



PLANNING MANAGER DECISION

DATE: January 15, 2016

FILE NO.: WRG-15-05/MIS-15-10

REQUEST: Request for a Flood Management Area (FMA) permit and Willamette and Tualatin River Protection (WRG) permit for a boat dock and ramp at 4085 Calaroga Drive.

PLANNER: Peter Spir, Associate Planner

JB Planning Manager

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GENERAL INFORMATION

OWNER:	William Combs 4085 Calaroga Drive West Linn, OR 97068
APPLICANT:	Eric Dye 1701 Clackamette Drive Oregon City, OR 97045
CONSULTANT:	Rick Givens 18680 Sunblaze Drive Oregon City 97045
SITE LOCATION:	4085 Calaroga Drive
SITE SIZE:	.72 acres/31,363 square feet
LEGAL DESCRIPTION:	Assessor's Maps and Tax Lot – 21E-13CA700
COMP PLAN DESIGNATION:	Low Density Residential
ZONING:	R-15, Single-Family Residential Detached
APPROVAL CRITERIA:	Community Development Code (CDC) Chapters 10, 27, and 28
120-DAY RULE:	The application declared complete on October 27, 2015. The 120-day period ends on February 24, 2016.
PUBLIC NOTICE:	Notice was mailed to property owners within 500 feet of the subject property and all Neighborhood Associations on October 30, 2015. A sign was placed on the property on October 1, 2015. The notice was also posted on the City's website on October 29, 2015 and posted in the West Linn Tidings on November 5, 2015. Therefore, public notice requirements of CDC Chapter 99 have been met.

EXECUTIVE SUMMARY

The proposed private boat dock and ramp will be located within the Willamette River Greenway boundary and the 100 year floodplain and floodway of the Willamette River; therefore, Flood Management Area (FMA) and Willamette and Tualatin Protection (WRG) permits are required. The dock will be 34 feet long by eight feet wide and held in place by three 12-inch steel pilings. The aluminum ramp to the dock will be 75 feet long and secured by two 12-inch steel pilings above the ordinary high water mark (OHWM) at the 22 foot elevation. The dock section will be approximately 30 feet off-shore of the Ordinary Low Water Mark (OLWM).

The property is zoned R-15 and located in the Robinwood Neighborhood.

The applicable CDC Chapters include:

- Chapter 10, Single-Family Residential Detached R-15
- Chapter 27, Flood Management Areas
- Chapter 28, Willamette and Tualatin River Protection

Public comments:

Staff received no written comments.

DECISION

The Planning Manager (designee) approves this application (WRG-15-05 MIS-15-10), based on: 1) the findings submitted by the applicant, which are incorporated by this reference, and 2) supplementary staff findings included in the Addendum below, and 3) the addition of conditions of approval below. With these findings, the applicable approval criteria are met. The conditions are as follows:

- 1.) The applicant shall provide modified plans that demonstrate the dock and ramp are designed to comply with the four foot depth between the ship's keel or fixed propeller/rudder and the bottom of the water at any time during the water's lowest point is met.
- 2.) The ramp and dock will meet the 7.5 foot side yard setback and the Oregon Department of State Lands (DSL) preference right boundary.
- 3.) The applicant will provide an Engineer's stamped and signed finding that the dock, ramp and pilings will not increase in flood levels during the occurrence of the base flood discharge and will not impact the flood-carrying capacity of the river. The report must also find that the dock will not be adversely affected by hydrostatic or hydrodynamic forces.

The provisions of the Community Development Code Chapter 99 have been met.

Peter Spir

Peter Spir, Associate Planner

January 15, 2016

DATE

Appeals to this decision must be filed with the West Linn Planning Department within 14 days of the mailing date listed below. The cost of an appeal is \$400. The appeal must be filed by an individual who has established standing by submitting comments prior to the date identified in the public notice. Appeals will be heard by City Council.

Mailed this 19th day of January, 2016.

Therefore, the 14-day appeal period ends at 5 p.m., on February 1st, 2016.

**ADDENDUM
APPROVAL CRITERIA AND FINDINGS
WRG-15-04 MIS-15-07**

Staff recommends adoption of the findings for approval contained within the applicant's submittal, with the following additions:

**Chapter 10
SINGLE-FAMILY RESIDENTIAL DETACHED, R-15**

10.030 PERMITTED USES

The following uses are permitted outright in this zoning district:

1. *Community recreation.*
2. *Family day care.*
3. *Residential home.*
4. *Single-family detached residential unit.*
5. *Utilities, minor.*
6. *Transportation facilities (Type I).*
7. *Manufactured home. (Ord. 1226, 1988; Ord. 1500, 2003; Ord. 1584, 2008; Ord. 1590 § 1, 2009; Ord. 1635 § 6, 2014)*

10.040 ACCESSORY USES

Accessory uses are allowed in this zone as provided by Chapter 34 CDC.

Staff Finding 1: The applicant proposes to place a boat dock and ramp on the property. Boat docks and ramps may be permitted as an allowed use in the Willamette and Tualatin Protection Overlay and consistent with the provisions of CDC Chapter 28 and 34.

Chapter 34

ACCESSORY STRUCTURES, ACCESSORY DWELLING UNITS, AND ACCESSORY USES

34.020 ACCESSORY USES

Accessory uses are permitted uses which are customary and incidental to principal uses permitted in the zone and shall be permitted outright, or by prescribed conditions as identified below, and may be either attached or separated from the principal dwelling. (...)

34.050 BOAT HOUSES AND DOCKS

Only side yard setback requirements apply to boat houses and docks.

Staff Finding 2: The ramp and dock will meet the 7.5 foot side yard setback and the DSL preference right boundary per COA 1.

CHAPTER 27, FLOOD MANAGEMENT AREAS

27.060 Approval Criteria

A. Development, excavation, and fill shall be performed in a manner to maintain or increase flood storage and conveyance capacity and not increase design flood elevations.

Staff Finding 5: The proposed dock is buoyant and floats on the surface of the river. As such, it will not modify flood storage or conveyance capacity. The only displacement of the floodway is represented by the five 12-inch diameter steel pilings that will be used to hold the structure in place. The river's conveyance capacity and design flood elevations will not be affected. This criterion is met.

B. No net fill increase in any floodplain is allowed. All fill placed in a floodplain shall be balanced with an equal amount of soil material removal. Excavation areas shall not exceed fill areas by more than 50 percent of the square footage. Any excavation below the ordinary high water line shall not count toward compensating for fill.

Staff Finding 6: No fill is proposed in this application. The only displacement of the floodway is represented by the five 12-inch diameter steel pilings that will be used to hold the ramp and dock in place in the floodway. This criterion is met.

C. Excavation to balance a fill shall be located on the same lot or parcel as the fill unless it is not reasonable or practicable to do so. In such cases, the excavation shall be located in the same drainage basin and as close as possible to the fill site, so long as the proposed excavation and fill will not increase flood impacts for surrounding properties as determined through hydrologic and hydraulic analysis.

Staff Finding 7: No excavation is proposed with this application.

(...)

F. Prohibit encroachments, including fill, new construction, substantial improvements, and other development in floodways unless certification by a professional civil engineer licensed to practice in the State of Oregon is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

G. All proposed improvements to the floodplain or floodway which might impact the flood-carrying capacity of the river shall be designed by a professional civil engineer licensed to practice in the State of Oregon.

Staff Finding 8: The proposed dock is buoyant and floats on the surface of the river. As such, it will not modify flood storage or conveyance capacity. The only displacement of the floodway is represented by the five 12-inch diameter steel pilings that will be used to hold the structure in place. The river's conveyance capacity and design flood elevations will not be affected. This criterion is met.

(....)

J. The applicant shall provide evidence that all necessary permits have been obtained from those federal, State, or local governmental agencies from which prior approval is required.

Staff Finding 9: The applicant has filed for a General Authorization permit with the Oregon Dept. of State Lands (DSL) and has also filed a Joint Permit with the US Army Corps of Engineers (USACE) for the proposed dock. Those permits are required before those agencies will allow installation of the dock, ramp and pilings.

27.070 Construction Materials and Methods

A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage using methods and practices that minimize flood damage.

(....)

F. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

Staff Finding 10: Relating to 27.070(A), the dock, ramp and pilings will be constructed with materials resistant to flood and water damage. The proposed dock is buoyant and floats on the surface of the river. As such, it will not modify flood storage or conveyance capacity. The only displacement of the floodway is represented by the five 12-inch diameter steel pilings that will be used to hold the structure in place. Per Condition of Approval 2, the applicant's engineer must certify that the pilings are designed to meet 27.090(B). The river's conveyance capacity and design flood elevations will not be affected. This criterion is met by condition.

(...)

27.090 NON-RESIDENTIAL CONSTRUCTION

New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall either have the lowest floor, including basement, elevated to at least one foot above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- A. Be flood-proofed so that below the base flood level the structure is watertight with walls impermeable to the passage of water;*
- B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;*
- C. Be certified by a professional civil engineer licensed to practice in the State of Oregon that the design and methods of construction shall prevent seepage, collapse or cracking of basement walls, prevent buckling of basement floors, prevent backup of water from sewer lines, and have all openings located one foot above the base flood elevation. In addition, all protective features must operate automatically without human intervention;*
- D. Non-residential construction that is elevated, but not flood-proofed (i.e., the foundation is not at least one foot above the 100-year flood elevation) shall also comply with the standards set forth in CDC [27.080](#). (Ord. 1522, 2005)*

Staff Finding 11: The criteria (A) relating to flood proofed walls is not applicable. Part of criteria (B) is applicable: the dock should not be adversely affected by hydrostatic or hydrodynamic forces to the extent that it either breaks up in a flood incident or floats up and over the pilings to pose a hazard to properties and river traffic downstream. As a condition of approval, the applicant's engineer shall provide a stamped report that the dock, ramp and pilings can withstand those forces. Regarding the need to resist buoyancy, a dock is, by definition, expected to be buoyant and float on the water surface. That part of the criteria is not applicable. Criteria (C) relates to seepage of basement walls and is not applicable. Criteria (D) also does not apply. The criteria is met outright or by condition.

Chapter 28

WILLAMETTE AND TUALATIN RIVER PROTECTION

28.040 EXEMPTIONS/USES PERMITTED OUTRIGHT

The following development activities do not require a permit under the provisions of this chapter. (Other permits may still be required.)

CC. A new dock subject to the approval criteria of this chapter.

Staff Finding No. 12: The proposed dock is a permitted and subject to approval criteria of Chapter 28. The applicant has the responsibility to compliant with any and all applicable state or federal law. The applicant also has the responsibility to obtain the appropriate permits from those state and federal agencies.

28.110 APPROVAL CRITERIA

No application for development on property within the protection area shall be approved unless the decision-making authority finds that the following standards have been met or can be met by conditions of approval. The development shall comply with the following criteria as applicable:

A. Development: All sites.

1. Sites shall first be reviewed using the HCA Map to determine if the site is buildable or what portion of the site is buildable. HCAs shall be verified by the Planning Director per CDC [28.070](#) and site visit. Also, "tree canopy only" HCAs shall not constitute a development limitation and may be exempted per CDC [28.070](#)(A). The municipal code protection for trees and Chapters 55 and 85 CDC tree protection shall still apply.

2. HCAs shall be avoided to the greatest degree possible and development activity shall instead be directed to the areas designated "Habitat and Impact Areas Not Designated as HCAs," consistent with subsection (A) (3) of this section.

3. If the subject property contains no lands designated "Habitat and Impact Areas Not Designated as HCAs" and development within HCA land is the only option it shall be directed towards the low HCA areas first, then medium HCA areas and then to high HCA as the last choice. The goal is to, at best, avoid or, at least, minimize disturbance of the HCAs. (Water-dependent uses are exempt from this provision.)

4. All development, including exempted activities of CDC [28.040](#), shall have approved erosion control measures per Clackamas County Erosion Prevention and Sediment Control Planning and Design Manual, rev. 2008, in place prior to site disturbance and be subject to the requirements of CDC [32.070](#) and [32.080](#) as deemed applicable by the Planning Director.

6. Table showing development allowed by land classification:

Development Allowed

Non-HCA ("a")	Yes
Low-Medium HCA ("b" and "c")	Yes, if less than 5,000 sq. ft. of non-HCA land available. Avoid "d."
High HCA ("d")	Yes, but only if less than 5,000 sq. ft. of "a," "b" and "c" land available.
Non-conforming Structures (structures on HCA land)	Yes: vertically, laterally and/or away from river.

Avoid “d” where possible.

(The underlying zone FAR and allowable lot coverage shall also apply.)

Staff Finding 13: The shoreline where the ramp will be anchored is in the High HCA. This criteria was intended for non-water dependent structures and therefore does not apply.

F. Access and property rights.

- 1. Private lands within the protection area shall be recognized and respected.*
 - 2. Where a legal public access to the river or elsewhere in the protection area exists, that legal public right shall be recognized and respected.*
- (....)*

Staff Finding 14: The ramp and dock will be attached to shore at the 22 foot elevation. Legal public access is permitted along the shoreline below the Ordinary Low Water Mark (OLWM). The OLWM is inundated for most of the year. The applicant is not proposing any special accommodation of public access along the shoreline but notes the nearby public ROW to the south that allows legal public access to an island for recreation purposes.

I. Docks and other water-dependent structures.

- 1. Once the preference rights area is established by DSL, the property owner identifies where the water-dependent use will be located within the authorized portion of the preference rights area. The water-dependent use should be centered or in the middle of the preference rights/authorized area or meet the side yard setbacks of the underlying zone.*

Private and public non-commercial docks are permitted where dredging is required so long as all applicable federal and State permits are obtained. Dredging is encouraged if deposits silt up under an existing dock. Dredging is seen as preferable to the construction of longer docks/ramps.

Staff Finding 15: The DSL will establish the preference rights area and the dock will be placed accordingly with the caveat that the dock will meet the terrestrial 7.5 foot side yard setback of the underlying R-15 zone and the preference right boundary per COA 1.

- 2. Both joint and single use docks shall not extend into the water any further than necessary to provide four feet between the ship’s keel or fixed propeller/rudder and the bottom of the water at any time during the water’s lowest point.*

Staff Finding 16: The applicant’s profile drawing shows that the dock will be at a 16-20 foot water depth at OLW. This exceeds the “*four feet between the ship’s keel*” standard. The applicant must modify the dock and ramp design to demonstrate that the four foot depth between the ship’s keel or fixed propeller/rudder and the bottom of the water at any time

during the water's lowest point is met. Therefore this criteria is met by Condition of Approval 3.

3. In no case except as provided in this section shall a private ramp and private dock extend more than 100 feet from OLW towards the center of the river or slough. In the case of L-shaped docks, the 100 feet shall be measured from the OLW to the furthest part of the private dock closest to the center of the river.

Staff Finding 17: The combined length of the ramp and dock will be 85 feet. This is below the 100 foot limit. The criteria is met.

4. Docks on sloughs and similar channels shall not extend more than 30 percent of the distance between two land masses at OHW, such as between the mainland and an island or peninsula, measured in a lineal manner at right angle to the dominant shoreline. In no way shall a dock impede existing public usage or block navigation of a channel.

Staff Finding 18: This dock is on the main body of the Willamette River, not a slough or side channel, and therefore this criteria does not apply.

5. Boat storage associated with a rail launch facility shall be located above the OHW, either vertically raised above the ordinary high water line or set back behind the OHW. Such boat storage structure will be natural wood colors or similar earth tones. Private railed launch facilities are permitted for individual boat owners. The onshore setback of the storage structure is equal distance on both sides as extended perpendicular to the thread of the stream, or seven and one-half feet, whichever is the greater setback.

Staff Finding 19: No rail launch structure is proposed. The criteria does not apply.

6. The width of each deck section shall be no more than 12 feet wide.

Staff Finding 20: The deck sections are eight feet wide. The criteria is met.

7. For only single-user and joint-user docks, pilings shall not exceed a maximum height of eight feet above the 100-year flood elevation.

Staff Finding 21: The pilings will be no more than eight feet above the 100 year flood elevation. The criteria is met.

8. A single user non-commercial dock shall not exceed 400 square feet in deck area. The boat slip is not included in the calculation of this square footage limitation.

Staff Finding 22: The approximately 300 square foot deck area will not exceed 400 square feet. The criteria is met.

L. Roads, driveways, utilities, or passive use recreation facilities. Roads, driveways, utilities, public paths, or passive use recreation facilities may be built in those portions of HCAs that include wetlands, riparian areas, and water resource areas when no other practical alternative exists but shall use water-permeable materials unless City engineering standards do not allow that. (...)

Staff Finding 23: There are no HCAs with wetlands on this ADU site so this criteria is not applicable.

M. Structures. All buildings and structures in HCAs and riparian areas, including all exterior mechanical equipment, should be screened, colored, or surfaced so as to blend with the riparian environment. Surfaces shall be non-polished/reflective or at least expected to lose their luster within a year. In addition to the specific standards and criteria applicable to water-dependent uses (docks), all other provisions of this chapter shall apply to water dependent uses, and any structure shall be no larger than necessary to accommodate the use.

Staff Finding 24: The dock, ramp and 12-inch steel pilings cannot be hidden but are the minimum size for the proposed use. The criteria is met.

P. Lighting. Lighting shall not be focused or oriented onto the surface of the river except as required by the Coast Guard. Lighting elsewhere in the protection area shall be the minimum necessary and shall not create off-site glare or be omni-directional. Screens and covers will be required.

Staff Finding 25: No lighting is proposed. The criteria is met.

R. Views. Significant views of the Willamette and Tualatin Rivers shall be protected as much as possible as seen from the following public viewpoints: Mary S. Young Park, Willamette Park, Cedar Oak Park, Burnside Park, Maddox Park, Cedar Island, the Oregon City Bridge, Willamette Park, and Fields Bridge Park.

Where options exist in the placement of ramps and docks, the applicant shall select the least visually intrusive location as seen from a public viewpoint. However, if no options exist, then the ramp, pilings and dock shall be allowed at the originally proposed location.

Staff Finding 25: There are no public parks that would provide viewpoints along this section of the river including this dock. Therefore the criteria does not apply.

T. Changing the landscape/grading.

1. Existing predominant topographical features of the bank line and escarpment shall be preserved and maintained except for disturbance necessary for the construction or establishment of a water related or water dependent use. Measures necessary to reduce

potential bank and escarpment erosion, landslides, or flood hazard conditions shall also be taken.

Any construction to stabilize or protect the bank with rip rap, gabions, etc., shall only be allowed where there is clear evidence of erosion or similar hazard and shall be the minimum needed to stop that erosion or to avoid a specific and identifiable hazard. A geotechnical engineer's stamped report shall accompany the application with evidence to support the proposal.

2. The applicant shall establish to the satisfaction of the approval authority that steps have been taken to minimize the impact of the proposal on the riparian environment (areas between the top of the bank and the low water mark of the river including lower terrace, beach and river edge).

Staff Finding 26: The shoreline is grass with some bushes along the OHWM. The ramp will be anchored at the 22 foot elevation. No significant loss of vegetation is expected and no mitigation is required. The criteria is met.

Area Map



Dock and Ramp layout





Floodplain Boundary

PD-1 AFFADAVIT OF NOTICE

PD-2 NOTICE MAILING PACKET

PD-3 COMPLETENESS LETTER

PD-4 APPLICANT'S SUBMITTAL