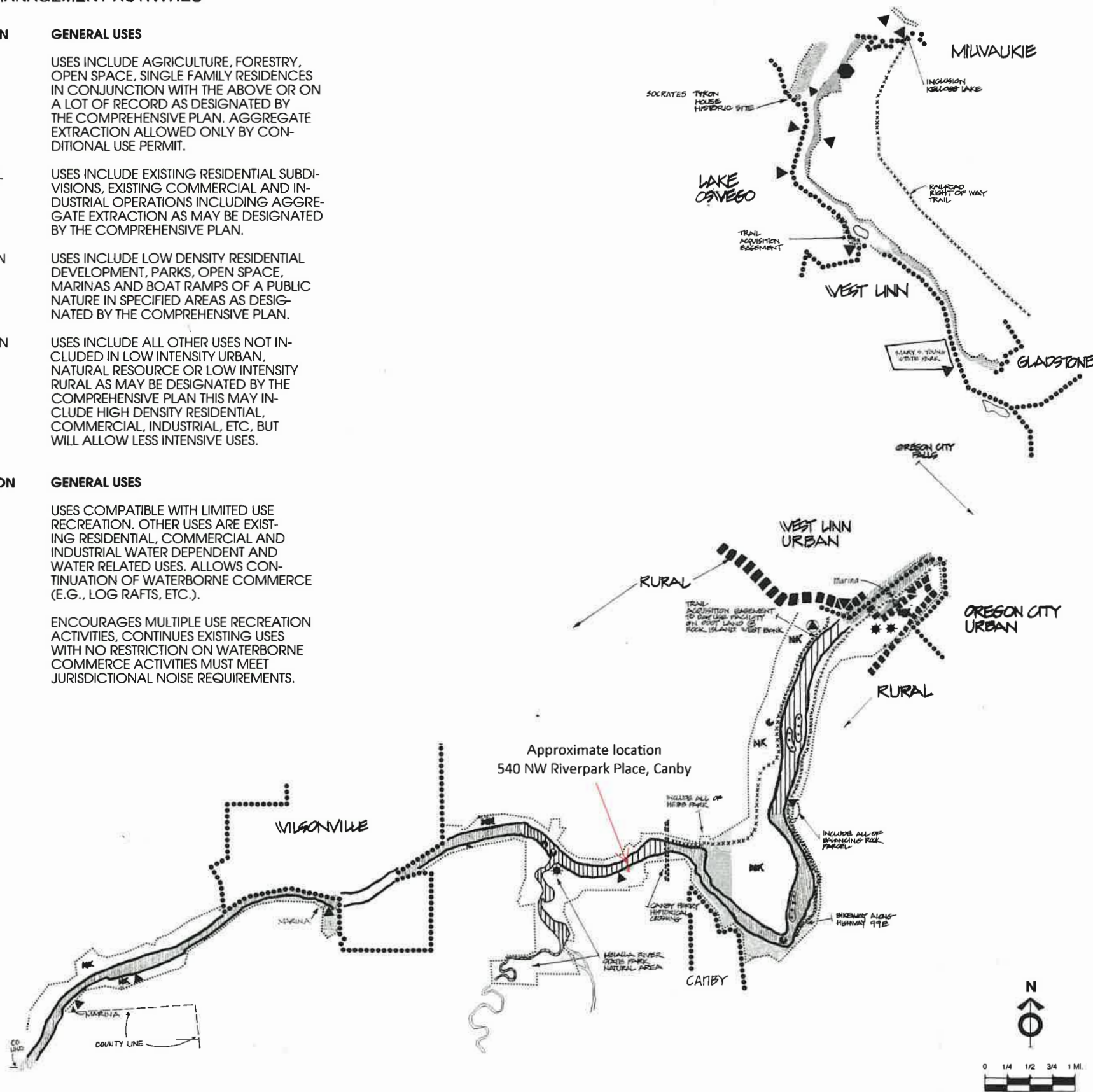
Exhibit 4 – Site Plan

Exhibit 5 – Proposed Dock Color Samples

# WILLAMETTE RIVER GREENWAY DESIGN PLAN

## MANAGEMENT ACTIVITIES

LAND CLASSIFICATION	GENERAL USES
NATURAL RESOURCE	USES INCLUDE AGRICULTURE, FORESTRY, OPEN SPACE, SINGLE FAMILY RESIDENCES IN CONJUNCTION WITH THE ABOVE OR ON A LOT OF RECORD AS DESIGNATED BY THE COMPREHENSIVE PLAN. AGGREGATE EXTRACTION ALLOWED ONLY BY CONDITIONAL USE PERMIT.
LOW INTENSITY RURAL	USES INCLUDE EXISTING RESIDENTIAL SUBDIVISIONS, EXISTING COMMERCIAL AND INDUSTRIAL OPERATIONS INCLUDING AGGREGATE EXTRACTION AS MAY BE DESIGNATED BY THE COMPREHENSIVE PLAN.
LOW INTENSITY URBAN	USES INCLUDE LOW DENSITY RESIDENTIAL DEVELOPMENT, PARKS, OPEN SPACE, MARINAS AND BOAT RAMPS OF A PUBLIC NATURE IN SPECIFIED AREAS AS DESIGNATED BY THE COMPREHENSIVE PLAN.
HIGH INTENSITY URBAN	USES INCLUDE ALL OTHER USES NOT INCLUDED IN LOW INTENSITY URBAN, NATURAL RESOURCE OR LOW INTENSITY RURAL AS MAY BE DESIGNATED BY THE COMPREHENSIVE PLAN THIS MAY INCLUDE HIGH DENSITY RESIDENTIAL, COMMERCIAL, INDUSTRIAL, ETC., BUT WILL ALLOW LESS INTENSIVE USES.
WATER CLASSIFICATION	GENERAL USES
LIMITED USE	USES COMPATIBLE WITH LIMITED USE RECREATION. OTHER USES ARE EXISTING RESIDENTIAL, COMMERCIAL AND INDUSTRIAL WATER DEPENDENT AND WATER RELATED USES. ALLOWS CONTINUATION OF WATERBORNE COMMERCE (E.G., LOG RAFTS, ETC.).
MULTIPLE USE	ENCOURAGES MULTIPLE USE RECREATION ACTIVITIES, CONTINUES EXISTING USES WITH NO RESTRICTION ON WATERBORNE COMMERCE ACTIVITIES MUST MEET JURISDICTIONAL NOISE REQUIREMENTS.



- Existing Willamette River Greenway Boundary
- Adjustment of Above
- ☀ Protection Resource Area, Unique Natural Area
- ☾ Scenic Vistas
- ▲ Access Point to River
- ⊕ Proposed Public Access
- Low Intensity Urban
- High Intensity Urban
- NR Natural Resource
- Low Intensity Rural
- ▨ Multiple Use
- ▤ Limited Use
- Ⓜ Historic Sites
- ..... City Limit Line



SW 1/4 NW 1/4 SEC. 21 T.3S. R.1E. W.M.  
CLACKAMAS COUNTY

3 1E 21BC

This map was prepared for  
assessment purposes only.

1"=100'



21250

SEE MAP 3 1E 20

SEE AERIAL PHOTOGRAPHS  
FOR SCALED DETAILS OF  
PROPERTY LINES BETWEEN  
THE ROAD AND RIVER.

SEE MAP 3 1E 21

TBR

LOT 6 17 90

GREENWAY  
SEE MAP 5-3  
F.H.D.  
3 1E 21BC  
BOOK 28



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON.

In the Matter of a Comprehensive  
Plan Map Change  
for Ron Sloy.

Applicant: Ron Sloy  
2685 Lexington Terrace  
West Linn, OR 97068

ORDER NO: 95-710

File No.: Z0256-95-CP

This matter coming regularly before the Board of County Commissioners, and it appearing that Ron Sloy made application for a comprehensive plan map change on property described as T3S, R1E, Section 2C, Tax Lot 1400, W.M., generally located off the south side of Pete's Mountain Road at the southwest junction of the Willamette River and the Tualatin River; West Linn area; and

It further appearing that planning staff, by its report dated April 18, 1995, has recommended denial of the application; and

It further appearing that the Planning Commission at its April 24, 1995, has recommended approval of the application; and

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners in the County Courthouse Annex at 906 Main Street, Oregon City, OR, on May 31 and June 21, 1995, in which testimony and evidence were presented, and that a preliminary decision was made by the Board on June 21, 1995;


Based upon the evidence and testimony presented, this Board makes the following findings:

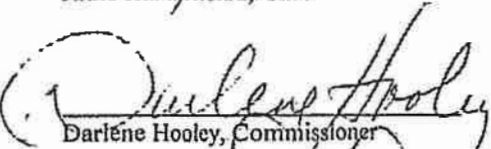
1. The applicant requests approval of a comprehensive plan amendment to change the Greenway Designation from "Limited Use" to "Multiple Use".
2. There are no comprehensive plan goals or policies directly applicable
3. Given the topography and existing development in the immediate area, the requested change in designation is not inconsistent with Statewide Goal 15.


NOW, THEREFORE, IT IS HEREBY ORDERED that the requested Comprehensive plan amendment is approved.

DATED this 13<sup>th</sup> day of July, 1995.

BOARD OF COUNTY COMMISSIONERS

  
Judie Hamnerstad, Chair

  
Darlene Hooley, Commissioner

  
Ed Lindquist, Commissioner



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of a Comprehensive  
Plan map Change  
for Clackamas County.

File No.: Z1148-95-CP

This matter coming regularly before the Board of County Commissioners, and it appearing that Clackamas County made application for a Comprehensive Plan map change from the "limited use" designation to "multiple use" designation in the Willamette Greenway Design Plan on property described as T3S, R1E, Section 2, Tax Lot(s) 803, 900, 1000, W.M., generally located along the West Bank of the Willamette River, South of its conjunction with the Tualatin River; and

It further appearing that planning staff, by its report dated November 21, 1995, has recommended approval of the application; and

It further appearing that the Planning Commission at its April 24, 1995, has recommended approval of the application; and

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners in the County Courthouse Annex at 906 Main Street, Oregon City, OR, on November 29, 1995, in which testimony and evidence were presented, and that a preliminary decision was made by the Board on November 29, 1995.

Based upon the evidence and testimony presented, this Board makes the following findings:

1. The Planning Commission and this Board previously requested that the Planning Division illustrate this Comprehensive Plan map change.
2. Based upon testimony and evidence presented at the November 29, 1995 hearing before this Board, and at the previous hearing on the neighboring Sloy property, this Board finds that, due to the topography and existing development in this area, the proposed Comprehensive Plan change is appropriate, and in compliance with the relevant Statewide Goals.

NOW, THEREFORE, IT IS HEREBY ORDERED that the proposed Comprehensive Plan amendment is granted.

DATED this 4th day of January, 1996.

BOARD OF COUNTY COMMISSIONERS

*Judie Hammerstad*  
Judie Hammerstad, Chair

*Ed Lindquist*  
Ed Lindquist, Commissioner

*Darlene Hooley*  
Darlene Hooley, Commissioner

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of a Comprehensive  
Plan for Greg Knutson.

ORDER NO 96-734

Applicant: Greg Knutson

File No.: Z0226-96-CP

This matter coming regularly before the Board of County Commissioners, and it appearing that Greg Knutson made application for a Comprehensive Plan map amendment on property described as T3S, R1E, Section 15, Tax Lots 2700, 2701, 2702, W.M. , located on the west side of the Willamette River, roughly 1/3 mile south of Rock Island; Peach Cove area; and

It further appearing that planning staff, by its report dated May 13, 1996, has recommended approval of the application; and

It further appearing that the Planning Commission at its May 20, 1996, has recommended approval of the application; and

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners in the County Courthouse Annex at 906 Main Street, Oregon City, OR, on June 19, 1996 , in which testimony and evidence were presented, and that a preliminary decision was made by the Board on June 19, 1996;

Based upon the evidence and testimony presented, this Board makes the following findings:

1. The applicant requests approval of a Comprehensive Plan amendment to change the Willamette Greenway Design Plan designation on the subject property from "Limited Use" to "Multiple Use".
2. This request complies with the applicable Comprehensive Plan policies and with Statewide Goal 15, for the reasons stated in the Planning Staff Report and Recommendation, which is hereby adopted as the findings and conclusions of this Board.

NOW, THEREFORE, IT IS HEREBY ORDERED that the requested Comprehensive plan amendment is granted.

DATED this 27th day of November.

BOARD OF COUNTY COMMISSIONERS

  
Darlene Hooley, Chair

  
Millicent Morrison, Recording Secretary

*Joe Maurer*

BEFORE THE LAND USE HEARINGS OFFICER  
FOR CLACKAMAS COUNTY

Regarding a request by William Kennemer for )  
approval of a Greenway Conditional Use per- )  
mit to implement a floating dock and attendant )  
facilities within the Willamette River Green- )  
way )

FINAL ORDER

Z0785-98-R  
(Kennemer)

— REQUEST FOR GREENWAY CONDITIONAL USE: *Approved*, with conditions —

A. SUMMARY OF PERTINENT FACTS

Applicant William Kennemer ("Applicant") seeks approval for a Greenway Conditional Use pursuant to CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE ("ZDO") § 705.03 in order to construct a 600-square-foot (20' x 30') floating dock with attendant ramp, support arm, and concrete pilings within the Willamette River Greenway (the "proposed use").

The affected property, addressed as 21041 S. Highway 99E and located on the west side of Highway 99E roughly half a mile north of the highway's intersection with S. South End Road (the "subject property"), lies within a Rural Residential Farm/Forest 5 Acres (RRFF-5) zoning district in an area designated Rural on the County's COMPREHENSIVE PLAN Land Use Map.

Applicant proposes to site the dock off the southern corner of the subject property, located as far as possible from adjoining State Park property on the north. The dock and its flotation logs will be anchored to two ground-level concrete pilings located roughly five street behind a steep embankment, approximately ten to twelve feet from the low water line at that point. A proposed 40-foot-long, 5-foot-wide steel ramp will extend from one of the pilings to the dock. The dock will have a canopy and canopy supports (but not a boathouse) to house a boat slip.

Applicant's undated narrative that accompanied the land use application ("APPLICANT'S NARRATIVE") further describes the use as follows:

"This is a simple (20' x 30') noncommercial dock. The ramp and support arm will be painted a dark, natural green to blend in with the surroundings. The dock uses untreated logs as a flotation system, is a wooden dock that is

currently in place elsewhere on the Willamette River, and is very consistent with the design and features of many of the docks along the river. The concrete pilings will be set back approximately 5' from the bank, leaving the bank vegetation intact and undisturbed. To minimize visual impact and maximize greenspace, the dirt removed for the pilings will be used as backfill around the pilings, except for a small area under the ramp and support arm; these small areas must be left unfilled to allow movement up and down as water levels change." (*Id.* at 2.)

Normally, a request for a Greenway Conditional Use approval would be an administrative action subject to initial review and approval by the Planning Director under the administrative procedures prescribed by ZDO § 1305.02. See ZDO § 705.03(A). However, Applicant's status as a member of the Board of County Commissioners resulted in Applicant's request (via a September 24, 1998, letter) that this approval request proceed directly to the Hearings Officer. ZDO § 1305.02(B) allows that option:

"B. Applicant Option: An applicant for a land use permit which is subject to Planning Director action under this subsection may request that such land use action be heard by the Land Use Hearings Officer . . . [.]"

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## B. HEARING AND RECORD

The Hearings Officer heard testimony on November 4, 1998. The County rendered its "*Planning Staff Report To The Hearings Officer*" ("STAFF REPORT") on October 29, 1998. Except as may be modified, rejected, or augmented within this decision, the Hearings Officer adopts the pertinent factual discussion in that STAFF REPORT as his own, and incorporates it herein by reference. All exhibits and records of testimony have been filed with the Planning Division, Clackamas County Department of Transportation and Development.

The Hearings Officer had no *ex parte* contacts, bias, or conflicts of interest to disclose. He did disclose that Applicant represented one of the four or five persons who had interviewed him prior to his appointment to that position in January, 1998, and he asked those present at the hearing whether anyone had any objection to the Hearings Officer's participation in this matter. No one objected or voiced any concerns. Pursuant to ORS 197.763(5), the Hearings Officer declared to those in attendance at the hearing that: (1) the Greenway Conditional Use approval criteria in ZDO § 705.03 (cited in the STAFF REPORT) would control Applicant's approval request; (2) all testimony and documentary evidence must be directed to the prescribed approval criteria or to other identified approval criteria in the County's ZONING AND DEVELOPMENT ORDINANCE, COMPREHENSIVE PLAN, or other identified source; and (3) the failure to raise any factual or legal issue with specificity and clarity sufficient

to allow the Hearings Officer or any participant to address and respond to such issue may preclude any appeal based upon the Hearings Officer's resolution of such issue.

Planner Gary Naylor summarized the application and the STAFF REPORT, following which the Hearings Officer took testimony and other comments. Applicant testified on his own behalf. Nancy Lauderdale and Craig Eberle posed questions concerning (1) the precise location of the subject property *vis-a-vis* that portion of the Greenway within which the proposed use would otherwise be prohibited, and (2) developments within the Greenway in general and the precedential impact that the proposed use might have. The Hearings Officer closed the public record at the conclusion of the testimony.

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### C. APPROVAL CRITERIA

ZDO § 705.02(A) provides that "[t]he standards of Section 705 apply to all lands and water within the Willamette River Greenway," while ZDO § 705.02(B) separately (but similarly) provides that "[t]he standards of Section 705 apply to all development, change of use, or intensification of use within the greenway, unless specifically excepted by Section 705.02C." ZDO § 705.02(A) encompasses the subject property and § 705.02(B) encompasses the proposed use. None of the exemptions in ZDO § 705.02(C) applies to the proposed use.

Approval Criteria. ZDO §§ 705.03(B) and (C) implement a number of Greenway Conditional Use approval criteria, and they provide (in pertinent part):

- "B. All intensification or change in use, or development shall require a Greenway Conditional Use permit. A Conditional Use shall be granted only if the applicant shows that the request will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river. The depth of this area need not exceed 150 feet. Additionally, the applicant shall demonstrate all of the following:
- "1. That approval of the request will be consistent with the purposes stated in Subsection 705.01.
  - "2. That, where necessary, public access has been provided by appropriate legal means to and along the river.
  - "3. That the request complies with Subsections 705.03D and 705.03E.

"C. A conditional use shall be granted only if the applicant shows that the request will result in the preservation of a filter or buffer strip of natural vegetation along the river bank. The depth of this buffer strip need not exceed 150 feet, and shall be determined by consideration of the following:

- "1. The character of the use of development.
- "2. The width of the river.
- "3. Steepness of the terrain.
- "4. Type and stability of the soil.
- "5. The type and density of the existing vegetation."

Development Standards. ZDO §§ 705.03(D) and (E) separately prescribe a number of development standards that must be observed in the event of any approval; they do not comprise approval criteria as such, but instead represent the source of various dimensional limitations and the source of various conditions of approval that an applicant must fulfill before any approval can become effective:

"D. All structures shall observe a minimum setback between 100 and 150 feet from the mean low water level. The setback shall be determined by evaluation of the criteria stated in Subsection 705.03. Residential lots of record and water dependent uses unable to meet this requirement shall be exempt from this setback.

"E. Private noncommercial docks and boathouses shall be subject to the standards listed below, in addition to the other standards in Subsection 705.03:

"1. General Provisions:

- "a. Private noncommercial docks, boathouses, and pilings shall either be dark natural wood colors, or painted dark earth tones (dark brown or green).
- "b. The square footage of docks and boathouses is measured as the length times the width of the outer edge of the structure;
- "c. The length-to-width ratio of a private noncommercial dock shall not exceed 3:1;

"d. Only one dock and boathouse is allowed per riverfront lot of record.

"\* \* \* \* \*

"3. Oregon City Falls to Marion County line:

"a. Private noncommercial docks shall not exceed 700 square feet;

"b. Private noncommercial boathouses shall not exceed 500 square feet, and shall not exceed 12 feet in height, measured from the platform of the dock to the roof peak.

"4. All docks located on state-owned submerged and/or submersible land must be leased or registered with the Oregon Division of State Lands, according to State law."

Prohibition(s). Finally, ZDO § 705.04 identifies various "prohibited" uses, among which appears the following:

"D. Private noncommercial docks and moorages in the limited use rural portions of the greenway (as identified in Chapter 3 of the Comprehensive Plan) are prohibited."

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## D. DISCUSSION AND FINDINGS

### 1. DOES THE PROPOSED USE CONSTITUTE A "PROHIBITED" USE?

The record raises the question whether the proposed use constitutes a "prohibited" use by virtue of ZDO § 705.04(D), which proscribes "[p]rivate noncommercial docks and moorages in the *limited use rural portions* of the greenway (as identified in Chapter 3 of the Comprehensive Plan [*viz*, the Natural Resources and Energy chapter]) . . . [.]". Because of the subject property's proximity to the "limited use rural portion" of the Willamette River Greenway, the question whether the proposed use might otherwise be prohibited by virtue of ZDO § 705.04(D) must necessarily be resolved first.

The prohibition in ZDO § 705.04(D) refers to Chapter 3 of the County's COMPREHENSIVE PLAN as "identif[ying]" the "limited use rural portions" of the Willamette Greenway. The "*Water Resources*" section of the Natural Resources and Energy chapter of the County's COMPREHENSIVE PLAN (Chapter 3) implements a number of water resource policies, among which appears Policy 15.0:

"15.1 Implement the design plan for the Willamette River *according to the following map which illustrates uses*. Management activities and land classifications shown on the map are consistent with land use policies and designations in the Land Use Chapter. Official maps showing precise boundaries and sites (scale 1"=2000') are on file at the Clackamas County Department of Transportation and Development." (Emphasis added.)

The STAFF REPORT identifies the map referenced in the first sentence of Policy 11.1 as Map III-1e, titled "*Willamette River Greenway Design Plan*." (STAFF REPORT at 4.) That particular map vaguely identifies an area within the Greenway as "limited use," which corresponds to the prohibition in ZDO § 705.04(D), above (*viz*, "limited use rural portions of the greenway"). Applicant's property lies close to the extreme southern portion of the "limited use" area, within which the proposed use would be prohibited.

Map III-1e identifies no discernible landmarks or reference points within the area of the subject property other than a notation that the extreme southern portion of the "limited use" area *includes* "Balancing Rock." However, the map does not appear to locate or identify Balancing Rock itself (at least as the Hearings Officer and others viewed the map at the November 4 hearing), other than to make it reasonably plain that Balancing Rock — wherever it may be — falls within the prohibited area. The map bears a scale of 1 mile=3/4 inch, or 1 inch=7,040 feet, which renders it virtually unusable for purposes of locating a particular site — such as the subject property — with any objectivity or reliable specificity.

The STAFF REPORT recites that "[a]s staff measures from a known point to the north to the subject property it appears [that] the property is barely in the Limited Use are[a]. When staff measures from a known point to the south to the subject property it appears the property is clearly in the Multiple Use designation [*viz*, outside the 'limited use' area]." (*Id.* at 4.) However, nowhere does the STAFF REPORT identify the two "known" reference points, and Staff did not identify them at the November 4 hearing either.

The STAFF REPORT also cites a November 27, 1996, decision by the Board of County Commissioners (Order No. 96-734) in Z0226-96-CP in which the Board approved a COMPREHENSIVE PLAN map amendment that redesignated a Willamette River property "Multiple Use" and concurrently removed a "Limited Use" designation. The staff report that accompanied that decision offered a discussion of various COMPREHENSIVE PLAN policies in an effort to demonstrate that the proposed map amendment would be "consistent" with those policies. As part of its "consistency" discussion, the staff report in that matter described various perceived differences in physical characteristics of Greenway properties lying in both the "Limited Use" and "Multiple Use" areas along the Willamette River in the area of the subject property. Apparently, the STAFF REPORT in *this* matter cites the prior approval in Z0226-96-CP for the proposition that the demarcation between those areas has not been firmly fixed or otherwise depends upon certain physical characteristics in the riverfront properties to determine where one area begins and the other ends. Thus, the STAFF REPORT concludes, based upon the characteristics identified and discussed in Z0226-96-CP, that



“the limited use designation on the east side of the Willamette River, upstream from the Tualatin River, ends when the RRF-5 zone begins, just north of the subject property.” (*Id.* at 4.) That interpretation would place the subject property beyond (or south of) the “limited use” designation. However, the Hearings Officer does not necessarily agree that the subjective designation of “limited use” and “multiple use” areas can or should be determined in that manner, particularly in the absence of some provision in the COMPREHENSIVE PLAN that purports to differentiate between “limited use” and “multiple use” areas in the manner suggested by the STAFF REPORT — and the STAFF REPORT cites no such provision. Moreover, if properties could be designated “limited use” and “multiple use” in the manner suggested by the STAFF REPORT there would be little need to refer to a particular map as reflective of the demarcation.

At the November 4 hearing the Hearings Officer asked Staff to locate the other map referenced in Policy 11.1, above (*viz.*, one of the “Official maps showing precise boundaries and sites”). Staff located an “official” map that appeared to correspond to the area in question, but the “official” map — although much larger — contained no reference whatsoever to the “limited use” area that appears on Map III-1e, and did not appear to contain many of the details otherwise contained in Map III-1e. Thus, Map III-1e appears to contain the only identification or demarcation of the “limited use” area described in ZDO § 705.04(D).

Applicant testified that the subject property lies sufficiently south of Balancing Rock that it falls outside of the southern boundary of the “limited use” area depicted on Map III-1e. Applicant further testified that the Division of State Lands (“DSL”) had corroborated that determination in conjunction with DSL’s antecedent approval of Applicant’s “Waterway Structure Registration Application” (Exhibit 12), and that the DSL would not have rendered its approval if the subject property lay within a prohibited area. Although the Hearings Officer does not know, and the record does not otherwise describe, the extent to which the DSL enforces or acts in accordance with the County’s COMPREHENSIVE PLAN, Applicant’s testimony about the relationship of the subject property and Balancing Rock stands uncontradicted in this record. Applicant also testified — without contradiction — that one or more properties to the *north* of the subject property have constructed similar docks, a circumstance which yields the inference that those properties also lie outside of the “limited use” area described in ZDO § 705.04(D).

The Hearings Officer concludes that the subject property lies sufficiently south of Balancing Rock that it lies outside (or south) of the southern boundary of the “limited use” area depicted on Map III-1e of the County’s COMPREHENSIVE PLAN. As such, the proposed use does *not* constitute a use otherwise prohibited by ZDO § 705.04(D).

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2. "MAXIMUM POSSIBLE" LANDSCAPED AREA, OPEN SPACE, AND VEGETATION  
(ZDO § 705.03(B))

Applicant must demonstrate that "the request will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river," the depth of which "need not exceed 150 feet."

Applicant's proposed plans, dated September 23 and 24, 1998, depict the proposed dock almost entirely within the river. The only portion on the land will be the concrete pilings as portrayed on those plans. The "activity" — *viz*, the floating dock and attendant ramp — will be located predominately in or in extremely close proximity to the river itself. The Hearings Officer concludes, based upon Applicant's proposed plans, that for all practical purposes there exists no area "between the activity and the river" and that Applicant has demonstrated a fulfillment of ZDO § 705.03(B).<sup>1</sup>

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3. CONSISTENCY WITH ZDO § 705.01  
(ZDO § 705.03(B)(1))

ZDO § 705.03(B)(1) requires that Applicant demonstrate that any "approval of the request will be consistent with the purposes stated in [ZDO] Subsection 705.01."

ZDO § 705.01 bears the caption "PURPOSE" and provides (in full):

- "A. To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River;
- "B. To maintain the integrity of the Willamette River by minimizing erosion, promoting bank stability and maintaining and enhancing water quality and fish and wildlife habitats;
- "C. To implement the Willamette River Design Plan described in the Comprehensive Plan."

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<sup>1</sup> The STAFF REPORT discusses this criterion with the existing *residence* as the reference point for purposes of the "activity." (*Id.* at 5.) The Hearings Officer does not construe ZDO § 705.03(B) as necessitating an examination of *existing* uses that will remain unaffected or unaltered by the *proposed* use, nor does he construe the "activity" for purposes of ZDO § 705.03(B) as anything except the proposed use for which Applicant seeks approval, *viz*, the dock and attendant facilities.

There would seem to be no realistic dispute but that the proposed dock will "enhance" the "recreational" quality of Applicant's property.

Applicant's proposed design — which incorporates two concrete pilings just above ground level and a post-construction revegetation of any affected area — would appear to have no discernible impact in terms of erosion, bank stability, or water quality; the plans depict no proposed alteration of the river bank itself, and nothing about the proposed dock poses an inherent risk to overall river water quality. The record contains no evidence to the contrary. The record identifies no known fish or wildlife habitats in the immediate vicinity of the proposed dock.

Finally, the "Willamette River Design Plan" has already been discussed earlier. That plan delineates certain use areas, and the specific prohibition in ZDO § 705.04(D) implements the plan. The Hearings Officer has already concluded that the subject property lies within an area described in that plan as allowing the proposed use.<sup>2</sup>

Thus, the Hearings Officer concludes that "approval of the request will be consistent with the purposes stated in Subsection 705.01" and that Applicant has therefore demonstrated a fulfillment of ZDO § 705.03(B)(1).

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#### 4. PRESERVATION OF PUBLIC ACCESS TO WILLAMETTE RIVER (ZDO § 705.03(B)(2))

The proposed use will neither impede nor further limit any public access that may already exist in the area. Moreover, a State park adjoins the subject property to the north, rendering unnecessary any discussion whether Applicant ought to provide (or whether ZDO § 705.03(B)(2) could compel Applicant to provide) additional public access in conjunction with the proposed use.

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<sup>2</sup> The STAFF REPORT recites that

"[a]ddressing this standard [*viz*, the 'purpose' provision in ZDO § 705.01(C)] will require a review of the Goals of the Water Resources section of the Natural Resources and Energy element of the Comprehensive Plan . . . [.] It is also necessary to review Policies 15.0 through 16.0 . . . of [that portion of] the Plan." (*Id.* at 6.)

If ZDO § 705.01(C) referred to the "Willamette River Design Plan *and Policies*" the Hearings Officer would be inclined to agree with the STAFF REPORT. However, ZDO § 705.01 specifically identifies only the "*Plan*," which the STAFF REPORT earlier identifies as Map III-1e of the COMPREHENSIVE PLAN (captioned "*Willamette River Greenway Design Plan*").

Thus, the Hearings Officer concludes that "public access has been provided by appropriate legal means to and along the river" and that further public access to the river from the subject property would be entirely unnecessary in conjunction with the proposed use. Applicant has therefore demonstrated a fulfillment of ZDO § 705.03(B)(2).

5. COMPLIANCE WITH ZDO §§ 705.03(D) AND 705.03(E)  
(ZDO § 705.03(B)(3))

ZDO §§ 705.03(D) and 705.03(E) prescribe certain development standards, and this decision identifies those standards earlier.<sup>3]</sup>

<sup>3</sup> For reference, ZDO §§ 705.03(D) and (E) provide:

"D. All structures shall observe a minimum setback between 100 and 150 feet from the mean low water level. The setback shall be determined by evaluation of the criteria stated in Subsection 705.03. Residential lots of record and water dependent uses unable to meet this requirement shall be exempt from this setback.

"E. Private noncommercial docks and boathouses shall be subject to the standards listed below, in addition to the other standards in Subsection 705.03:

"1. General Provisions:

"a. Private noncommercial docks, boathouses, and pilings shall either be dark natural wood colors, or painted dark earth tones (dark brown or green).

"b. The square footage of docks and boathouses in measured as the length times the width of the outer edge of the structure;

"c. The length-to-width ratio of a private noncommercial dock shall not exceed 3:1;

"d. Only one dock and boathouse is allowed per riverfront lot of record.

\* \* \* \* \*

"3. Oregon City Falls to Marion County line:

"a. Private noncommercial docks shall not exceed 700-square feet;

"b. Private noncommercial boathouses shall not exceed 500 square feet, and shall not exceed 12 feet in height, measured from the platform of the dock to the roof peak.

"4. All docks located on state-owned submerged and/or submersible land must be leased or registered with the Oregon Division of State Lands, according to State law."

The proposed use, as a "water dependent use," will be exempt from ZDO § 705.03(D). The remaining provisions in ZDO § 705.03(E) underlie the various conditions of approval prescribed at the conclusion of this decision.

The Hearings Officer concludes that record sufficiently demonstrates that Applicant's proposed design either currently fulfills or can, with the conditions of approval, fulfill the development and dimensional limitations in ZDO § 705.03(E). Applicant has therefore demonstrated a fulfillment of ZDO § 705.03(B)(3).

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#### 6. PRESERVATION OF FILTER OR BUFFER STRIP (ZDO § 705.03(C))

ZDO § 705.03(C) requires that Applicant demonstrate that the proposed use "will result in the preservation of a filter or buffer strip of natural vegetation along the river bank." The depth of this buffer strip will be determined by (1) the character of the use of development, (2) the width of the river, (3) the steepness of the terrain, (4) the type and stability of the soil, and (5) the type and density of the existing vegetation.

APPLICANT'S NARRATIVE and Applicant's proposed design depict the proposed dock as just beyond a steep embankment located approximately ten to twelve feet from the river's low water line. The proposed dock will involve no dredging, filling, or excavation that would interfere with or impact any existing conditions between the low water line and the embankment (*id.*); to the contrary, according to Applicant and the proposed design, the dock has been designed to accommodate the embankment as the river level rises and falls.

The existing natural vegetation in the back yard of the subject property — which APPLICANT'S NARRATIVE describes as "mostly low growing wild bushes, wild flowers and grasses" (*id.* at 3) — extends to the embankment, and the concrete pilings will be placed at the edge of that vegetation just above the embankment. Applicant represents that none of the existing vegetation will be altered except for the space to be taken up by the two concrete pilings.

The Hearings Officer concludes that the proposed use will leave virtually intact the existing natural vegetation and will result in "the preservation of a filter or buffer strip of natural vegetation" as required by ZDO § 705.03(C).

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### E. DECISION

Based upon the above discussion, the Hearings Officer approves the requested Greenway Conditional Use for the floating dock and attendant facilities as described in Applicant's land use application and accompanying design, subject to Applicant's fulfillment of the conditions of approval prescribed below.

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### F. CONDITIONS OF APPROVAL

As conditions precedent to the effectiveness of this approval, Applicant shall fulfill the following conditions:

1. The dock and attendant facilities (*viz*, flotation devices, ramp, and ramp support arms) shall either be dark natural wood colors or shall be painted dark earth tones (dark brown or green).
2. The dock and attendant facilities shall substantially conform to the drawings and plans submitted by Applicant as part of this land use approval request. The square footage of the dock shall not exceed 700 square feet, and in no event shall the length-to-width ratio of the dock exceed 3:1.
3. To the extent the dock will be located on state-owned submerged and/or submersible land, Applicant shall lease or register the dock with the Oregon Division of State Lands (DSL) and shall further obtain and maintain all necessary DSL approval(s).
4. Applicant shall have no more than one dock for the subject property.

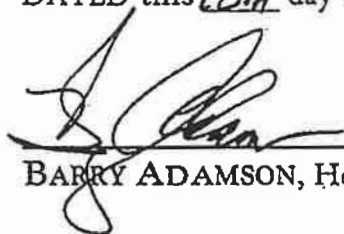
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### G. APPEAL RIGHTS

ZDO § 1304.01 provides that, with the exception of an application for an "Interpretation" as so classified by the Department of Transportation and Development, the Land Use Hearings Officer's decision constitutes the County's final decision for purposes of any available appeal to the Land Use Board of Appeals (LUBA). Various provisions in ORS Chapter 197 determine whether and when this decision might be appealable to LUBA. In addition, administrative rules promulgated by LUBA prescribe the time period within which any appeal must be filed and the manner in which such an appeal must be commenced.

If this decision does not involve an "Interpretation" as so classified by the Department of Transportation and Development, ZDO § 1304.02 provides that this decision will be "final" for purposes of a LUBA appeal as of the date of mailing (which date appears on the last page herein), *unless* a party invokes the rehearing procedures set forth in ZDO § 1304.03.

DATED this 8<sup>th</sup> day of NOVEMBER, 1998.

  
\_\_\_\_\_  
BARRY ADAMSON, Hearings Officer

CERTIFICATE OF MAILING

I certify that on the date set forth below I mailed a copy of the above HEARINGS OFFICER FINAL ORDER by first class mail to the following participants at the address shown:

William Kennemer  
21041 S. Highway 99E  
Oregon City, Oregon 97045

Nancy Lauderdale  
10721 S.E. Marilyn Court  
Portland, Oregon 97266

Diane Moore  
10741 S.E. Marilyn Court  
Portland, Oregon 97266

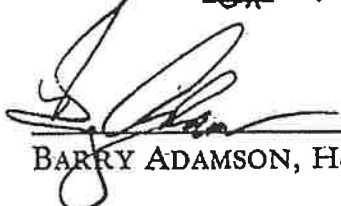
Craig Eberle  
10758 S.E. Forest View Lane  
Portland, Oregon 97266

Terry Curry  
Planning Division  
Department of Transportation and Development  
902 Abernethy Road  
Oregon City, Oregon 97045

Kit Whittaker  
Public Affairs Coordinator  
Clackamas County Public Affairs Office  
906 Main Street  
Oregon City, Oregon 97045

The original of this decision has been filed with the Planning Division, Clackamas County Department of Transportation and Development.

DATED this 18<sup>th</sup> day of NOVEMBER, 1998

  
\_\_\_\_\_  
BARRY ADAMSON, Hearings Officer

HEARINGS OFFICER FINAL ORDER  
REQUEST FOR GREENWAY CONDITIONAL USE APPROVAL

Z0785-98-R (KENNEMER)  
PAGE 14





PLAN VIEW

Everett Griffin  
540 NW Riverpark Place  
Canby, OR 97013  
TMK 31E21BC00700

Ordinary high water mark

Low low water mark

N

60'-0"

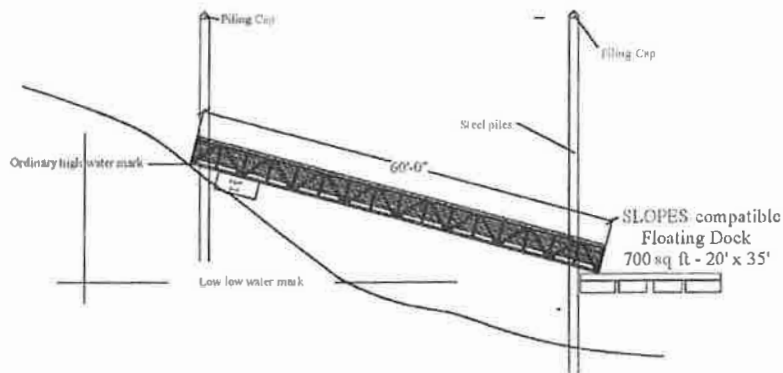
← Nearest down stream dock is >80"

→ Nearest up stream dock is >80"

SLOPES compatible  
Floating Dock  
700 sq ft - 20' x 35'

CROSS SECTION VIEW

Everett Griffin  
540 NW Riverpark Place  
Canby, OR 97013  
TMK 31E21BC00700





Proposed Dock Color Samples







NOTICE OF PUBLIC HEARINGS BEFORE THE PLANNING COMMISSION AND THE BOARD OF COUNTY COMMISSIONERS ON A PROPOSAL IN YOUR AREA

Date of Mailing of this Notice: September 18, 2023

Notice Sent to: Applicant; property owners within 2,640 feet (half a mile) of the subject property; and applicable cities, Community Planning Organizations (CPOs), special districts, and government agencies

Please note that the Planning Commission is holding land use public hearings virtually using the Zoom platform, and that the Board of County Commissioners is holding land use public hearings both in person and virtually using the Zoom platform.

Table with 2 columns: Hearing Details and How to Attend. Rows include Planning Commission Hearing and Board of County Commissioners Hearing.

Planning File Numbers: Z0315-23-CP and Z0316-23-R

Applicant(s): Everett Griffin

Property Owner: Everett Griffin

Proposal: A Comprehensive Plan Map amendment to change the Willamette River Greenway designation on subject property from "Limited Use" to "Multiple Use" to allow for the construction of a new private noncommercial dock and an application for approval to construct a private noncommercial dock.

Subject Tax Lot: T3S, R1E, Section 21BC Tax Lot 00700 W.M.

Situs Address: 540 NW River Park Pl, Canby, OR 97013

Location of Subject Property: Abutting the south bank of the Willamette River approximately 1/2-mile west of the Canby Ferry

Area of Subject Property: Approximately 0.50 acres

Current Zoning: Exclusive Farm Use (EFU)

Approval Criteria: Statewide Planning Goals; Clackamas County Comprehensive Plan Chapters 2, 3, 4, and 11; and Clackamas County Zoning and Development Ordinance (ZDO) Sections 705 and 1307

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.

### HOW TO OBTAIN ADDITIONAL INFORMATION

**Staff Contact:** Martha Fritzie, Principal Planner (Tel: 503-742-4529, Email: mfritzie@clackamas.us)

A copy of the entire application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost. In addition, a staff report on the application will be available for inspection at no cost at least **seven days prior to the Planning Commission hearing**. Hard copies of documents will be provided at reasonable cost. You may inspect or obtain these materials by:

1. Emailing or calling the staff contact Martha Fritzie (see above);
2. Visiting the Planning & Zoning Division, at the address shown at the top of the first page of this notice, during regular business hours, which are Monday-Thursday, 8:00am to 4:00pm; or
3. Online at <https://accela.clackamas.us/citizenaccess/>. After selecting the "Planning" tab, enter the File Number to search. Select Record Info and then select "Attachments" from the dropdown list, where you will find the submitted application.

#### **Community Planning Organization for Your Area:**

The following recognized Community Planning Organization (CPO) has been notified of this application and may develop a recommendation. You are welcome to contact the CPO and attend their meeting on this matter, if one is planned. If this CPO currently is inactive and you are interested in becoming involved in land use planning in your area, please contact the Community Involvement Office at 503-655-8552. **CPO: Aurora-Butteville-Barlow CPO, Ken Ivey (ken@ijco-cpa.com)**

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### HOW TO SUBMIT TESTIMONY ON THIS APPLICATION

- All interested parties are invited to attend the Zoom hearings remotely online or by telephone, and to attend the Board of County Commissioners hearing in person. They will be provided with an opportunity to testify orally, if they so choose. One week prior to each hearing, additional instructions will be available online as explained on the first page of this notice.
- Written testimony received by **October 9, 2023**, will be considered by staff prior to the issuance of the staff report and recommendation on this application. However, written testimony will continue to be accepted until the record closes, which may occur as soon as the conclusion of the Board of County Commissioners' hearing.
- Written testimony may be submitted by email, fax, regular mail, or hand delivery. Please include the case file numbers (Z0315-23-CP and Z0316-23-R) on all correspondence and address written testimony to the staff contact who is handling this matter (Martha Fritzie).
- Testimony, arguments, and evidence must be directed toward the approval criteria identified on the first page of this notice. Failure to raise an issue at the hearing or by letter prior to the close of the record, or failure to provide statements or evidence sufficient to afford the Board of County Commissioners and the parties involved an opportunity to respond to the issue, precludes an appeal to the Oregon Land Use Board of Appeals based on that issue.
- Written notice of the Board of County Commissioners' decision will be mailed to you **if you submit a written request and provide a valid mailing address**.

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### PROCEDURE FOR THE CONDUCT OF THE HEARINGS

The following procedural rules have been established to allow orderly public hearings:

1. The length of time given to individuals speaking for or against an item will be determined by the Chair presiding over the hearing prior to the item being considered.
2. A spokesperson representing each side of an issue is encouraged.
3. Prior to the conclusion of the evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application. The Planning Commission or the Board of County Commissioners may either continue the hearing or leave the record open for additional written evidence, arguments, or testimony.
4. The Planning Commission will make a recommendation to the Board of County Commissioners on the application. The Board of County Commissioners is the final decision-maker for Clackamas County on this matter.

*Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at 503-742-4545 or email [DRehhard@clackamas.us](mailto:DRehhard@clackamas.us).*

503-742-4545: ¿Traducción e interpretación? |Требуется ли вам устный или письменный перевод?  
翻译或口译? | Cần Biên dịch hoặc Phiên dịch? | 번역 또는 통역?



**TYPE II OR III LAND USE APPLICATION**

**DEEMED COMPLETE**

ORIGINAL DATE SUBMITTED:	<input type="text" value="08/07/23"/>
FILE NUMBER:	<input type="text" value="Z0315-23-CP"/>
APPLICATION TYPE:	<input type="text" value="COMPREHENSIVE PLAN AMENDMENT"/>

The Planning and Zoning Division staff deemed this application complete for the purposes of Oregon Revised Statutes (ORS) 215.427 on:

Staff Name

Title

**Comments:**

Will be reviewed concurrently with Z0316-23-R (WRG dock application). Per ZDO 1307.06(A) the Type III Comprehensive Plan map amendment procedure shall be used for consolidated applications.

**Check one:**

The subject property is located inside an urban growth boundary. The 120-day deadline for final action on the application pursuant to ORS 215.427(1) is:

The subject property is not located inside an urban growth boundary. The 150-day deadline for final action on the application pursuant to ORS 215.427(1) is:





**TYPE II OR III LAND USE APPLICATION**

**DEEMED COMPLETE**

ORIGINAL DATE SUBMITTED:	<input type="text" value="08/07/23"/>
FILE NUMBER:	<input type="text" value="Z0316-23-R"/>
APPLICATION TYPE:	<input type="text" value="WILLAMETTE RIVER GREENWAY"/>

The Planning and Zoning Division staff deemed this application complete for the purposes of Oregon Revised Statutes (ORS) 215.427 on:

Staff Name

Title

**Comments:**

Will be reviewed concurrently with Z0315-23-CP (Type III). Per ZDO 1307.06(A) the Type III Comprehensive Plan map amendment procedure shall be used for consolidated applications, which includes public hearings before the Planning Commission and the Board of County Commissioners.

**Check one:**

The subject property is located inside an urban growth boundary. The 120-day deadline for final action on the application pursuant to ORS 215.427(1) is:

The subject property is not located inside an urban growth boundary. The 150-day deadline for final action on the application pursuant to ORS 215.427(1) is:



Township\* (?)

03S

Range\* (?)

01E

Section\* (?)

21

Quarter-quarter Section (?)

BC

Tax Lot(s)\*

00700

You can enter multiple tax lot numbers within this field. i.e. 100, 200, 300, etc.

To add additional tax map and lot information, please click the "add" button below.

Address

Street Address

540 NW River Park Pl

Address Line 2

City

Canby

State

OR

Postal / Zip Code

97013

Country

United States

County\*

Clackamas

Adjacent Waterbody

Willamette River

Proposed Activity



Prior to submitting, please ensure proposed activity will involve physical alterations to the land and/or new construction or expansion of footprint of existing structures.

Local Case File #\* (?)

Z0315-23-CP & Z0316-23-R

Zoning

EFU

Proposed

Building Permit (new structures)

Conditional use Permit

Grading Permit

Planned Unit Development

Site Plan Approval

Subdivision

Other (please describe)

Private noncommercial dock

Applicant's Project Description and Planner's Comments: \*

A Comprehensive Plan Map amendment to change the Willamette River Greenway designation on subject property from "Limited Use" to "Multiple Use" to allow for the construction of a new private noncommercial dock and an application for approval to construct a private noncommercial dock.

Required attachments with site marked: Tax map and legible, scaled site plan map. (?)

Z0315-23-CP & Z0316-23-R SUBMITTED APPLICATIONS FINAL.pdf 17.69MB

Additional Attachments

Z0315-23-CP and Z0316-23-R\_\_PC\_BCC\_Hearings NoticeFINAL.pdf 366.4KB

Date

9/18/2023

Fritzie, Martha

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**From:** DLCD Plan Amendments <plan.amendments@dlcd.oregon.gov>  
**Sent:** Monday, September 18, 2023 11:25 AM  
**To:** Fritzie, Martha  
**Subject:** Confirmation of PAPA Online submittal to DLCD

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**Warning: External email. Be cautious opening attachments and links.**

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**Clackamas County**

Your notice of a proposed change to a comprehensive plan or land use regulation has been received by the Oregon Department of Land Conservation and Development.

Local File #: Z0315-23-CP & Z0316-23-R

DLCD File #: [008-23](#)

Proposal Received: 9/18/2023

First Evidentiary Hearing: 10/23/2023

Final Hearing Date: 11/29/2023

Submitted by: mfritzie

If you have any questions about this notice, please reply or send an email to [plan.amendments@dlcd.oregon.gov](mailto:plan.amendments@dlcd.oregon.gov).



BRADSHAW

To: The Planning Commission  
of Clackamas County and  
Board of Commissioners  
I am Ed Montecucco part  
of Montecucco Rentals who  
own the property next to  
this proposal (approx. 160 acres)  
also including 245 acres  
between this proposal and Canby.  
I am in favor of this boat  
dock to be built for these  
people's enjoyment. I see  
no reason to be not in favor  
of this request.

RECEIVED

Ed Montecucco

SEP 26 2023



## Response Page

### Department of State Lands (DSL) WN# \*

WN2023-0754

### Responsible Jurisdiction

#### Staff Contact

Martha Fritzie

#### Jurisdiction Type

County

#### Municipality

Clackamas

#### Local case file #

Z0315-23-CP, Z0316-23-R

#### County

Clackamas

### Activity Location

Township	Range	Section	QQ section	Tax Lot(s)
03S	01E	21	BC	700

#### Street Address

540 NW River Park Pl

#### Address Line 2

#### City

Canby

#### State / Province / Region

OR

#### Postal / Zip Code

97013

#### Country

Clackamas

#### Latitude

45.296870

#### Longitude

-122.701305

### Wetland/Waterway/Other Water Features

- There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.
- The National Wetlands Inventory shows wetland, waterway or other water features on the property
- The property includes or is adjacent to designated Essential Salmonid Habitat.
- The property includes or is adjacent to state-owned waters.

### Your Activity

- It appears that the proposed project **will** impact Essential Salmonid Habitat and, therefore, **requires** a State permit.

- It appears the proposed project is within a state-owned water and **will require** an authorization

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### Applicable Oregon Removal-Fill Permit Requirement(s)

- A state permit is required for any amount of fill, removal, and/or other ground alteration in Essential Salmonid Habitat and within adjacent off-channel rearing or high-flow refugia habitat with a permanent or seasonal surface water connection to the stream.

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### Closing Information

#### Additional Comments

There are two aspects here, the removal-fill within the bed and banks of an essential salmonid waterway (please call 503-986-5200 for next steps here), and the proprietary aspect - Dock is within a state owned waterway, (please contact Jennifer Miller (registrations.dsl@dsl.oregon.gov)).

**This is a preliminary jurisdictional determination and is advisory only.**

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

- A Federal permit may be required by The Army Corps of Engineers: (503)808-4373

#### Contact Information

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The current list is found at: <http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx>
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: <https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf>

#### Response Date

10/21/2023

#### Response by:

Matthew Unitis

#### Response Phone:

503-986-5262