



**NOTICE OF DECISION ON A TYPE II LAND USE PERMIT**

**Decision:** Denied

**Permit Type:** Willamette River Greenway-Dock

**File No.** Z0098-25

**Applicant's Proposal:** Replacement dock in the Willamette River Greenway (WRG)

**Decision Date:** June 4, 2025

**Deadline for Filing Appeal:** June 16, 2025, at 4:00 pm.

**Issued By:** Ben Blessing, Senior Planner, [Bblessing@clackamas.us](mailto:Bblessing@clackamas.us), 503-742-4521, After June 12, Taylor Campi; [tcampi@clackamas.us](mailto:tcampi@clackamas.us)

**Applicant:** Barrett Bass

**Owner of Property:** Barrett and Brook Bass

**Zoning:** Urban Low Density Residential (R-10)

**Assessor's Map & Tax Lot(s):** T2S R1E Section 02BA Tax Lot 04200 and 00700

**Site Address:** 13050 SW FIELDING RD, Lake Oswego



**Community Planning Organization (CPO) for Area:**

Birdshill (Inactive)

Community Planning Organizations (CPOs) are part of the county's community involvement program. They are advisory to the Board of County Commissioners, Planning Commission and Planning and Zoning Division on land use matters affecting their communities. CPOs are notified of proposed land use actions and decisions on land within their boundaries and may review these applications, provide recommendations or file appeals. If this CPO currently is inactive and you are interested in becoming involved in land use planning in your area, please contact Clackamas County Community Engagement at 503-655-8751.

**Opportunity to Review the Record and Decision:** The complete decision, including findings and conditions of approval, and the submitted application are available for review online at <https://aca-prod.accela.com/CLACKAMAS>. 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. A copy of the decision, application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost by contacting the Planner listed above. Copies of all documents may be purchased at a cost established by the County fee schedule.

**Appeal Rights:** This decision will not become final or effective until the period for filing an appeal with the County has expired without the filing of an appeal. Any person who is adversely affected or aggrieved or who is entitled to written notice of the decision pursuant to Subsection 1307.09(C) of the Clackamas County Zoning and Development Ordinance may appeal this decision to the Clackamas County Land Use Hearings Officer by filing a written appeal. An appeal must include a completed Appeal Form available at [www.clackamas.us/planning/supplemental.html](http://www.clackamas.us/planning/supplemental.html) and a \$250.00 filing fee and must be **received** by the Planning and Zoning Division by the appeal deadline identified above.

Appeals may be submitted in person during office hours (8:00 am to 4:00 pm Monday through Thursday, closed Friday and holidays). Appeals may also be submitted by email or US mail.

A person who is mailed written notice of this decision cannot appeal this decision directly to the Land Use Board of Appeals under ORS 197.830.

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.

*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? | Cần Biên dịch hoặc Phiên dịch? | 번역 또는 통?

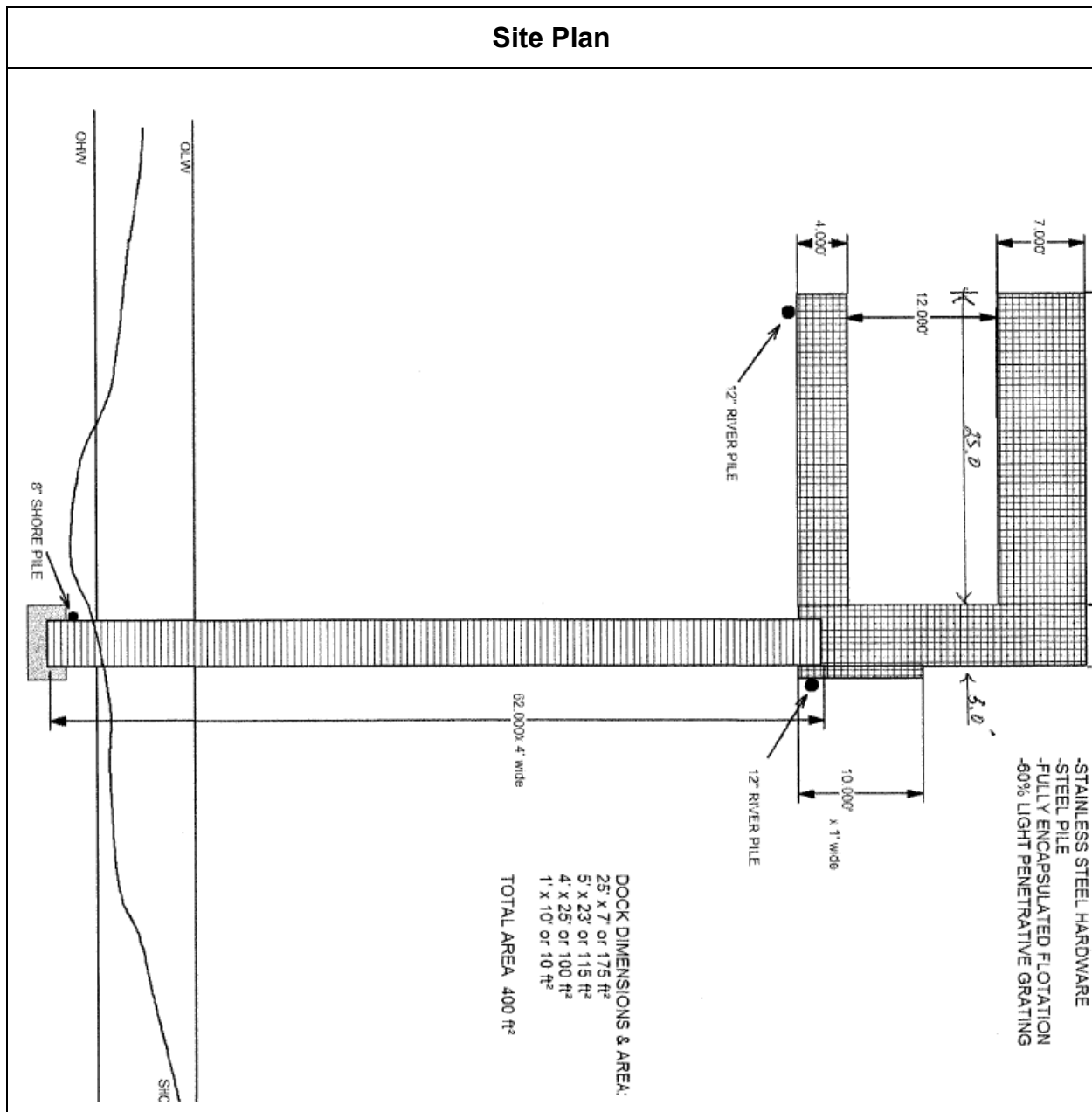


### Rivers, Streams and Wetlands

- RSCA Streams
- Title3 Wetlands
- Title3 Wetland Buffer
- High
- Moderate
- Low
- Watersheds
- Willamette Greenway

### Points of Interest

- Barlow Trail
- Complete Bridges
- Fire Stations
- Courthouse
- Cityhall
- Hospitals
- Airports
- Public Parks
- Other Parks
- Golf
- Schools



## APPLICABLE APPROVAL CRITERIA

This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 202, 315, 705, and 1307.

## PUBLIC AND AGENCY COMMENTS

Notice was sent to applicable agencies and owners of property within 300 feet. Comments received relating to the applicable approval criteria listed above are addressed in the Findings Section. Comments from the following were received:

No comments

## FINDINGS

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The findings below identify the standards and criteria that are relevant to this decision, state the facts relied upon in rendering the decision, and explain the justification for the decision.

1. **Background/Overview of Applicant's Proposal:** The subject property totals roughly 1.4 acres and is located on the west side of the Willamette River in the R-10 zone. The applicant is proposing a private dock measuring 30 feet by 23 feet (690 Square feet) with an aluminum access ramp/gangway, anchored by two 12-inch steel pilings. The dock exceeds the prescriptive standard allowed in this section of the Willamette River, which is 400 square feet. The applicant asserts that the interior boat slope or "boat well cut out" as described by Oregon Dept. of State Lands (DSL), may be subtracted from the total square footage of the dock. As will be detailed in the findings below, square footage is calculated by the length times width of the "outer edge" of dock, and there are no provisions or exceptions that provide for the boat well to be subtracted from the total square footage.

2. **ZDO Section 315, Urban Low Density Residential District (R-10)**

**315.03 USES PERMITTED**

- A. *Uses permitted in each urban residential zoning district are listed in Table 315-1, Permitted Uses in the Urban Residential Zoning Districts.*

**Finding:** Table 315-1 establishes recreational facilities, such as trails, play structures, putting greens, sport courts, and swimming pools, as allowed accessory uses in the R-10 zone. Because the proposed private dock falls into this accessory use category, it is permitted on the subject property as accessory to the primary use, an existing single family dwelling, subject to applicable overlay zone requirements (Floodplain Management District and Willamette River Greenway).

**This criterion is met.**

3. **ZDO Section 703, Floodplain Management District (FMD)**

**Finding:** The dock has been evaluated separately pursuant to floodplain development permit (FDP) file number Z0098-25. While that permit has been approved, this permit is not approved, thus no dock is authorized unless the applicant is successful in an appeal of the Planning Director's decision.

***This criterion is information only***

4. **ZDO Section 705, Willamette River Greenway (WRG)**

**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*

**Finding:** The subject property is located within the Willamette River Greenway. Therefore, Section 705 applies.

**This criterion is met.**

**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.*

**Finding:** The three purposes stated in Subsection 705.01 are:

1. Protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River;
2. 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
3. Implement the Willamette River Design Plan set forth in Chapter 3 of the Comprehensive Plan.

As described in the findings below, the proposed development conforms to the applicable standards of Section 705 which promote the adopted purposes above.

**These criteria are met.**

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

**Finding:** Public access is not proposed or required.

*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.*

**Finding:** Typical dock construction ensures a maximum possible landscaped area, and there is no plan to deforest the 150 foot area.

**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:*

**Finding:** Typical dock construction ensures this maximum possible landscaped area is reserved and there is no plan to deforest the 150 foot area.

**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.*

**Finding:** The proposed dock is a water-dependent use and is therefore exempt from this requirement.

**This criterion is not applicable.**

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

**Finding:** The proposed dock is not a dwelling and is not a structure as it does not possess walls or a roof.

**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).*

**Finding:** The submitted materials included drawings and materials lists confirming earth tones are present. If this decision is overturned on appeal, the applicant will be required to show final materials consistent with the above criteria.

**As conditioned, this criterion can be met.**

*b. The square footage of docks and boathouses is measured as the length times the width of the outer edge of the structure.*

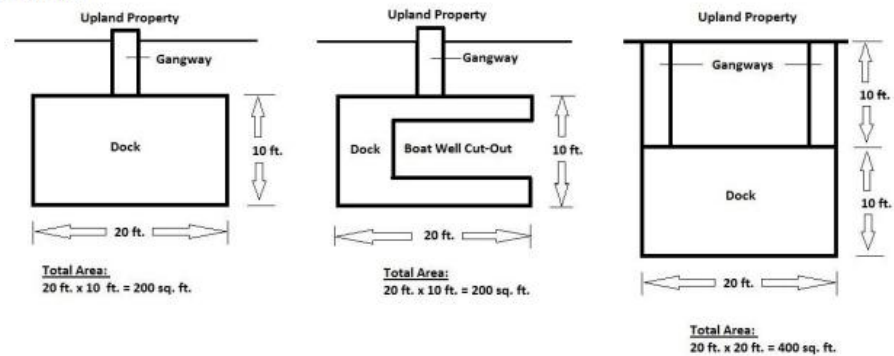
**Finding:** As noted in the project description, a 30-foot by 23-foot dock is proposed. The approximate area is 690 square feet. The applicant asserts that the boat slip or "boat well cut out" as described by DSL's waterway registration guide, may be subtracted when calculating square footages of docks. Staff does not concur with this assertion. The above criteria states clearly that docks are "...*measured as the length times the width of the **outer edge** of the structure*". The above criteria does not include any exceptions or footnotes to indicate that the boat well cut out



can be subtracted. Staff consulted with DSL staff to confirm if the State of Oregon has different methods when calculating the area of a dock. Two DSL staff members corresponded via email and noted that boat well cut outs are included in the square footage calculations for docks, and not generally subtracted. DSL staff also directed planning staff to the DSL waterway registration fact sheet which provides the following figure:

#### How to calculate the area of use

##### Examples:



- Multiply the length of the structure in feet by the width of the structure in feet to equal the total amount of square feet.
- The area of the gangway, pilings and debris booms are not included in the area of use calculations.
- The area of the boat well cut-out is included in the area of use calculations. ➔
- If structures are placed in such a way that the public is excluded from the waterway, that area of water must be included in the use calculations.

The applicant's proposal is similar to the middle example of the above figure. DSL guidelines clearly state that boat well cut out areas are to be included in area of use calculations. While area of use and this subsection may not cover the exact same intent (Intent of the ZDO is not evaluated here), it further supports staff's efforts to confirm if the boat well cut out can or cannot be included in the square footage calculation. The applicant also asserts that the dock has already been approved by stating the following: "On May 9th, the approved removal fill permit was sent out and you (Ben) were cc'd in the email. As stated previously, DSL was provided the same plan view drawing that you were and had it included in the approved permit. Same thing with our LOP from USACE." While staff acknowledges DSL and other agencies have approved the dock, no evidence has been provided, other than approval letters from DSL, to show how the above criteria can be applied in a manner that excludes the boat well cut out. Absent any evidence, The County must



adhere to the plain language of this criteria. Thus, the square footage of the dock is 690 square feet.

**This criterion established the square footage of the dock as 690 square feet, which does not comply with subsection 705.04(G)(2)(a.) below**

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

**Finding:** The length-to-width ratio of the proposed dock does not exceed 3:1.

**This criterion is met.**

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

**Finding:** The proposed dock is the only dock proposed or permitted on the subject riverfront lot of record.

**This criterion is met.**

2. *Oregon City Falls to Multnomah County line:*

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

**Finding:** The proposed dock is between Oregon City Falls and the Multnomah County line, and its square footage is 690 square feet which exceeds the 400 square foot maximum permitted by this Section. Note, if the existing dock was constructed before the modern WRG dock standards this dock proposal may be allowed pursuant to a nonconforming use alteration permit. Please consult with [Zoninginfo@clackamas.us](mailto:Zoninginfo@clackamas.us) for the feasibility of this pathway.

**This criterion is not met.**

3. *Oregon City Falls to Marion County line:*

**Finding:** The proposed dock is not between Oregon City Falls and the Marion County line.

**These criteria are not applicable.**

705.06 SUBMITTAL REQUIREMENTS

**Finding:** The applicant submitted sufficient materials and information to proceed with the application.

**This criterion is met.**