

**PLANNING COMMISSION
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.