



**Stephen L. Madkour**  
County Counsel

January 18, 2024

BCC Agenda Date/Item: \_\_\_\_\_

**Scott C. Ciecko**  
**Amanda Keller**  
**Shawn Lillegren**  
**Jeffrey D. Munns**  
**Andrew R. Naylor**  
**Andrew Narus**  
**Sarah Foreman**  
**Hong Huynh**  
**Caleb Huegel**  
Assistants

Board of County Commissioners  
Clackamas County

**Adoption of a Previously Approved Amendment to Comprehensive Plan Map 3-1e and Approval of a Private Noncommercial Dock on the Willamette River for File Nos. Z0315-23-CP and Z0316-23-R. No County General Funds are involved.**

<b>Previous Board Action/Review</b>	The Board held a public hearing on November 29, 2023, at which the Board voted 4-0 to approve the applications and directed staff to draft an order reflecting that decision.		
<b>Performance Clackamas</b>	1. Build public trust through good government.		
<b>Counsel Review</b>	CH	<b>Procurement Review</b>	N/A
<b>Contact Person</b>	Caleb Huegel	<b>Contact Phone</b>	503-655-8364

**EXECUTIVE SUMMARY:**

File Nos. Z0315-23-CP and Z0316-23-R include two distinct applications, which were processed concurrently:

1. An application for an amendment to Comprehensive Plan Map 3-1e to change the Willamette River Greenway designation from "Limited Use" to "Multiple Use" for the portion of the Willamette River abutting property located at 540 NW River Park Place (Z0315-23-CP); and
2. An application to allow for the construction of a 700-square-foot, private noncommercial dock at the property (Z0316-23-R).

On October 23, 2023, a public hearing was held before the Planning Commission to consider the applications. The Commission voted unanimously to recommend approval of the applications subject to conditions, as recommended by staff.

On November 29, 2023, a public hearing was held before the Board to consider the applications. The Board voted 4-0 to approve the applications subject to conditions, as recommended by staff and the Planning Commission.

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The Board then directed staff to draft an order reflecting its decision. A copy of the order, including findings supporting the decision, are attached.

**RECOMMENDATION:**

Staff recommends that the Board approve the attached Board Order and the findings attached thereto.

Respectfully submitted,



Caleb Huegel  
Assistant County Counsel

**BEFORE THE BOARD OF COUNTY COMMISSIONERS**

**OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of an Amendment to Comprehensive Plan Map 3-1e and Approval of a Private Noncommercial Dock on the Willamette River Proposed by Everett Griffin for Property Described as T3S, R1E, Section 21BC, Tax Lot 00700, W.M.



Board Order No.

*Page 1 of 2*

File Nos. Z0315-23-CP and Z0316-23-R

**WHEREAS**, Everett Griffin made an application for an amendment to Comprehensive Plan Map 3-1e to change the Willamette River Greenway designation from “Limited Use” to “Multiple Use” for the portion of the Willamette River abutting property located at 540 NW River Park Place; described as T3S, R1E, Section 21BC, Tax Lot 00700, W.M.; and shown on Exhibit A, which is attached hereto and incorporated herein by this reference;

**WHEREAS**, Everett Griffin concurrently made an application to allow for the construction of a 700-square-foot, private noncommercial dock at the property;

**WHEREAS**, after appropriate notice, a public hearing was held before the Planning Commission on October 23, 2023, at which testimony and evidence was presented, and that, at that hearing, the Commission voted unanimously to recommend approval of the applications subject to conditions of approval;

**WHEREAS**, after appropriate notice, a public hearing was held before the Board of County Commissioners on November 29, 2023, at which testimony and evidence were presented, and that, at that hearing, the Board voted 4-0 to approve the applications subject to conditions of approval;

**WHEREAS**, the Board adopts the findings shown in Exhibit C, which is attached hereto and incorporated herein by this reference; and

**WHEREAS**, the Board finds that the applications, subject to the conditions of approval identified in Exhibit C, comply with all applicable state and county criteria to amend Comprehensive Plan Map 3-1e to change the Willamette River Greenway designation from “Limited Use” to “Multiple Use” for the portion of the Willamette River abutting the property and to allow for the construction of a 700-square foot, private noncommercial dock at the property;

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**BEFORE THE BOARD OF COUNTY COMMISSIONERS**

**OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of an Amendment to  
Comprehensive Plan Map 3-1e and Approval  
of a Private Noncommercial Dock on the  
Willamette River Proposed by Everett Griffin  
for Property Described as T3S, R1E, Section  
21BC, Tax Lot 00700, W.M.



Board Order No.

*Page 2 of 2*

**NOW, THEREFORE, BE IT ORDERED**, that the applications for an amendment to Comprehensive Plan Map 3-1e and to allow for the construction of a 700-square-foot, private noncommercial dock are hereby APPROVED subject to the conditions of approval identified in Exhibit C; and

**ORDERED**, that Comprehensive Plan Map 3-1e is amended to change the Willamette River Greenway designation from “Limited Use” to “Multiple Use” for the portion of the Willamette River abutting the property and extending northwest to the centerline of the river, as shown on Exhibit B, which is attached hereto and incorporated herein by this reference.

**DATED** this 18th day of January 2024

**BOARD OF COUNTY COMMISSIONERS**

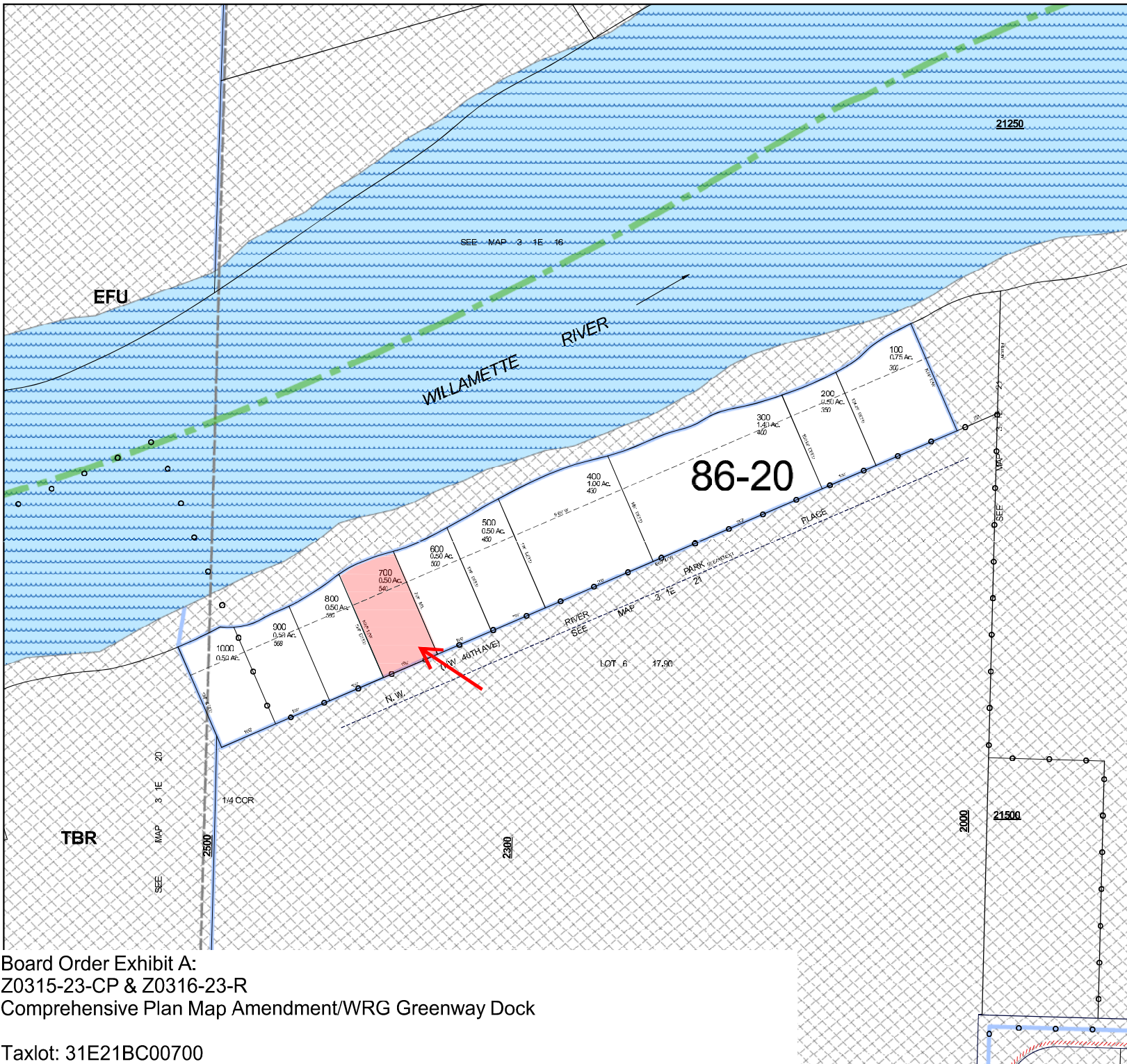
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Chair

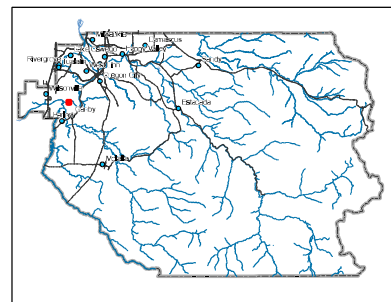
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Recording Secretary

Cancelled Taxlots



- Parcel Boundary
- - - Private Road ROW
- - - Historical Boundary
- - - Railroad Centerline
- Tax Code Lines
- ☒ Map Index
- Water Lines
- Land Use Zoning
- ▨ Plats
- Water
- ⊙ Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- - - DLC Line
- - - Meander Line
- - - PLSS Section Line
- ⊗ Historic Corridor 40'
- ⊗ Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT PURPOSES ONLY

10/21/2021

Board Order Exhibit A:  
Z0315-23-CP & Z0316-23-R  
Comprehensive Plan Map Amendment/WRG Greenway Dock

Taxlot: 31E21BC00700

MANAGEMENT ACTIVITIES

LAND CLASSIFICATION

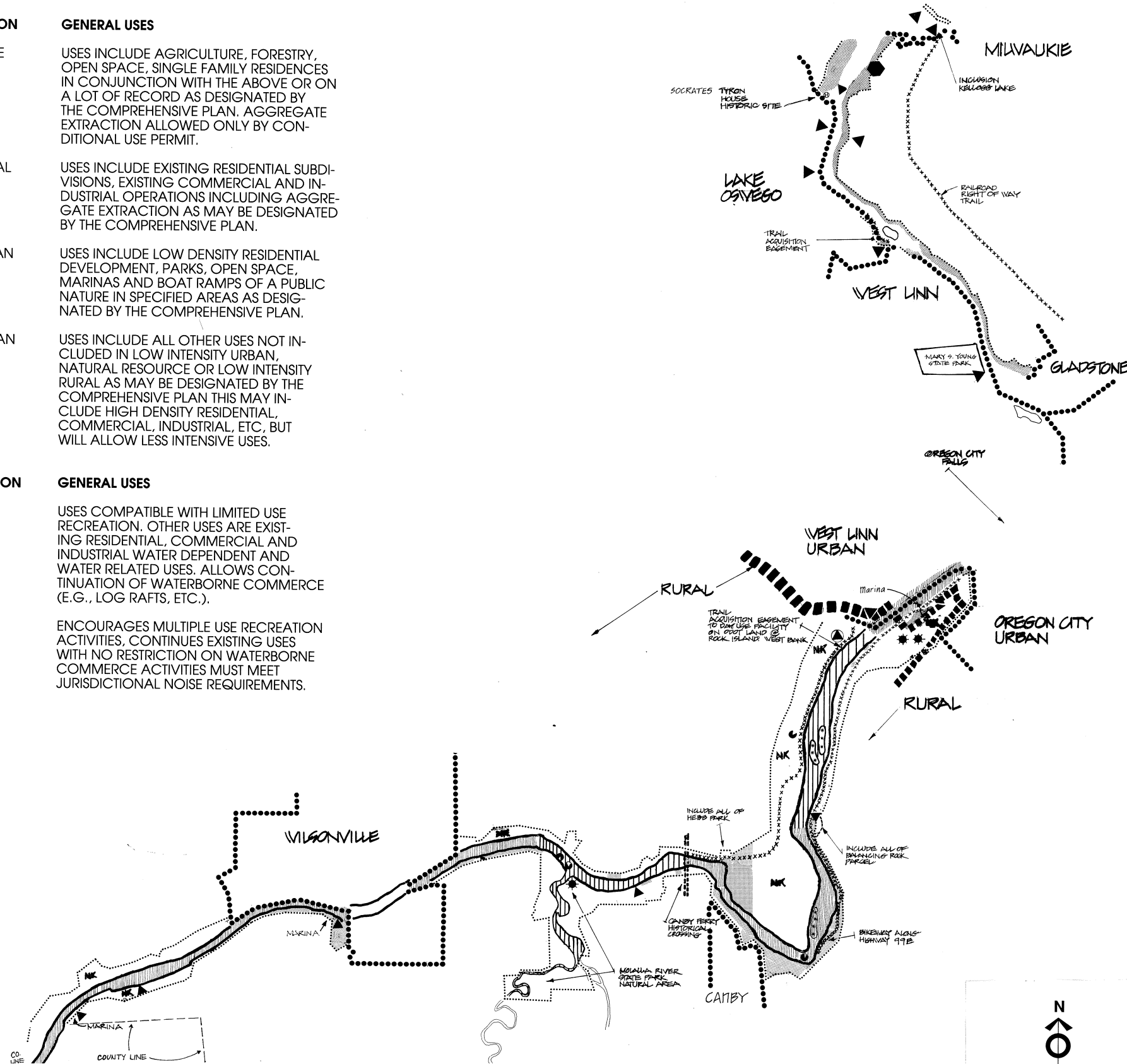
GENERAL USES

- 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

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

File #	*Assessor's Map & Tax Lot #	Board Order #	Effective Date
Z0256-95-CP	31E02C 01400	95-710	7/13/1995
Z1148-95-CP	31E02C 00803, 00900, 01000	96-15	1/4/1996
Z0226-96-CP	31E15 02700, 02701, 02702	96-734	11/27/1996
<b>Z0315-23-CP</b>	<b>31E21BC00700</b>	<b>23-</b>	<b>1/18/2023</b>

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

CLACKAMAS COUNTY COMPREHENSIVE PLAN

Map 3-1e

Board Order Exhibit B:  
Z0315-23-CP  
Comprehensive Plan Map Amendment, Limited Use to Multiple Use Water Classification

**Exhibit C**  
**Findings of Fact for Z0315-23-CP and Z0316-23-R:**  
**Comprehensive Plan Amendment to Map 3-1e and Willamette River Greenway (WRG)**  
**Application for a Private Noncommercial Dock**

**SECTION I: GENERAL INFORMATION**

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

**ADOPTION DATE:** January 18, 2024

**PROPOSAL:** (1) A Comprehensive Plan amendment to Map 3-1e, to change the Willamette River Greenway designation on subject property from “Limited Use” to “Multiple Use”, and (2) a Willamette River Greenway (WRG) dock application for approval to construct a private noncommercial 35-ft. by 20-ft. (700 sq. ft.) dock.

**LOCATION:** 540 NW River Park Pl, Canby; abutting the south bank of the Willamette River, approximately ½-mile west of the Canby Ferry

T3S, R1E, Section 21BC Tax Lot 00700 W.M.

**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

**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.

**SECTION II: CONCLUSION & CONDITIONS OF APPROVAL**

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The Board of County Commissioners (the “Board”) finds that these applications satisfy all applicable State of Oregon and Clackamas County criteria to (1) amend the County’s Comprehensive Plan Map 3-1e, *Willamette River Greenway Design Plan*, to change the Willamette River Greenway designation from “Limited Use” to “Multiple Use” on the portion of the Willamette River abutting the subject property, and (2) to allow the construction of a 700-square foot, private noncommercial dock at the subject property. The Board **APPROVES** applications Z0315-23-CP and Z0316-23-R, subject to the following conditions. The conditions listed are necessary to ensure that approval criteria for these land use permits are satisfied.

**Z0315-23-CP: 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)

**Z0316-23-R: Willamette River Greenway (WRG) Conditions**

2. 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.

3. 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.
4. 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.

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.

### **SECTION III: OVERVIEW AND BACKGROUND**

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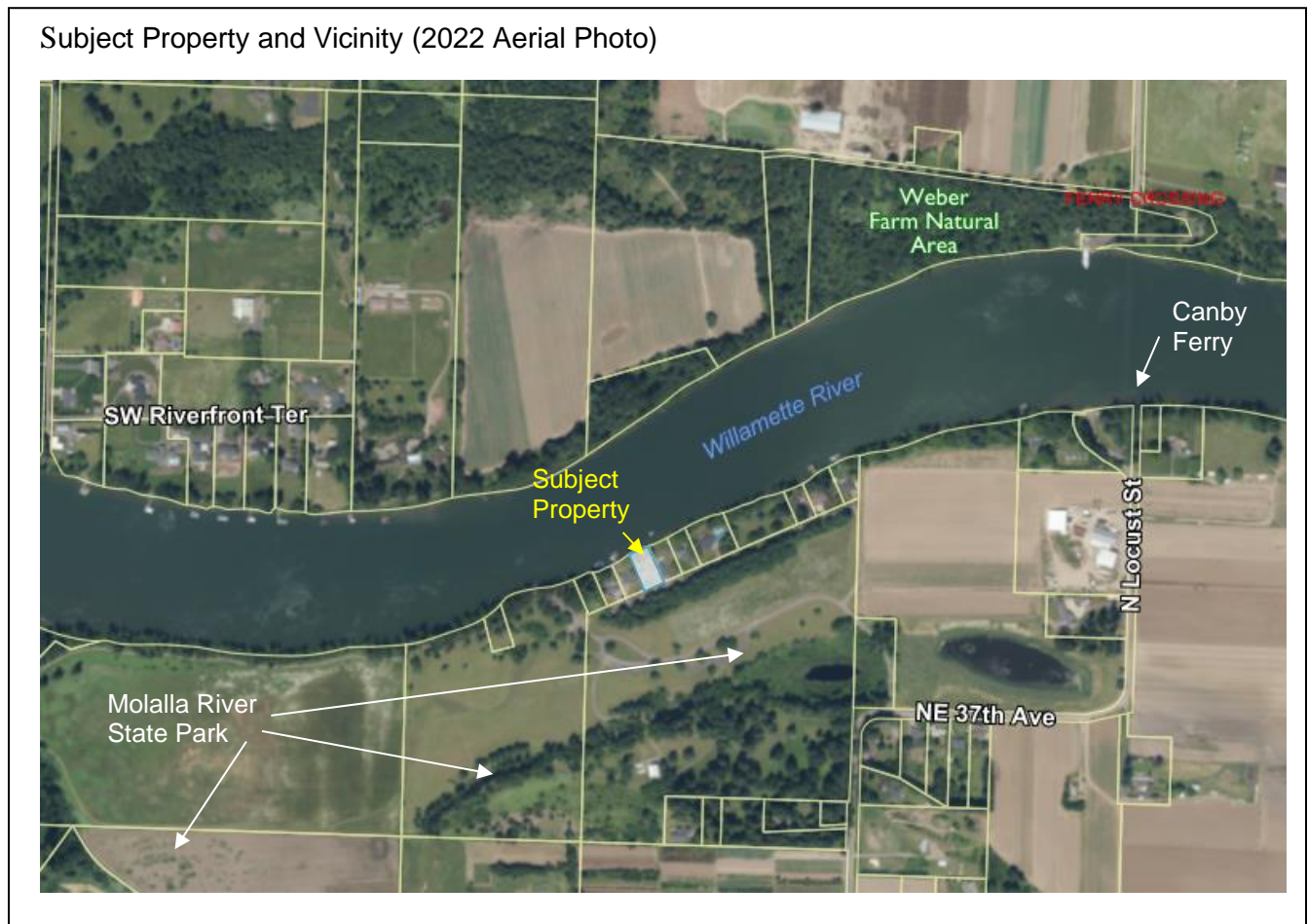
The subject property is tax lot 700 of Assessor's Map 31E21BD, located at 540 NW River Place. It is located along the southern bank of the Willamette River, approximately ½-mile west of the Canby Ferry. The subject site is approximately 0.5 acres, with a current Clackamas County Comprehensive Plan (Plan)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

**Background and the subject property**: 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.

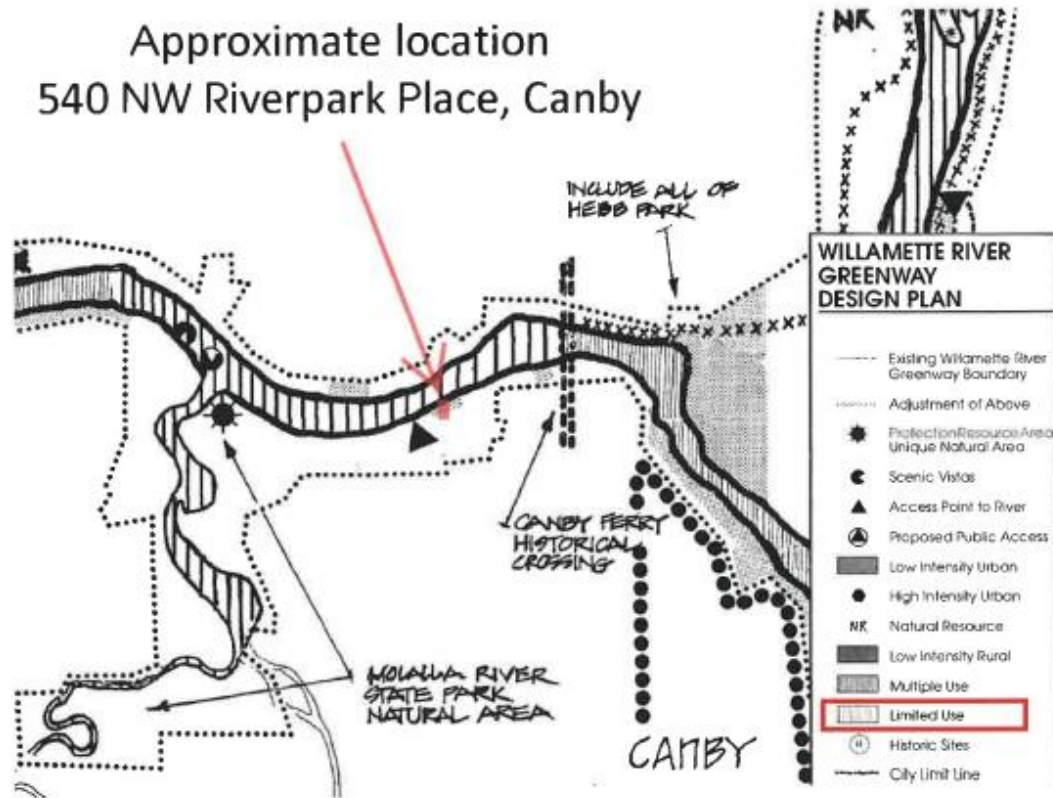
Based on mapped soil types, the subject site is considered (under state law) to be “low-value” farmland. The site is comprised predominantly of Class 6 (92F, Xerochrepts with Haploxerolls) agricultural soils.



Source: Clackamas County GIS, PlanMap

**Land Use History:** 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.



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

**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.

Only one substantive comment was received; it included testimony from a neighbor who owns a substantial amount of farmland near the subject property and expressed support of the application.

The local Community Planning Organization, the Aurora-Butteville-Barlow CPO, did not provide a comment.

**Public Hearings:** Two public hearings were held to consider the applications in Z0315-23-CP and Z0316-23-R.

- October 23, 2023: a public hearing was held before the Planning Commission. The applicant's representative was the only party who provided testimony at the Planning Commission hearing. The Planning Commission voted unanimously (7-0) to recommend approval of Z0315-23-CP and Z0316-23-R.
- November 29, 2023: a public hearing was held before the Board. One member of the public testified at this hearing, a neighbor who also owns property along the river and does not have a dock; this neighbor expressed support for the application and for potentially changing the rules to allow for docks in this area of the river. At this hearing, the Board voted 4-0 to approve Z0315-23-CP and Z0316-23-R.

## **SECTION IV: FINDINGS**

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Findings for each application (Z0315-23-CP and Z0316-23-R) are discussed separately.

### **Z0315-23-CP: COMPREHENSIVE PLAN MAP AMENDMENT FINDINGS**

Z0315-23-CP included 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.

These provisions and the Applicant's preliminary findings in conjunction with this application have been reviewed. 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) could decide on this application, there were two public hearings held, each 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 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 application does 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 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 application does 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. The Board 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 application does 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 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 application does 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 application does 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 application does 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. The Board 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, the Board 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, the Board 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.*

*The Board finds that even if one were to look only to the intend 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. Each chapter of the Comprehensive Plan has been reviewed. This section of the report includes written findings as to how the application 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 the Board'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.

*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 written 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 application 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.*

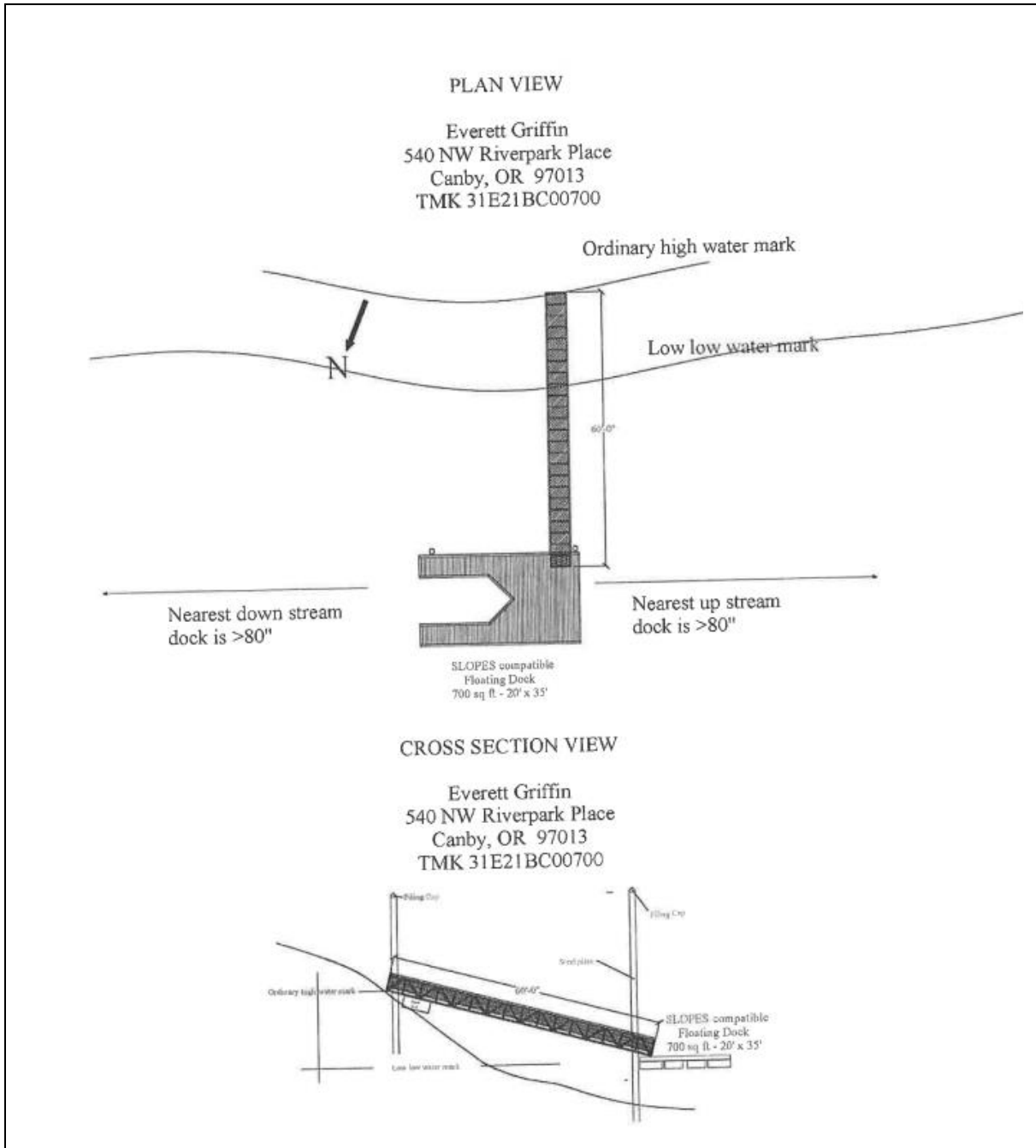
***This application is consistent with Chapter 11.***

## **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.*

*With the approval of the Comprehensive Plan Map amendment to change the water use designation on subject property from Limited Use to Multiple Use, the proposed private, noncommercial dock will comply with the Purpose of the Willamette River Greenway.*

*This criterion can be met with the approval of Z0315-23-CP.*

#### 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.*