

BEFORE THE LAND USE HEARINGS OFFICER
CLACKAMAS COUNTY, OREGON

Regarding an Appeal of a Planning Director
Decision Denying an Application for
Replacement of a Dock within the Willamette
River Greenway.

Case File No:
Z0099-25 Appeal

(KC Marine LLC/Bass)

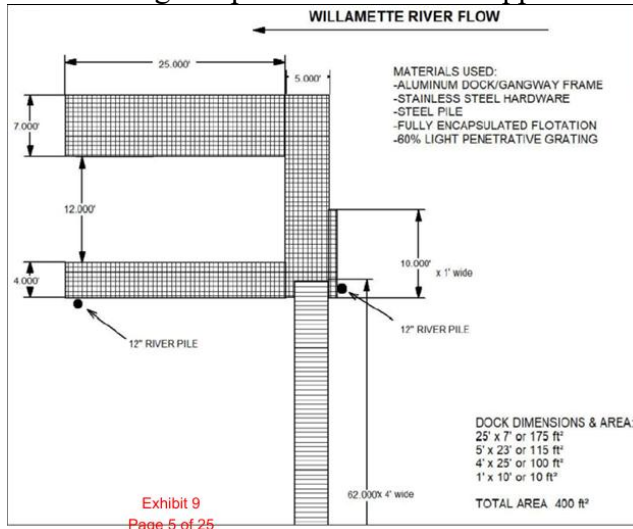
A. SUMMARY

1. The owners of the subject property are Barrett and Brook Bass. The appellant is KC Marine LLC.
2. The subject property is located at 13050 SW Fielding Rd., Lake Oswego, OR 97034, within Clackamas County. The legal description is T2S, R1E, Section 02BA, Tax Lot 700, W.M. The subject property is an approximately 1.4-acre lot zoned Urban Low Density Residential (R-10) and is within an urban growth boundary. The property is located on the west side of the Willamette River within the designated Willamette River Greenway.
3. The property owners submitted an application proposing to install a private noncommercial dock on their Property, working with the appellant KC Marine LLC. The proposed dock is approximately 30 feet in length and 23 feet in width. The application was denied because County staff calculated the square footage of the proposed dock as exceeding the maximum permissible size of 400 square feet, calculating it as length (30 feet) times width (23 feet) equaling 690 square feet. The appellant asserts that the County's calculation should exclude the boat well cut-out from the area of use calculations, contending the proposed total square footage is 400 square feet and should be approved.
4. On July 10, 2025, Hearings Officer Carl Cox (the "Hearings Officer") conducted a public hearing to receive testimony and evidence in the matter, closing the record at 4:00pm on the day of the public hearing.

B. HEARING AND RECORD HIGHLIGHTS

1. The Hearings Officer received testimony and evidence at the July 10, 2025 public hearing about this appeal and related application. All exhibits and records of testimony are filed with the Planning Division, Clackamas County Department of Transportation and Development. The public hearing was conducted virtually over the Zoom platform due to the corona virus. At the beginning of the hearing, the Hearings Officer made the declaration required by ORS 197.763. The Hearings Officer disclaimed any *ex parte* contacts, bias, or conflicts of interest. The Hearings Officer stated that the only relevant criteria were those identified in the County's staff report, that participants should direct their comments to those criteria, and failure to raise all arguments may result in waiver of arguments at subsequent appeal forums.
2. At the hearing, County Sr. Planner Taylor Campi discussed the decision denying the application for modification, providing a presentation with related Exhibits, discussion of relevant approval

criteria in the County's Zoning and Development Ordinance (ZDO) and the County's recommendation to uphold the decision denying this application. Ms. Campi provided an overview of the proposal, noting that the applicant applied for a Willamette River Greenway (WRG) permit to replace a previous dock with a new dock totaling 30 feet long and 23 feet wide, or 690 square feet per page 4 of the submitted application. Ms. Campi also pointed to submitted drawings with the application showing the proposed new dock totaling 31 feet long and 23 feet wide, or 713 square feet, with a 300 square foot boat slip or boat well cut out, sharing the following site plan taken from the application:



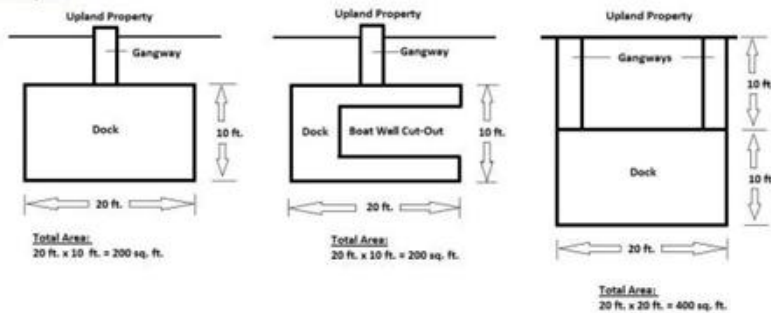
3. Ms. Campi discussed that the subject property previously received WRG dock approval in 2006 under file number Z0402-06, which permitted a maximum dock size of 400 square feet. She noted that documentation of the as-built dimensions of the dock permitted under Z0402-06 was not provided, but aerial imagery shows it was approximately 500-600 square feet between 2011 and 2021, with no dock present after 2021. Ms. Campi pointed to the calculation of dock dimensions submitted by the applicant that excluded the 300 square foot area of the boat slip and also excluded a 13 square foot area along the eastern edge from the total square footage, resulting in a total dock surface area of 400 square feet.
4. Ms. Campi asserts that the dock area calculation method prescribed by the County ZDO is “measured as the length times the width of the outer edge of the structure” and the ZDO does not indicate that the boat slip area can be subtracted. Ms. Campi stated that the initial decision denied the application because the proposed dock is over 400 square feet when measured as length times width.
5. Ms. Campi pointed to the approval criteria in the County ZDO, noting that the application is subject to ZDO Sections 202, 315, 703, 705, and 1307. Ms. Campi stated that the proposed dock falls within the accessory uses permitted in the Urban Residential Zoning Districts per ZDO 315.03(A) that includes the R-10 zoning district for the subject Property, with the Property also subject to applicable overlay zone requirements including the Floodplain Management District and the Willamette River Greenway. With respect to County ZDO Section 703 - Floodplain Management District, Ms. Campi reported that the proposed dock was evaluated separately and floodplain development permit Z0098-25 was approved.

6. Ms. Campi provided discussion of the approval criteria in County ZDO 705 – Willamette River Greenway, noting that the subject Property is located within the Willamette River Greenway and therefore this section applies to the application. Ms. Campi stated that with the exception of the size of the dock, the proposed development conforms to the applicable standards of Section 705 and its adopted purposes and criteria are otherwise met. Ms. Campi noted that the proposal is for a private dock and public access is not proposed or required. With respect to ZDO 705.04(C) requirements that proposals provide the maximum possible landscaped area, open space, or vegetation between the activity and the river (to a depth that need not exceed 150 feet), Ms. Campi noted that the criteria is met as typical dock construction ensures a maximum possible landscaped area and there is not plan to deforest the 150-foot buffer area. Ms. Campi also pointed out that the proposed dock itself is exempt from the river setback requirements of ZDO 705.04 (E) as it is a water-dependent use and is also exempt from the requirements of ZDO 705.04 (F) as it is not a dwelling or structure with walls or a roof.
7. With respect to the standards contained in ZDO 705.04 (G), Ms. Campi reported that the submitted materials included drawings and materials lists confirming earth tones are present and therefore, with conditions, the relevant criterion in ZDO 705 (G)(1)(a) can be met. However, Ms. Campi contends that the proposal does not meet the requirements of ZDO 705.04 (G)(1)(b) and (G)(2). Ms. Campi cites the specific language of (G)(1)(b): *“The square footage of docks and boathouses is measured as the length times the width of the outer edge of the structure.”* Ms. Campi provided additional discussion of the general provisions of ZDO Subsection 705.04 (G)(1), pointing to findings that the length-to-width ratio of the proposed private noncommercial dock was within the required 3:1 ration. However, Ms. Campi also pointed to the limitation in ZDO Subsection 705.04 (G)(2)(a) restricting the size of private docks between Oregon City Falls and the Multnomah County line, which includes the subject Property: *“Private noncommercial docks shall not exceed 400 square feet.”* Ms. Campi points to the findings in the County’s decision that a 30’ x 23’ dock is proposed, totaling 690 sf.
8. Ms. Campi points to the applicant and appellant’s assertions that the boat slip may be subtracted when calculating dock area. Ms. Campi noted contentions by the appellant that DSL and the US Army Corps of Engineers (USACE) consider the proposed dock to be only 400 square feet. However, Ms. Campi states that County staff disagree because the ZDO criteria specifies that the measurement is based on the outer edge of the structure and no exceptions or footnotes are provided indicating that the boat slip area can be subtracted. Further, Ms. Campi reported that County staff correspondence with the Oregon Department of State Lands (DSL) confirmed that DSL also includes the boat slip area when calculating total dock square footage. She pointed to the staff report noting that two DSL staff members correspondence with County staff via email and noted that boat well cutouts are included in the square footage calculations for docks, and not generally subtracted. Ms. Campi also noted that DSL staff directed County planning staff to the DSL waterway registration fact sheet which provides the following figure and guidance:

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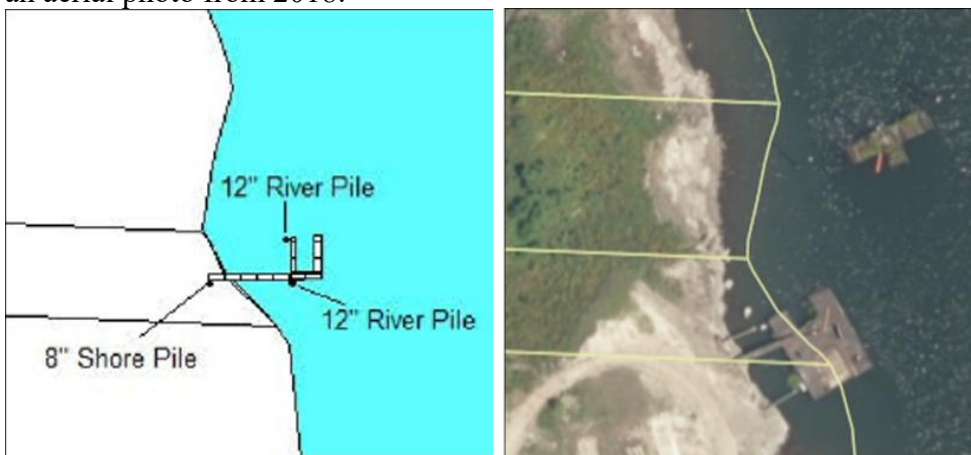
How to calculate the area of use

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.

- Ms. Campi further contends that, although DSL and the USACE have issued permits for the dock, no evidence has been provided showing how this Subsection of the ZDO can be applied in a manner that excludes the boat slip. She notes that the submitted approvals from DSL and USACE do not calculate the dock area as 400 square feet, noting specifically that the USACE letter of permission identifies the dock as being 30 feet long and 23 feet wide. Ms. Campi asserts that County staff findings adhere to the plain language of this criterion, correctly calculating the dock area as 690 square feet, and therefore this criterion is not met.
- Ms. Campi also pointed to additional information raising a question concerning whether the proposed dock is the only dock on the subject riverfront lot of record. Further, Ms. Campi pointed out that if the existing dock being replaced was constructed before the modern WRG dock standards then this dock proposal may be allowed pursuant to a nonconforming use alteration permit. Ms. Campi provided the following slide showing the submitted site plan and an aerial photo from 2018:



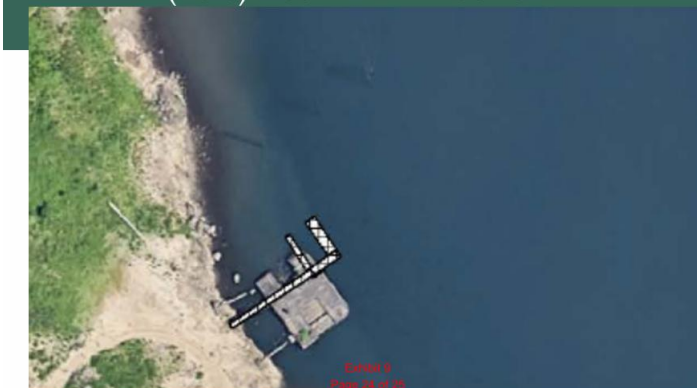
- Ms. Campi noted that the site plan depicts one existing dock adjacent to the subject Property, whereas the 2018 aerial photo shows two docks: one anchored to pilings in the river, and a second larger dock anchored to the subject Property and also to the adjacent property to the

south. Ms. Campi provided the following additional slide of aerial imagery from January 2025, with an overlay showing the subject Property, explaining the three northernmost pilings were permitted for the subject Property dock under file number Z0402-06. She identified the middle dock as one of two documented nonconforming docks on neighboring tax lot 21E02BA tax lot 800. Ms. Campi identified the southern dock as the second of two documented nonconforming docks on neighboring tax lot 800, noting that this dock appears largely adjacent to the subject Property, and appears anchored on both the subject Property and the neighboring property.



12. Ms. Campi also shared a slide taken from the applicant's subjected USACE permit (Exhibit 4A) showing the proposed dock is intended to replace the southern dock.

EXHIBIT 4A (PG 6) – SUBMITTED USACE PERMIT



13. Amber Cowan is a permit specialist for the appellant, KC Marine LLC, and Nick Scanlan is VP of Sales for the appellant, KC Marine LLC. Ms. Cowan provided a presentation with related Exhibits, and discussion of the dock proposal, assisted by Mr. Scanlan. Ms. Cowan shared copies of the approvals obtained from DSL and the USACE and a copy of the volumetric calculations by Puget Sound Engineering, stamped by Daniel Cederlund, PE, stating that the proposed float with the grating has an over water area of 398 square feet. Mr. Cederlund's report also states that the proposed float has a volume of 36.0 cubic yards, 33% of the volume of the existing float which has a volume of 107.8 cubic yards. Ms. Cowan and Mr. Scanlan provided discussion and advocacy concerning the relevant approval criteria in the County's Zoning and Development Ordinance (ZDO), asserting that the dock proposal should be approved. Ms. Cowan and Mr. Scanlan shared photos of the existing dock, showing its dilapidated condition, use of outdated materials for flotation and old tires for bumpers, as well

as the significant reduction in the footprint of the proposed dock by comparison, resulting in about a 77% increase in sunlight.



14. Ms. Cowan and Mr. Scanlan explained that the applicant's proposal is to replace the southern neighbor's old dock, that is partially on both properties, with the new dock. They noted that the former dock approved for the applicant's by a predecessor owner of the property is gone, leaving only the three pilings from the previous dock visible in the river. These remaining three pilings are visible in the river and are a small distance to the north of the applicant's property.
15. Ms. Cowan and Mr. Scanlan pointed to the application submitted to the USACE and the drawings clearly showing calculated square footage of the dock subtracting the area of the boat slip and approved as a 400 square foot dock. They further point to the approval of the same design by DSL as a 400 square foot dock, with related public comments indicating no issue with the proposed size. Lastly, Ms. Cowan and Mr. Scanlan point to the dock size calculations stamped by registered Professional Engineer Daniel Cederlund, asserting these are the correct measurements for calculating the square footage size of the proposed dock, contending it should be approved as submitted.

C. FACTS AND DISCUSSION

The evidence presented is reliable, probative and substantial evidence upon which to base a determination in these matters. This application was originally processed as a Type II Permit, pursuant to Clackamas County Zoning and Development Ordinance (ZDO) Section 1307, approved by the Planning Director's designee, Senior Planner Ben Blessing¹, and this appeal followed. Table 1307-01 authorizes the hearings officer to hear appeals of planning director decisions. Pursuant to ORS 215.416(11)(a), an appeal of an administrative decision is reviewed as a *de novo* matter. The hearings officer is required to conduct an independent review of the record, is not bound by the prior decision of the planning director and does not defer to that decision in any way. The record of the initial proceedings shall, however, be made a part of the record of the appeal. New evidence may be introduced in an appeal, and new issues may be raised. The applicant/appellant must carry the burden of proof that the application complies with all applicable approval criteria in light of all relevant substantial evidence in the whole record, including any new evidence.

¹ See ZDO Table 1307-1. Also See ZDO 1307.03(B), stating that the Planning Director includes "any County staff member authorized by the Planning Director to fulfill the responsibilities assigned to the Planning Director by the [ZDO]." Former Sr. County Planner Ben Blessing acted in this capacity.

This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Sections 202, 315, [703], 705, and 1307, and the County's Comprehensive Plan. 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. This appeal concerns a Planning Director decision denying application File No. Z0099-25 seeking approval for a replacement dock within the Willamette River Greenway. Specifically, the appeal concerns the determination by County staff that the proposed dock exceeds the 400 square foot maximum permitted within this zone. *These findings and conclusions were reviewed, modified, and/or adopted by the Hearings Officer, with additional discussion, comments, and changes denoted by boldface type in italics and/or in brackets.*

1. PROJECT OVERVIEW:

The County provided a brief project overview in making its determination that is repeated here for clarity in this discussion:

"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."

WILLAMETTE RIVER GREENWAY and COMPREHENSIVE PLAN:

Appellant and County agree that the subject property is within the Willamette River Greenway and the applicant's proposal is subject to the Clackamas County Zoning and Development Ordinance (ZD) 705 Willamette River Greenway (WRG). The WRG Ordinance provides three purpose statements:

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

Chapter 3 of the Comprehensive Plan states these generally applicable 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.

Chapter 3 of the Comprehensive Plan includes these additional applicable Principal River Conservation Area Policies:

“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.

Section 705.02 of the WRG ordinance states: “Unless specifically defined in Subsection 705.02, words or phrases used in Section 705 shall be interpreted to give them the same meaning as they have in common usage and to give Section 705 its most reasonable application.” The Ordinance specifically defines only the following terms: “Change of Use”; “Develop”; “Development”; “Intensification”; and “Water-Dependent Use.”

The WRG ordinance 705.04 provides that “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.

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

“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.”

“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.***

“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 following findings are largely not disputed and are adopted with minimal comment, except in sections directly related to the issues raised in this appeal:

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. [The Hearings Officer concurs.]

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. [The Hearings Officer concurs.]

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. [The Hearings Officer concurs.]

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. *[The Hearings Officer concurs.]*

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. [The Hearings Officer concurs.]

- 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. [The Hearings Officer concurs.]

- 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. [The Hearings Officer concurs.]

- 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.

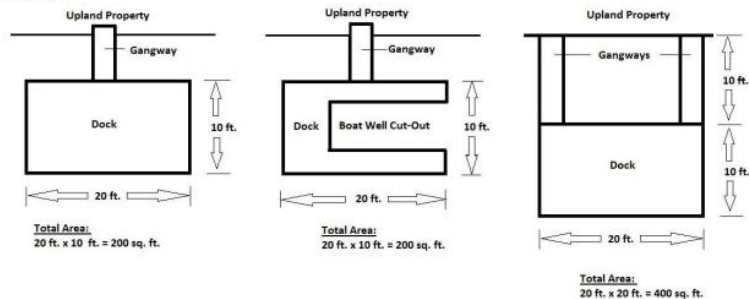
As conditioned, this criterion can be met. [The Hearings Officer concurs.]

- 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. *[Hearings Officer: I carefully reviewed the above discussion and the arguments submitted by the appellant in this matter. The appellant’s “over water area” calculations concerning the square footage of the proposed deck are mathematically correct as evidenced by Mr. Cederlund’s volumetric calculations. Nevertheless, I am persuaded that the County has actually applied the correct criteria for calculating the area of the proposed dock, requiring that docks proposed within the designated Willamette River Greenway are “...measured as the length times the width of the outer edge of the structure...” in accordance with the plain reading of ZDO 705.04.G.1.b. and without subtracting areas for boat wells, consistent with the guidance provided by DSL. This result is consistent with the purposes and intent of the Willamette River Greenway ordinance to protect this scenic area. The arguments submitted by Ms. Cowan and Mr. Scanlan on behalf of appellant (and the applicant) are compelling: the evidence submitted shows that a much largely dilapidated old deck exists and replacing it with the proposed smaller deck constructing of modern materials is an environmentally sound proposal. Nevertheless, this is not an application to modify an existing verified nonconforming use.*

- 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. [The Hearings Officer concurs.]

- 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. [The Hearings Officer concurs.]

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 for the feasibility of this pathway.

This criterion is not met. [The Hearings Officer concurs, as discussed in Section ZDO 705.04.G.1.b.]

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. [The Hearings Officer concurs]

705.06 SUBMITTAL REQUIREMENTS

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

This criterion is met.

D. DECISION

Based on the findings, discussion, conclusions provided or referenced and incorporated herein, and the public record in this matter, the Hearings Officer hereby DENIES application File No. Z0099-25 for a Willamette River Greenway (WRG) Permit for a dock.

Dated: July 21, 2025



Carl D. Cox
Clackamas County Hearings Officer

APPEAL RIGHTS

ZDO 1307.10(F) provides that, with the exception of an application for an Interpretation, the Land Use Hearings Officer's decision constitutes the County's final decision for purposes of any appeal to the Land Use Board of Appeals (LUBA). State law and associated administrative rules promulgated by LUBA prescribe the period within which any appeal must be filed and the manner in which such appeal must be commenced. Presently, ORS 197.830(9) requires that any appeal to LUBA "shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final." This decision is "final" for purposes of a LUBA appeal as of the date of the decision appearing by my signature.