



MULTNOMAH COUNTY OREGON

LAND USE AND TRANSPORTATION PROGRAM

1600 SE 190TH Avenue Portland, OR 97233

PH: 503-988-3043 FAX: 503-988-3389

http://www.co.multnomah.or.us/dbcs/LUT/land_use

NOTICE OF DECISION

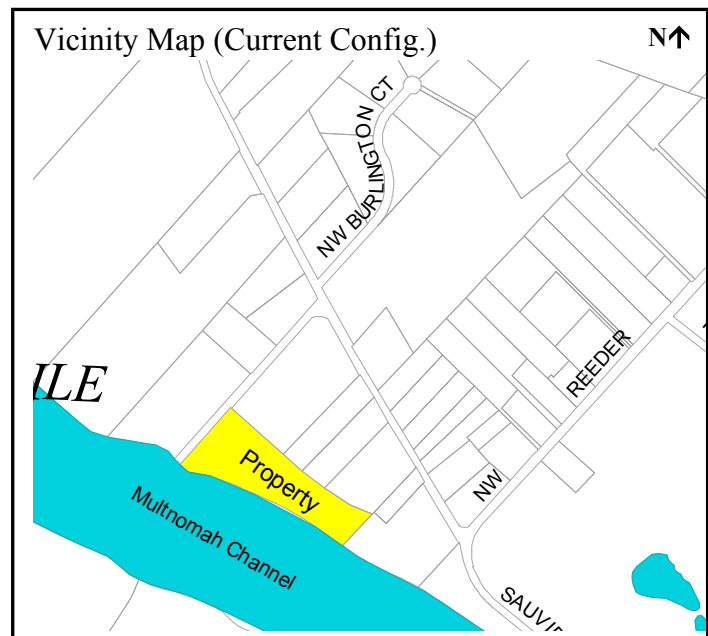
This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-04-076

Permits: Alteration of a Non-Conforming Use, Willamette River Greenway, Design Review and Flood Development Permit

Location: Mayfair Moorage
15500 NW Burlington Ferry Rd.
TL 2600, Sec 17D, T2N, R1W
Tax Account # (R97117-0380)

**Applicant/
Owner:** Michael Albrich
15500 NW Ferry Road Box 2
Portland, Oregon 97231



Summary: Request to finalize the Policy 10 process, drive four piles in the upland bank to support a reconstructed moorage foot bridge, drive four sets of two pile dolphins along the walkways, relocate the drinking water well and establish a 20-foot by 30-foot floating shed at the Mayfair Moorage on Sauvie Island.

Decision: Approved with Conditions.

Unless appealed, this decision is effective May 3, 2005, at 4:30 PM.

Issued by:

By: _____
Adam Barber, Planner

For: Karen Schilling- Planning Director

Date: April 19, 2005

Instrument Number for Recording Purposes:

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director's Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Adam Barber, Staff Planner at 503-988-3043.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of **MCC 37.0640**. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals (LUBA) until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is May 3, 2005 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC) **34.2800 – 34.2885**, Multiple Use Agriculture-20 Zone District; **34.5800 – 34.5865**, Willamette River Greenway; **34.7000 – 34.7060** Design Review; **34.7200 – 34.7215**, Nonconforming uses; **29.600 – 29.611**, Flood Hazard Regulations; MCC Chapter 37, Administration and Procedures.

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at http://www.co.multnomah.or.us/dbcs/LUT/land_use.

Scope of Approval

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **Pursuant to MCC 37.0690, this land use permit expires two years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690 and 37.0700. Such a request must be made prior to the expiration date of the permit.**

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. **The property owner shall record a copy of the Notice of Decision cover sheet and conditions of approval (pages 1-3) with the Multnomah County Recorder within 30 days of the date this decision becomes final. This decision will become final May 3, 2005 at 4:30 pm if no appeal is filed. A copy of the recorded document shall be submitted to the Land Use Planning Office prior to zoning approval of the building permit (MCC 37.0670).**
2. **Prior to bringing in the 20-foot by 30-foot floating shed, the land owner shall submit the attached “*Application for Floating Structure Placement within a Moorage/Marina*” form**

(Exhibit A22). The fire department will not need to sign the attached form as they have already reviewed this request to bring in the floating shed.

- 3. The relocated well shall be drilled no closer than 50-feet from any wetland areas delineated in the northwest corner of the property within the Shapiro and Associates report (Exhibit A19) - MCC 34.5865(B)(4).**
- 4. Once construction is completed, the Project Engineer shall submit a statement certifying that all work in association with the new walkway has been completed pursuant to the applicable flood hazard development specifications (MCC 29.606).**

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

FINDINGS: Written findings are contained herein. The Multnomah County Code criteria are in **bold** font. Staff comments and analysis are identified as **Staff:** and follow Applicant comments identified as *Applicant:* to the applicable criteria.

1.0 Project Description

Applicant: “This (land use) application (has been submitted) for the following purposes:

1). *Fulfill final conditions of Policy #10 of the Multnomah County/Sauvie Island/Multnomah Channel Rural Area Plan.*

2). *Apply for “Alteration of a Non-Conforming Use” permit to:*

2a) drive four piling in our upland bank to create new support for the Moorage foot bridge, the only access to the Moorage. See engineering documents provided by Michael E. Elia, P.E. They include: 1) drawings of the proposed replacement of the land attachment of the Moorage foot bridge with a 4 piling structure designed to withstand bank failure, 2) Letters addressing various aspects of the project and a recommendation for an additional 4 dolphins along the walkway. The current bank support for the foot bridge threatens to fail (perhaps catastrophically) due to perennial bank erosion. This four pile structure would provide permanent foot bridge attachment and serviceability in spite of expected further bank erosion.

2b) Drive 4 new 2-pile dolphins along the walkway to support the Moorage in high water (see piling map). Most of the load of the entire moorage rests on 2, 3-pile dolphins located at the east end (upstream) of the Moorage. After the 1996 and 1997 flood it was discovered that these dolphins had been tilted downstream. Over the 50 years that the Moorage has been in existence, the size of houses and their associated loads have grown dramatically. Additional 2-pile dolphins are needed to support the Moorage. See letter from Michael Elia P.E, dated Feb, 2005 .

2c) Construct a 20'x 30' floating one story tool shed inboard of the walkway immediately downstream of existing foot bridge. This location is largely shielded from view of the river by floating home #5. This will provide storage for maintenance supplies and drinking water pressure tanks for the Moorage. Current location for pressurized potable water tanks is the well house on land where they are located at approximately 18 feet river stage and vulnerable to flooding. In the 1996 flood of 28.5 feet river stage, all tanks and associated plumbing were destroyed and had to be replaced. Well pump controls and sewage controls must also be relocated from their locations on land to this floating storage shed so that they, too, are out of harm's way in any flood above 20 feet of river stage. All of these utilities sustained submersion damage to variable degrees in the 1996 and 1997 floods. The existing floating Moorage shed is 14x18 and full of Moorage maintenance materials and phone banks moved from land near the foot bridge to this shed by Q-West in 2003. Q-West recognized the danger of leaving the phone banks on land in the flood plain. We created space in the floating Moorage shop for that equipment. The Moorage does not have sufficient capacity for storage of floating maintenance materials, water tanks and the controls discussed above. 2) is sought on a semi-urgent basis. Due to a large bank slide adjacent the foot bridge in early March, 2003, (see picture) the bank support for the foot bridge is likely to fail if subjected to another wet winter and/or flood.

[2d) Relocate drinking water well]

All of the changes described under 2) are to maintain and strengthen the Moorage at its current size

and utilization. There is no intent to extend the Moorage's size, capacity or scope of utilization."

Staff: The applicant has succinctly outlined the details of the proposal above. In summary, the applicant wishes to repair a damaged floating walkway, bring in a floating storage shed and relocate the drinking water well near the northwest corner of the property (Exhibit A1). The existing well house located towards the southern portion of the property will not be relocated along with the drinking water well. A 6-inch wide by 18-inch deep trench will carry water and electrical lines from the existing well house to the new well. The new well will be relocated roughly 250 feet to the north of the existing well (Exhibit A2). This proposal requires an Alteration of a Non-Conforming Use and Flood Development Permit Review as the work will be occurring within the 100-year flood plain. The existing configuration of Mayfair Moorage will also be evaluated against the Willamette River Greenway standards to complete the Policy 10 process.

2.0 Vicinity Description

Staff: The 7.15 acre rectangular subject property at 15500 NW Burlington Ferry Road is located on the Sauvie Island side of Multnomah Channel roughly two miles downriver of the Sauvie Island Bridge. The Mayfair Moorage is located west of the Reeder Road-Sauvie Island Road intersection in an area defined by agricultural operations and single family dwellings. The moorage is bordered on the southwest by Multnomah Channel which is a side channel (slough) of the Willamette River. Northwest Burlington Ferry Road parallels the northwest side of the subject property and provides access to the site and a public boat ramp located next to the moorage. A 2002 aerial photo of the area is presented as Exhibit A3.

Zoning of the subject site and surrounding properties is Multiple Use Agriculture-20 (Exhibit A4). Exclusive Farm Use (EFU) zoned land is located on the east side of Reeder Road to the east of the project area. The subject site and neighboring areas are nearly level and either partially or fully located within the 100-year floodplain (Exhibit A5). The Willamette River Greenway zoning overlay also falls on many properties in the area (Exhibit A6). Both the 100-year floodplain and the Willamette River Greenway zoning boundary covers the entire subject property.

The steepest portions of the site are located at the channel's edge where a near vertical bank roughly eight feet tall drops off down to the water level in Multnomah Channel. Over time, accelerated erosion and shallow slope failures have occurred along the river bank threatening the stability of the footbridge connecting the mainland development with the floating moorage structures (Exhibit A7).

According to the 1997 Multnomah County Policy 10 inventory, the moorage's level of 'permitted' development is capped at 21 floating dwellings including houseboats, combos, and all floating structures that contain living facilities. Upland development consists of an asphalt surfaced parking lot adjacent to the footbridge, septic disposal system, a well house, two permanent storage sheds and three small movable personal sheds for storage of residential equipment.

3.0 Public Comment (MCC 37.0530(B))

Type II decisions involve the exercise of some interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are assumed to be allowable in the underlying zone. County Review typically focuses on what form the use will take, where it will be located in relation to other uses and natural features and resources, and how it will look. However, an application shall not be approved unless it is consistent with the applicable siting standards and in compliance with approval requirements. Upon receipt of a complete

application, notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject Tract. The Planning Director accepts comments for 14 days after the notice of application is mailed and renders a decision. The Planning Director's decision is appealable to the Hearings Officer. If no appeal is filed the Planning Directors decision shall become final at the close of business on the 14th day after the date on the decision. If an appeal is received, the Hearings Officer decision is the County's final decision and is appealable to LUBA within 21 days of when the decision is signed.

Staff: Public comment was made available to persons subject to notice for 14-days in accordance with the procedures outlined by **MCC 37.0530(B)**. Comment was only received by one person, Alison Winter, Multnomah County Transportation Specialist. A copy of Ms. Winter's comment is presented as Exhibit A8. Ms. Winter stated that "*County Transportation does not have any issues with the proposal...*" Considering this response, Staff finds no significant comments were received that require further evaluation or discussion.

4.0 Initiation of Action (MCC 37.0550)

Except as provided in MCC 37.0760, Type I - IV applications may only be initiated by written consent of the owner of record or contract purchaser. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.

Staff: Written consent was provided by the land owner Michael Albrich on the General Application Form contained in the permanent case file. This signature provides adequate authorization for the County to process this request.

5.0 Code Compliance (MCC 37.0560)

The County shall not make a land use decision, or issue a building permit approving development, including land divisions and property line adjustments, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County.

Staff: Three sheds have been placed just east of the parking area without record of land use signoff Exhibit A1. These sheds are used to store residential equipment belonging to residents of the moorage and have been placed on skids without disturbing the ground so they can be quickly relocated in the event of flooding. Since all three sheds meet the 10-foot side yard setback of the Multiple Use Agriculture-20 zone district, Staff is documenting here in this finding that these sheds are documented to be in compliance with all applicable Multnomah County Codes. No other issues have been discovered suggesting the moorage operation or property is out of compliance with applicable provisions of Multnomah County Land Use Code.

6.0 Lot of Record (MCC 34.0005(13) & (MCC 34.2870(A))

Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof which when created and when reconfigured (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval (MCC 34.0005(13)).

(a) "Satisfied all applicable zoning laws" shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.

(b) "Satisfied all applicable land division laws" shall mean the parcel or lot was created:

- 1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or**
- 2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or**
- 3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or**
- 4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and**
- 5. "Satisfied all applicable land division laws" shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code.**

In addition to the Lot of Record definition standards in MCC 34.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following (MCC 34.2870(A)):

- (1) July 10, 1958, SR zone applied;**
- (2) July 10, 1958, F-2 zone applied;**
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (4) October 6, 1977, MUA-20 zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change from EFU to MUA-20 for some properties, Ord. 395;**
- (6) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.**

Staff: The 7.15 acre subject property appears in its current configuration on the County's oldest set of zoning maps from 1962 when the SR zone required new properties to be at least 10,000 – 40,000 square feet in size depending on the type of existing infrastructure. The 311,454 square foot (7.15-acre) subject site exceeded the minimum lot size at the time and therefore is considered to be a Lot of Record eligible for this development request.

7.0 Verification of Nonconforming Use Status (MCC 34.7215)

- 7.1 The Planning Director shall verify the status of a nonconforming use upon application for a determination by an owner on application for any land use or other permit for the site, or on**

finding there is a need for a determination (e.g., on learning of a possible Code violation). The determination shall be based on findings that the use: (1) Was legally established and operating at the time of enactment or amendment of this Zoning Code (MCC 34.7215(A)), and

Applicant: "Interstate Moorage, subsequently called Mayfair Moorage, has been continuously maintained and in operation since 1955. Oregon Corporation Division document is submitted. An aerial photo from 1956 of the property demonstrates the presence of the Moorage. It is submitted."

Staff: The purpose of the Sauvie Island Rural Area Plan Policy 10 reconciliation process was to offer a manageable mechanism to verify and document the existence and scope of non-conforming marinas and moorages in unincorporated Multnomah County. Multnomah County determined on May 20, 1998 that the Mayfair Moorage would be legally permitted to host 21 floating dwellings assuming an approved Willamette River Greenway (WRG) permit was obtained for the entire moorage (Exhibit A9). Since the applicant has submitted a WRG application for the entire moorage (i.e., the application submitted in conjunction with this decision), Staff finds through the Policy 10 inventory that the moorage use was lawfully established. This criterion is met.

(* * *)

7.2 Has not been abandoned or interrupted for a continuous two year period (MCC 34.7215(A)(2)).

Applicant: "I have personally lived at the Moorage since 1979 and can attest to continuous function of the Moorage during that time. Aerial photos from 1956 demonstrate the existence of a floating home Moorage. Moorage records indicate it was never abandoned or unused in the period 1956 to the present. Those records include bank statements, Federal and State Tax documents, garbage disposal, electric power consumption. A copy of the insurance agents record of general business liability insurance for the corporation is submitted."

Staff: Abandonment of the non-conforming use needs only to be evaluated from May, 1998 to the present since the nature and scope of use was documented through the policy 10 reconciliation process at that time (Exhibit A9). The applicant has submitted the following evidence substantiating the use has not been discontinued for more than two years:

- State of Oregon Business Directory demonstrating Mayfair Moorage has been registered as a business since 1955 and is still active today (Exhibit A10). This suggests the business has been actively registered with the State of Oregon from 1998 forward.
- A representative with Krupke Insurance has verified in a letter that the Mayfair Moorage has been insured with Safeco Insurance since November 23rd or 1993 (Exhibit A11).
- The applicant has submitted income tax returns for Mayfair Moorage illustrating measurable sales and profits from 1998 through 2003.
- Portland General Electric records have been submitted from 1992 to 2004 for the entire moorage operation showing monthly fluctuating electrical usage throughout the entirety of the applicable timeframe (Exhibit A12).

Considering the information outlined above, Staff finds the Mayfair Moorage use has not been interrupted for a continuous two year period since 1998. This standard is met.

7.3 The Planning Director shall verify the status of a nonconforming use as being the nature and extent of the use at the time of adoption or amendment of the Zoning Code provision disallowing the use. When determining the nature and extent of a nonconforming use, the Planning Director shall consider: Description of the use (MCC 34.7215(B)(1));

Applicant: "The Mayfair Moorage was established as the Interstate Moorage in 1955. Name change occurred to the Mayfair Moorage in 1956-7. The Moorage is comprised of a 7.15 acre upland and approximately 3 acres of submerged land adjacent to the uplands that is leased from the Oregon State Lands Division. The floating portion of the Moorage consists of a footbridge from the uplands Parking Lot area to a 920 foot by 6 foot walkway which is secured in place by 9 single piling and 4 dolphins of 3 piling each for a total of 21 piling. To this walkway is secured 17 floating homes and an additional 14 storage buildings and 3 boat houses (non-dwelling units). The Moorage has only one access path which is the footbridge. The uplands contain an asphalt surfaced Parking Lot area adjacent the footbridge, a well house to provide potable water, two storage sheds of for Moorage equipment to maintain the grounds (including a tractor), three temporary personal sheds for storage of personal effects of three of the residents of the Moorage who do not have sufficient storage capacity on their floating homes and floating storage sheds (tender floats), a sand filter sewage treatment system and a three car garage. The floating homes are the personal property of the owners who rent space and services from the Moorage. In addition to moorage of their floating homes, the Moorage provides maintenance of the common areas such as the Parking Lot area, grasslands, and walkways. The Moorage provides on site sand filter sewage treatment, potable water from an on site well, and weekly garbage service. Electrical power to Moorage is provided by PGE."

Staff: Through the Policy 10 process, Multnomah County determined on May 20th, 1998 that the Mayfair Moorage could lawfully host no more than 21 floating dwellings. The moorage hosts 17 floating dwellings today which is permissible in accordance with the allowable intensity level defined by Policy 10 for the Mayfair Moorage (Exhibit A9). More than two years has passed with a development intensity not exceeding 17 floating dwellings at Mayfair Moorage. As such, the right to establish more than 17 floating dwellings without land use review has been lost as indicated in Multnomah County's nonconforming use code (**MCC 34.7200(C)**). The current level of 17 floating dwellings is permissible and defines the nature and scope of the use. The applicant is not proposing to increase the number of floating dwellings at this time.

7.4 The types and quantities of goods or services provided and activities conducted (MCC 34.7215(B)(2));

Applicant: "The services provided are those associated with maintenance of a living community: water, sewage, electric power (PGE), parking, garbage, maintenance of grounds neat and orderly, lighting of the common areas, enforcement of quiet and neighborly behavior of residents, guests and pets, tilled area for resident gardening, and governance to promoted enjoyable living community. An average of 2,500 gallons of potable water per day is provided over the past 20 years. A similar volume of waste water is processed by the sand filter sewage system. Power consumption has decreased with the use of energy efficient lighting in the past 5 years.

The Moorage has had 17 full time residential floating homes for the last 25 years. Associated with these homes are 17 non-dwelling units that provide storage, boat storage and maintenance shop facilities to the residents of the Moorage. The floating homes are permanent, full time, year around living units for 17 families and individuals. The consumption of goods and services above has been nearly constant with little variation for the 25 years of my residence on the Moorage as

is consistent with a nearly constant number of residents. Over the years floating homes have been bought and sold, but the number and utilization has remained nearly constant. The size of floating homes has increased over the past three decades with the periodic replacement of older smaller homes. No home replacement has occurred since 1997."

Staff: The applicant has outlined the types of services offered by the moorage above. These are the same services offered today as were offered during the Policy 10 inventory in the 1997-1998 timeframe.

7.5 The scope of use (volume, intensity, frequency, etc.), including fluctuations in the level of activity (MCC 34.7215(B)(3));

Staff: The scope of use is the same today as it was during the Policy 10 inventory. The level of activity has fluctuated slightly up and down as evidenced in the moorage's electrical records although the types of services offered have not changed post Policy 10 (Exhibit A12). The detailed inventory of the moorage uses is presented as Exhibit A9.

7.6 The number, location and size of physical improvements associated with the use (MCC 34.7215(B)(4));

Applicant: "The number of floating homes has not varied from 17 over the past 25 years. The sewage system and paving of parking lot occurred in 1994. The well has been in operation since 1955 with improvements of a well house and pressurized tanks in 1994. Maintenance sheds (2) on the uplands were added in 1993. Small, temporary personal sheds (3) have been added over the years. One temporary shed of 8'x10' was added in 2000. It can be towed off the property in event of flood. See Diagram Upland Property- temporary structure-removable. Piling have been replaced from time to time as is required for maintenance. The 920 foot walkway has not been increased in size in the 25 years of my residence on the Moorage. Diagrams of Upland and Floating property provide current distribution of improvements and dwellings."

Staff: This standard is best addressed through the detailed Policy 10 inventory records presented as Exhibit A12. The number, location and size of in-water physical improvements are the same today as is seen in the inventory with exception to the number of floating dwellings. Although the inventory references 21 floating dwellings, only 17 floating dwellings exist at the moorage today. The applicant details the location and size of existing upland physical improvements in finding 1.0 of this report.

7.7 The amount of land devoted to the use (MCC 34.7215(B)(5)); and

Applicant: "The total amount of land has been and remains 7.15 acres since 1955. Of that, approximately 3 acres is devoted to mowed grasslands including sewage treatment system, parking, well house and maintenance sheds. The remainder is undisturbed wetlands, cottonwood grove, and riparian zone. Diagrams of Upland and Floating property provide current distribution of improvements and dwellings."

Staff: According to the Policy 10 inventory, the moorage can house up to 21 floating dwellings, 920 linear feet of floating dock and a 65-foot by 35-foot upland garage and a moorage shop. The majority of the existing improvements are in-water and therefore do not demand land devoted to the use. It appears from a 2004 aerial photo of the site that roughly 2-3 out of the 7.15 acre

property is dedicated to the moorage when accounting for the access drive, parking area, septic system and previously discussed infrastructure.

8.0 Nonconforming Uses (MCC 34.7200)

The purpose of this section is to establish standards and procedures regulating the continuation, alteration, expansion, and replacement of nonconforming uses. The intent is to allow procedures for considering changes to nonconforming uses that do not increase the level of adverse impacts on the neighborhood, or changes required for the use to comply with State or County health or safety requirements (MCC 34.7200(A)).

Applicant: “The 4 pile structure proposed to replace the land portion of the foot bridge is a structure consistent with the piling (23 piling in all) used to secure the Moorage in place. It is no higher (35 feet of river stage) than all other piling used to secure the Moorage. It would be constructed of the same type of steel piling as the most piling securing the Moorage. It would be visible from the river and Ferry Road just as other piling are visible. The consistency of the piling structure with existing development on the river reduces the visual and esthetic impacts to the neighborhood virtually to nil. Since the floating home Moorage and its foot bridge are, by definition, water dependent uses the location at the river bank cannot be avoided. This proposed structure replaces a manifestly unsafe concrete pad of some 14 tons perched at the precipice of an eroding clay bank which has a demonstrated ability to calve off substantial volumes of soil in the wet season. The March 2003 bank slide adjacent the bridge is the driving incentive for this proposed 4 piling structure.”

Staff: The applicant has proposed to better support the moorage use through replacement of an existing walkway, relocation of a water well, installing pilings to increase stability of the walkway bridge and floating docks, and adding a floating storage shed. This work requires evaluation of Multnomah County’s non-conforming use standards and is not required to meet State or County Health or Safety requirements.

8.1 Nonconforming uses shall be allowed to continue without additional permission, except that such uses may be replaced, altered or expanded only as provided in MCC 34.7205 or 34.7210. (C) If a nonconforming use is abandoned or discontinued for any reason for more than two years, it shall not be re-established unless the resumed use conforms with the requirements of this Zoning Code at the time of the proposed resumption (MCC 34.7200(B)).

Applicant: “Documentation provided demonstrates the uninterrupted function of the Moorage for the past 48 years (see Army Corps of Engineers aerial photos), and”

Staff: The proposal will be evaluated in light of **Multnomah County Code 34.7205**, as required by **MCC 34.7200(B)**.

8.2 If a nonconforming use is abandoned or discontinued for any reason for more than two years, it shall not be re-established unless the resumed use conforms with the requirements of this Zoning Code at the time of the proposed resumption (MCC 34.7200(C)).

Staff: It was determined in finding 7.2 of this decision that the moorage use in general has not been abandoned or discontinued for more than two years since the use was verified by the Policy 10 inventory. It should be noted that the Policy 10 inventory documented 21 floating dwellings while the applicant has stated no more than 17 floating dwellings have been at the moorage over

the last 25 years. Today, 17 floating dwellings are located at the moorage. This number (17), defines the number of permissible floating dwellings allowed at the moorage. The applicant has not proposed to increase the number of floating dwellings above 17 at this time. This standard is met.

9.0 Alteration, Expansion or Replacement of Nonconforming Uses (MCC 34.7210)

9.1 Alteration, expansion or replacement of a nonconforming use includes a change in the use, structure, or physical improvement of no greater adverse impact on the neighborhood, or alterations, expansions or replacements required for the use to comply with State or County health or safety requirements (MCC 34.7210(A)).

Staff: The applicant proposes to alter the moorage in three ways which are discussed in detail within finding 9.5 of this decision. This proposal is subject to the alteration of non-conforming use standards.

9.2 After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 34.7215, the Planning Director may authorize alteration, expansion or replacement of any nonconforming use when it is found that such alteration, expansion or replacement will not result in a greater adverse impact on the neighborhood. In making this finding, the Planning Director shall consider all of the criteria listed below. Adverse impacts to one of the criterion may, but shall not automatically, constitute greater adverse impact on the neighborhood (MCC 34.7210(C)).

Applicant:

Improvement #1

“Replacement of the footbridge and addition of the 4, 2-pile dolphins to the Moorage are safety measures as described above. Please see letter from Structural and Geotechnical Engineer, Michael Elia, P.E. These structures are esthetically consistent with all the other piling and dolphins which currently exist at the Moorage. They may not even be noticed as new or different structures at the Moorage by recreational users of the river. As such, they should not adversely impair the neighborhood. They will not obstruct any views of the neighboring houses. Indeed, they will be difficult to see from neighboring homes if they are visible at all. The proposed floating shed is largely out of site from the river, would have the appearance of all the other floating structures at the Moorage and, as such, should not impact the neighborhood adversely.

The upland footbridge attachment is at risk of catastrophic failure as described above. The Moorage is currently supported in high water only by 2, 3-pile dolphins (three piling driven close together whose tops are fastened together by means of large bolts and wrapped with 1” cable (wire rope)). Evidence was discovered that these dolphins had been impacted, most likely by the very high water of 1996. When the piling were initially driven in 1990, two of the three piling in each of the 2 dolphins were driven vertically with the third piling driven downstream, at an angle, to brace the 2 vertical piling. We discovered that the vertical piling are no longer vertical, but now are bent slightly in the downstream direction (westerly) by about 8-10 inches from the vertical at their tops. This does not reduce their ability to hold the Moorage, but suggests that they were loaded to an extent that they were slightly deformed from their original configuration. The structural and geotechnical engineer has recommended the additional 2-pile dolphins (paired piling, one vertical, one angled to brace the vertical piling and both welded together at their tops)

along to Moorage walkway (see diagram: Floating property; Piling) to provide added security to the Moorage in very high water.

The proposal to replace the land-based attachment of the footbridge consists of the following:

1). Drive 4 piling (see diagram) in the bank 12-15 feet upstream from current concrete pad attachment of footbridge to form the new attachment for the footbridge. This small relocation of the footbridge will allow expeditious replacement of the upland footbridge attachment and movement of the footbridge to that adjacent site. The Moorage attachment of the footbridge is floating and can be moved the 12-15 feet distance with no modification other than its attachment to the moorage, 2 pressure-treated timbers. The existing concrete pad will be removed. Removal may take several days which would prohibit use of the footbridge for that period. That is why we wish not to build over the pad but rather immediately adjacent to it. The footbridge is the sole access for 17 households to their dwellings and cannot be removed from service for more than 1-2 days. Moorage residents will have to commute to and from the moorage by boat as they would in a 100-year flood, but this is a hardship for the many elderly residents on the moorage.

2). Move the bridge to the adjacent location and attach to piling.

The options for replacement of the land attachments include:

- a). build a new concrete pad 12-15 feet upstream: this has been rejected in view of the constant bank erosion. The current precarious situation would invariably develop again.*
- b). Drive 12 inch diameter, 3/8" wall piling in bank to depth similar to Moorage piling so that when inevitable bank erosion occurs the land-based bridge attachment persists. Four piling weld together which will allow bank failure without threatening the footbridge attachment. This is the preferred, long term solution to the problem of failing upland footbridge attachment because it provides permanent security of the upland attachment.*

The piling will be driven in a square pattern. The bank side piling (2) will be 6 feet above bank level. While this configuration constitutes a slight increased visual impact compared to the concrete pad and pipe attachments, it is consistent with piling nearby which secure the Moorage, a water dependent use (development). No other options exist for securing the bridge. Any option would be associated with removal of the concrete pad. There is some risk that the pad could slide precipitously during removal, but the likelihood is that it could be removed intact.

Improvement #2:

The addition of a 20'x30', single story shop of standard frame construction is of lesser importance and should not be allowed to delay (any further) the above proposal as it is not critical to Moorage safety as are the upland footbridge replacements and additional batter piling along the Moorage walkway. The 20'x30' shop will allow us to move vulnerable utilities (well/pump controls, pressurized tanks for the water system, sewage treatment controls) out of the flood plain where they were covered by 10 feet of water during the 1996 flood. This shop is will be used to house these facilities and maintenance equipment for the Moorage only. This proposed location for the shop is almost entirely hidden from river view by house #5 (see diagram Floating Property: Piling for intended location)."

Improvement #3:

(Relocate well – To improve drinking water quality).

Staff: The applicant has proposed three different improvement projects including 1). Relocation of footbridge and driving of additional pilings to improve stability of floating bridge and moorage, 2). Addition of 20-ft by 30-foot floating tool shed and, 3). Relocation of drinking water well. The location improvements #1 and #2 are seen on the site plan presented as Exhibit A14 and A1, respectively. The approximate location proposed for the new drinking water well is presented as Exhibit A2. The general reasoning of why these improvements will not adversely impact the neighborhood is presented below. This analysis is then broken down further in accordance with the components of **MCC 34.7210(C)** in the following findings.

Analysis of Improvement #1 (Footbridge and Pilings)

The existing footbridge to the moorage is in need of replacement due to a slope failure visible in Exhibit A7. The project engineer, Michael Elia, has verified the instability of the existing footbridge by stating *“During our visits to the moorage, we noted recent sloughing of soil and agree that the landing is in danger of becoming undermined. Eventually, the landing may lose support of the soil and become unsafe.”* Mr. Elia continues to state *“the new landing pilings are intended to allow the bank to slough without compromising the integrity of the new landing and to protect the users of the pedestrian bridge.”* Mr. Elia’s comments are presented as Exhibit A13. Reconstructing the footbridge 12-15 feet from the existing bridge, as proposed by the project engineer, will provide safer access to the floating structures and will essentially eliminate the potential of failure. This will minimize adverse impacts to the neighborhood and moorage residents associated with a structural failure. Four piles will be driven in the upland area to support the new footbridge landing.

To better stabilize the moorage floating docks, the project engineer has recommended installing four additional 2 pile dolphin groups along the length of the floating docks (Exhibit A14). As indicated in Mr. Elia’s geotechnical report, these improvements are designed to make the moorage safer for the residents. Mr. Elia has also verified these improvements will not impact the flow characteristics of Multnomah Channel in a way that would increase flood potential in any measurable way (see “no-rise” certification in Exhibit A15). Staff finds these improvements will also minimize adverse impacts to the community by reducing the chance of catastrophic structural failure during a high water event. These changes will not intensify the moorage use but will be used to provide safer access and provide better structural support an existing operation.

Analysis of Improvement #2 (Equipment Shed)

Adding the 20-foot by 30-foot floating equipment shed in the vicinity of the new footbridge will not adversely impact the community as it will simply be used to house tools and equipment needed for routine operation and upkeep of the moorage. This addition will not intensify the moorage use but will support an existing operation. The main reasoning for this conclusion is that the tool shed in it self will not generate more trips to or from the site than exists today.

Analysis of Improvement #3 (Relocated Well)

In an attempt to improve water quality, the applicant proposes to relocate the well from the west end of the parking lot towards either the northwest or northwest corner of the property (Exhibit A2). The well will be moved further from the channel and drilled to a deeper depth to access a different shallow groundwater aquifer with different groundwater chemistry. Staff finds that this

relocation request is reasonable and is not expected to create adverse impacts on the community. In fact, it is likely drinking water chemistry can be improved which would benefit the residents of the moorage.

9.3 The character and history of the use and of development in the surrounding area (MCC 34.7210(C)(1));

Applicant: "The Moorage and associated upland developments have been in place since 1955. The uplands are zoned MUA-20. Additional upland development of sand filter septic system has been in place since 1994. The parking lot was paved in 1994. A piling attachment for the bridge is consistent with the character of the Moorage, indeed, similar attachment is used by other Moorages in the vicinity to secure their footbridges. The addition of 4 dolphins will not be noticed by most who view the Moorage as they will look like the other...dolphins and piling along the walkway. This is very much in keeping with the character of the Moorage. Similarly, the floating shed is also esthetically consistent with the Moorage as it will appear similar to all other floating structures at the Moorage."

Staff: The moorage development has existed since the mid-1950's and has not changed in scope significantly since that time. The alterations proposed are designed to further strengthen and support the existing moorage use and are not designed to increase capacity or change the scope of use provided by the moorage. From a 'character of use' perspective, the footbridge will simply be relocated, a few pilings will be driven, an existing well will be relocated and an equipment shed will be added to a site over 7 acres in size. This level of development is not widespread or intense enough in this circumstance to change the character or feel of the moorage in any measurable way when considering the existing moorage contains 17 floating dwelling units, 16 other floating accessory structures, ten swim floats and 920 linear feet of floating dock. In summary, the changes proposed are minor in nature and are designed to support, not change the character of the Mayfair Moorage. This standard is met.

9.4 The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable within the neighborhood (MCC 34.7210(C)(2));

Applicant: "For the foot bridge repair and addition of dolphins along the walkway there will be no impacts to noise, vibration, dust, odor, fumes, smoke or glare (the piling have an outer layer of rust which makes them glare-free) impacts detectable in the vicinity by neighbors or the boating community. The proposed storage shed is intended as storage, not as a shop, therefore no noise, vibration, dust, odor, fumes, smoke, or glare should be detectable within the neighborhood."

Staff: The resulting structural changes are not expected to emanate noise, vibration, dust, odor, fumes, glare, or smoke detectable from any portion of the subject property.

9.5 The comparative numbers and kinds of vehicular trips to the site (MCC 34.7210(C)(3));

Applicant: "All three of the proposed projects, the foot bridge land attachment replacement, the 4 dolphins along the walkway and the floating shed, are designed to provide safety and appropriate maintenance for the existing Moorage. These projects will not alter the level of use of the Moorage. No changes in the number or kind of vehicular trips to the Moorage are expected."

Staff: The proposed changes will be structurally supporting the existing moorage, housing tools and equipment and improving the moorage's drinking water quality. More people will not be

served by the moorage as a result of these changes and therefore the improvements will not generate additional vehicular trips. Staff finds this standard is met.

9.6 The comparative amount and nature of outside storage, loading and parking lot (MCC 34.7210(C)(4));

Applicant: "The foot bridge project, the 4 dolphins along the walkway will have no impact on the amount or nature of outside storage, loading or the Parking Lot. The floating shed is expected to reduce outside storage by virtue of its function."

Staff: The only proposed improvement related to this standard is the new floating equipment shed which is designed to avoid outdoor storage of tools and equipment. None of the improvements will have any impact on existing parking and loading areas. This standard is met.

9.7 The comparative visual appearance (MCC 34.7210(C)(5));

Applicant: "The piling associated with the bridge project and the dolphins along the walkway is consistent with the other 23 piling which keep the Moorage in place. Depending on the water level, these 23 piling can be as much as 40 feet above water and as little as 10 feet above water in a 100 year flood. By comparison, two of the piling will be 17 feet above the bank, the other two piling will be 6 feet above the bank. These piling will be apparent only to a very astute observer, very familiar with the Moorage. Given the character of the Moorage and the presence of twenty-three taller piling up-and downstream, it very unlikely that the bridge piling will even be noticed either from the land or the river. Removal of the concrete pad before it slips down the bank would preserve the undisturbed nature of the bank. If the bank fails precipitously, it may become impossible to recover the concrete pad. The floating shed will appear as all of the 35 floating structures at the Moorage. It is unlikely to be notice by any but the most astute observer."

Staff: The relocated well will be located further from the upland and in-water improvement areas where people congregate, will be nearly flush with the ground and will not be highly visible. The relocated bridge will appear almost identical in design to the existing bridge but will be relocated 12 to 15 feet to the east. The change in moorage appearance from the water or upland areas will hardly be noticeable.

The proposed one story floating equipment shed will fit well with the 33 other floating structures at the moorage and again, will hardly be noticeable to someone not intimately familiar with the moorage's nuances. The proposed shed will be located behind dwelling #5, as viewed from the channel and will not be highly visible from this well used recreational area (Exhibit A16). The shed will not be highly visible from the upland area as the structure will be partially obscured below the bank slope and will be further screened by osier dogwoods growing along the bank. Many of the floating dwellings are also larger than the structure proposed and are two story structures which will help draw attention away from the smaller one story shed proposed (Exhibit A16). Staff finds the 20-foot by 30-foot shed will not alter the visual appearance in the area in any noticeable or negative way.

9.8 The comparative hours of operation (MCC 34.7210(C)(6));

Applicant: "Since the foot bridge project and the 4 dolphins along the walkway are safety measures, no changes in the hours of operation are anticipated. The floating storage shed is not expected to impact the hours of operation as its function is storage."

Staff: The proposed improvements have no relation to the hours of operation held by the moorage. This standard does not apply to these improvements.

9.9 The comparative effect on existing flora (MCC 34.7210(C)(7));

Applicant: "The bridge project should disturb only a small amount of blackberry. The 4 dolphins along the walkway have no impact on flora or fish. There is some possibility that piling/dolphins may contribute to young fish habitat just as logs in streams create habitat. The floating shed will have no impact on flora, but may create habitat for young fish."

Staff: The only vegetation that will be impacted by the proposal will be possible disturbance of a patch of bank side blackberry and bamboo for the footbridge pad and a few square feet of pasture grass for the new well head. Blackberry and bamboo are an invasive species that is advantageous to remove. The improvements will not impact upland vegetation.

9.10 The comparative effect on water drainage or quality (MCC 34.7210(C)(8)); and

Applicant: "The piling associated with the bridge project , the 4 dolphins along the walkway and the floating shed will have no impact on water drainage or quality. See letter from Michael Elia, P.E."

Staff: The only significant ground disturbance required for all improvements discussed is an estimated one cubic yard of excavation to prepare the new footbridge concrete pad. The applicant has proposed installation of a sediment fence downhill of the excavation to trap any mobilized sediment. Staff finds that these minor improvements will not have a significant impact on water quality of property best management practices are followed. The project engineer, Michael Elia, has verified the proposal will not impact site drainage (Exhibit A13).

9.11 Other factors which impact the character or needs of the neighborhood (MCC 34.7210(C)(9)).

Applicant: "These piling associate with the bridge project and the 4 dolphins along the walkway will not be visible from most of the adjacent residences. It will be obscured by trees in the wetlands. It may be possible to see the bridge piling from some parts of the properties of the adjacent neighbors, but should appear like all other piling along the walkway. The Sauvie Island Boat Launch which is immediately adjacent to the western end of the Moorage will not be impacted by any of the proposed projects. The floating shed will not be visible from the Boat Launch as it will be shielded by other storage floats. As discussed above, the piling associated with the bridge project and the 4 dolphins along the walkway will appear to neighbors and the boating public as not different from the existing piling, dolphins or storage sheds."

Staff: No other factors suspected of having an impact on the community have been identified. To summarize Section # 8.0 and 9.0 of the decision; Staff has found the Mayfair Moorage is a non-conforming use consisting of 17 floating dwellings, 920 linear feet of floating dock, in-water and upland accessory structures, a walkway and a parking area. Staff has also found the proposed changes to the moorage will not adversely impact the neighborhood or increase the intensity of the use. The proposed changes including well relocation, walkway ramp reconstruction, the driving of pilings and the addition of a floating tool shed will help better support the moorage use in the future and improve safety for moorage residents.

10.0 WILLAMETTE RIVER GREENWAY (MCC 34.5800)

10.1 The elements of the Greenway Design Plan are: The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and the river (MCC 34.5855(A)).

Applicant: "With the exception of the Parking Lot area located centrally, approximately 1,000 feet of river bank is covered by dense groves of red-osier dogwood, cottonwood, willow, ash, snowberry, and Nootka rose, typical of native, heavily wooded riparian zones. Indeed, the Mayfair Moorage has some of the richest collections of these native species of any marina on the Sauvie Island side of the Multnomah Channel, including the adjacent Sauvie Island Boat Ramp. In the riparian zone between the Parking Lot and the river there is a small amount bamboo immediately east and west of the footbridge which will be removed to allow native species to repopulate the riparian zone (see Temporary Structures and Bamboo areas map).

The Parking Lot is located on the highest ground on Mayfair Moorage property. The Parking Lot elevation descends from a high of near 19 feet of river stage at its southern border nearest to the river to 17 feet at its northern border. Ordinary High Water (OHW) for this portion of the Multnomah Channel is 16 feet. There are two areas of bank erosion adjacent the Parking Lot. These exposures are small, steep, root free clay soils with rooted top soil at their apices and are populated with the native species discussed above. Because of the steep clay soils, it is not possible to plant native species in these areas with any reasonable expectation of success. The existing Parking Lot is asphalt covered. The Parking Lot area could have been located further east at a similar distance from the bank to maintain elevation, but this would require a longer lane and longer total pavement near the river. Thus, the Parking Lot appears optimally located on the property. Locations elsewhere inevitably require locating the Parking Lot at lower elevation, at or below Ordinary High Water (OHW).

The Parking Lot is masked by bank foliage and Floating Homes # 3 through 7. The photos were taken at a time when the Parking Lot was full of cars and no car is visible from any position on the river (see Photos #8 and #9). The Parking Lot's asphalt construction may stabilize the bank by diverting most rain water away from the bank to the grassland whereas a gravel lot allows percolation of rainwater into this large area adjacent the bank. There is a small 3 car garage at the east end of the Parking Lot which is shielded from the river by the species above (see photo #9). The garage facility supports the Moorage which is a water dependent use. The garage contains some maintenance materials for use on the Moorage as well as shelter for 3 automobiles owned by residents of the Moorage. Near the garage (see site plan) there is a storage shed with a covered area for maintenance implements. These are necessary to maintain the grounds and Parking Lot. Further to the east is a tractor shed to house the Moorage tractor used to mow the grass land, clear the Parking Lot and lane of snow, remove mud after the 1996 and 1997 floods and general maintenance of the uplands. To the west of the Parking Lot is a 10'x10' well house. This structure and the other service structures are located near the river because it is the highest location on the property. This is the central theme of the location all the service structures.

The property elevation declines perpendicular to the long axis of the property from a high of near 19 feet at the river bank to 17 feet along the northern margin of the Parking Lot to 14 feet of river stage in the grasslands adjacent the wetlands. Ordinary High Water is at 16 feet. Development below that level would subject those structures to more frequent flooding and associated damage

(mud and water damage to materials). The sand filter sewage system requires collection and dosing tanks which are buried and contain 4,000 and 1,500 gallons, respectively, and a distribution system from the dosing tank to the sand filter. They had to be buried in an accessible area (not under the Parking Lot) for proper function and service access. The sand filter is located as far from the wetlands and the river as possible to meet the goals of WRG. Alternative locations for the sand filter and associated tanks and distribution system are considered in the Alternative Sand Filter map. Alternative #1 moves the sand filter slightly more distant from the wetland, is the same distance to the river, but locates the sand filter at lower elevation than the current location. Lower elevation subjects the sand filter to more frequent and longer duration flooding.

Location #2 is comparable to the current location and has no clear advantage. Alternative #3 moves the sand filter closer to the river in order to maintain distance from the wetland. The area indicated by the red "X" is too small to contain the sand filter system and maintain current distance to the wetland even though it is further from the river. Thus, no alternative location for the sand filter is clearly superior to the current location. The associated drain field has a service life of 15 years. New drain fields will have to be located in other areas of the grass land to maintain distance from the river and the wetland (see Drain Field alternatives map). Alternative drain field locations #1 and #2 confer no advantage over the current location and are suitable locations for subsequent drain fields. Alternative #3 places the drain field closer to the wetlands but further from the river and is located on some of the lowest land in the property, subjecting this location to more frequent flooding. To date there is not apparent impact of the sand filter sewage system, including the drain field, on the wetlands as evidenced by uniform grass growth and color in both the grass land and wetlands and absence of algae blooms in the wetlands during the wet season when they are naturally inundated.

All structures are located sufficiently far from the edges of the property to comply with WRG (30 feet or more separation from edges of property). We have avoided development in the cottonwood areas of the property to preserve these areas in their natural state. The property does have a wooded wetland covering some 1.6 acres or just over 20% of Moorage's 7.15 acre upland (see wetlands map). There is no Moorage or other human activity impacting this wetland. This area is a low land and is frequently ponded to depths of 4 feet or more in the wet season. All 7.15 acres including the Parking Lot are in the 100 year flood plain (27 feet of river stage). The highest portion of the property is the riparian zone between the Parking Lot and the river and it is 19 feet of river stage.

Between the wetlands and the Parking Lot is a large grassland of approximately 2.5 acres which contains a large, on site sand filter septic system built in 1994. Upon completion, Multnomah County used the sand filter septic system as a demonstration project for representatives from several adjacent counties to review as a best practice for an on site septic system in the flood plain. The septic system survived major flooding in 1996 and 1997 without significant damage to holding and dispensing tanks, sand filter or drain field. The only damage was to the sewage controls located at the south side of the Parking Lot adjacent the west side of the bridge. East of the grasslands is an undisturbed cottonwood grove of approximately 2 acres. These trees are frequently harvested by resident beaver, but the grove is otherwise undisturbed.

In summary, the Mayfair Moorage site maintains within its riparian zone some of the richest collections of native, bank stabilizing species of any Sauvie Island marina including the adjacent public boat ramp. The Parking Lot runoff drains to the grasslands, avoids runoff into the river and is largely shielded from river view. The wetlands, riparian zone and cottonwood grove are

undisturbed. The grassland contains a state of the art on site septic system. Thus the Mayfair Moorage site is, to the extent possible, consistent with the development criteria.”

Staff: The applicant only needs to address the Willamette River Greenway standards for the existing moorage use to complete the Policy 10 process. The proposed changes including the footbridge relocation, pile driving, well relocation and new floating shed do not require Willamette River Greenway evaluation as these improvements do not qualify as development, intensification of use or change in use as defined by **MCC 24.5815**.

The current development is concentrated around the water with the highest density of development seen around the parking lot area (Exhibits A1 and A17). Although the floating moorage runs almost the entire length of the property, the upland development including asphalt parking area, septic system and accessory structures are concentrated towards the water near the footbridge. This development pattern has retained a pristine cottonwood grove adjacent to the channel along the east half of the site. This alone has preserved roughly ½ of the site’s riparian vegetation.

The septic drain field and parking areas have been setback away from wetland areas towards the footbridge to minimize impacts to the wetland water quality. Between the majority of the upland development and the channel lies a steep, vegetated bank. Photos presented as Exhibit A16 show the majority of the river bank in the vicinity of the upland improvements is thickly covered by blackberry and red osier dogwood. The applicant has proposed removing invasive blackberry on either side of the existing footbridge to allow native vegetation to repopulate these areas between the upland development and the channel. The compact nature of the development in the south central portion of the site also allows the maximum amount of open grass land to exist in the center of the site. Staff finds the existing development patterns retain open space in the center of the site, have preserved a thick cottonwood grove along the eastern edge of the site and have retained thick vegetated banks between the majority of upland development and the floating structures below. This standard is met.

10.2 Reasonable public access to and along the river shall be provided by appropriate legal means to the greatest possible degree and with emphasis on urban and urbanizable areas (MCC 34.5855(B)).

Applicant: “This Moorage is a private floating home Moorage with no commercial lines of business such as boat slip rental or marine facilities for the boating community. Access to the walkways is not restricted to the public. This is not a gated community. There are no barriers to the river, current or proposed. The site is in a rural area, outside the urban and urbanizable area of Portland. The Moorage is immediately adjacent and east of the Sauvie Island Boat Ramp which is maintained by Metro. The Boat Ramp provides year-round public access to boating activities on the Multnomah Channel.”

Staff: Although the applicant has indicated the public is not precluded from entering the site, the subject property provides private access to the residents and invited visitors of the Mayfair Moorage. Public access through the subject site is not a component of the existing business plan and is not required in light of this standard. This is a private property housing a private business. Members of the public invited by moorage residents and the owner are free to use the site to access the river. This standard is met.

10.3 Developments shall be directed away from the river to the greatest possible degree, provided, however, that lands in other than rural and natural resource districts may continue in urban uses (MCC 34.5855(C)).

Applicant: "The Mayfair Moorage is a floating home Moorage, which requires floating docks, a foot bridge, an on shore well, a sand filter sewage system, storage sheds to maintain the Moorage and Parking Lot facilities to function as a floating home community. The upland development consists only of a Parking Lot, small garage, storage, tractor and well sheds, all shielded by a riparian zone, and a grassland which contains an on site septic system which is obvious only to a knowledgeable observer. The majority of the site appears natural and undisturbed when viewed from the river or the nearby Ferry Road. This site occurs in a rural area, and is not currently developed as urban use.

Location of all land structures of the Moorage near the Parking Lot and near the river bank is dictated by service requirements, structure access and highest elevation in the 7.15 acres of uplands. All other parts of the property are 2-4 feet of river stage lower than the current locations of these structures. If these structures were located in other parts of the uplands they would be susceptible to flooding at Ordinary High Water which is 16 feet. These structures are located at about 17-18 feet of river stage. See discussion under 34.5855 (A)."

Staff: Two unavoidable physical constraints have driven the development patterns seen today at the Mayfair Moorage. The first constraint is that a moorage by nature is a water dependant use that must be located in-water. Upland structures supporting the use must be located adjacent to the water to create a safe, efficient and economically viable moorage community. Slips would not be able to be rented if residents needed to park at one end of a seven acre site to access their floating dwelling moored at the other end, for example.

The second constraint is the entire property is located in the 100-year flood plain meaning high ground is and should be coveted during development for safety reasons. As indicated on the topographic map presented as Exhibit A18, the parking area upland structural improvements have been constructed on the highest portions of the site at elevations ranging from 17-18 feet. The rest of the property lies between 14 and 16 feet which would tend to flood with more frequency than higher portions of the site. When balancing these two constraints with the location of the wetland area to the north, Staff finds the compact development is located as far from the water as possible while still attempting to efficiently use the land in a way consistent with an in-water use designed to have the minimal amount of upland impact. This standard is met.

10.4 Agricultural lands shall be preserved and maintained for farm use (MCC 34.5855(D)).

Applicant: "This development criterion is not applicable. Mayfair Moorage is zoned MUA-20 which is considered an exception area. It is not protected for farm uses under the Statewide Planning Goals."

Staff: The development has been concentrated into a small area towards the south central portion of the site, thus retaining the middle of the site for future agricultural growth if desired. This portion of the site is a grass field today which could be developed in the future for agricultural purposes if desired although the on-site soils are not expected to be particularly productive for this purpose without appropriate soil draining according to the Multnomah County Soil Survey.

10.5 The harvesting of timber, beyond the vegetative fringes, shall be conducted in a manner which shall insure that the natural scenic qualities of the Greenway will be maintained to the greatest extent practicable or will be restored within a brief period of time on those lands inside the Urban Growth Boundary (MCC 34.5855(E)).

Applicant: "The cottonwood on the site is of minimal commercial value. These woods have not been harvested nor is there any intent or plan to harvest the cottonwood. Cottonwood is of much greater value to the Moorage for its aesthetic and scenic value. This criterion is not applicable."

Staff: Commercial harvesting of timber is not proposed and has not recently been conducted to better facilitate the moorage development in any way. This standard does not apply.

10.6 Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflicts with farm uses (MCC 34.5855(F)).

Applicant: "Recreational needs are satisfied by this Moorage by providing access to Multnomah Channel via the floating walkways, footbridge, and floating homes. Moorage residents and their friends enjoy fishing, boating, swimming and wildlife viewing along the Multnomah Channel. There are no rental boat slips as this would require Parking Lot in excess of site capacity and conflict with the residential nature of the Moorage. There are no conflicts with farm use as none of the adjacent land parcels are engaged in farming."

Staff: The existing development contains ten separate private swim floats serving private residences of the moorage according to the applicant's site plan (Exhibit A17). All citizens of the moorage can recreate along the 920 linear feet of floating dock or within the upland cotton groves, grass fields and in areas surrounding the wetland. Many citizens moor private boats which provide ample recreational opportunities along Multnomah Channel and on the Columbia River located downriver of the moorage. There is no conflict with farm uses as active farming is not occurring on the site. This standard is met.

10.7 Significant fish and wildlife habitats shall be protected (MCC 34.5855(G)).

Applicant: "The Moorage has no known or documented negative impacts on fish or wildlife."

a) The basis impact on fish and wildlife habitat has already occurred from the long term existence of the Moorage, which was created in 1955.

b) This site has undisturbed wetlands (20+% of the site) and cottonwood grove (another 30%) which provide habitat for red tail hawk, ducks, geese, egrets, herons, deer, river otter, turtle, muskrats, coyotes, beaver, rabbits, to name a few. The Nature Conservancy maintains the Burlington Bottoms directly across the Multnomah Channel where bald eagles are frequently seen. Clearly, the Moorage has not deterred return of eagles or osprey to the area. Heron perch on logs of the Moorage. River otter frequent the Moorage, often taking fish that find habitat beneath the floating homes. Beaver often nest under floating homes and floating tender sheds. Swallows return each late spring and nest on floating homes. In winter, cormorants flee the coastal storms and find fish near the floating homes. Mergansers, coots, wood ducks also roost near the Moorage. This year saw a record return of spring Chinook that swim beneath the homes. Resident Canadian geese raise their young close to the floating homes. An Osprey pair nest directly across the river at a distance of less than 800 feet from the Moorage.

c) The Multnomah County-approved on-site sand filter septic system produces does not appear to impact adjacent wetlands. No unusual vegetation or algae plumes have appeared in the sewage system's nine years of operation. At the time of completion in 1995, Multnomah County representatives invited authorities from other counties to inspect our site as an example of desirable sewage management in the flood plain. d) No dredging of our Submerged Lands is needed. Our bank and Moorage lies in the bend of the river. Thus, adverse impacts of dredging are avoided on fish habitat.

d) The vast majority of the site is suitable for a variety of fish and animal habitat. Compared with residential communities on land, floating home Moorages free adjacent uplands for animal habitat. This is evidenced by the wide variety of birds and animals observed on Moorage property. Floating homes and Moorage walkways may provide protective habitat between logs and floatation for small or young fish that are otherwise preyed upon by larger fish, diving birds and mammals such as cormorants and otters. In this way, the Moorage may act like fallen trees along the bank that afford the same sort of habitat for small and young fish. In recent years fallen trees in creeks and rivers have become recognized as important to fish habitat."

Staff: Roughly 50% of the 7 acre property consists of cottonwood grove and wetland areas. Another 30% of the site appears to consist of a grassy field with the remaining site developed for the moorage use. This compact development has preserved the maximum amount of upland area for use by a variety of wildlife species mentioned by the applicant above. The development has incorporated a complex combination septic drain field/sand filter septic system design in an attempt to minimize impacts to the wetland area located roughly 100-feet to the north and impacts to the septic system itself during flood conditions. The natural state of the river bank along the southern shore provides shade and habitat for a variety of terrestrial and riparian species as does the in-water structures, piles and docks of the floating community itself. The current moorage operation has been designed in a way that meets this standard.

10.8 Significant natural and scenic areas and viewpoints and vistas shall be preserved (MCC 34.5855(H)).

Applicant: "The scenic nature of this site is maintained by the limited use of the uplands. The majority is undisturbed wetlands, cottonwood grove and riparian zone. The wetlands, grassland and Parking Lot are visible from Ferry Road. Ferry Road is elevated with steep shoulders. Any attempt to obscure the view of the Parking Lot area with vegetation would also obscure the grasslands and the cottonwood grove. Views of the river have been optimized for houses at this Moorage because it lies in the bend of the river. Moorage residents and their guests enjoy vistas 0.7 miles upstream, 0.5 miles downstream and entirety of the opposite bank is heavily wooded wetland. The Moorage is also open to the public on a limited basis as there is no gate that precludes access to the walkways. Even though some of the homes are two stories, their position below the crest of the riparian zone allows retention of the view from the river of the native riparian plant species described in (A). Floating homes are arranged in a single row along the walkway. The riparian zone is visible between the floating homes. The on site septic system is virtually invisible to all but the trained observer."

Staff: On-site wetlands are the only significant natural features of the site. As explained in previous findings, the development has been situated to have the least impact on these features. Development in the upland areas is sparse consisting of a parking area and a few one story structures. There are no high topographic peaks that have been built upon, for example, that

would tend to dominate the skyline as viewed from a surrounding property. Since the upland area is roughly six feet taller than the ordinary water level, the floating structures are lower in elevation than the upland structures and appear from the channel to be tucked against the bank. The moorage is long and thin in configuration, conforming to the shape of the river bank without unnaturally projecting far out into the channel. As stated by the applicant, the development has preserved scenic views up and down river extending hundreds of feet in each direction of the site as viewed from both the channel and site. The cottonwood grove covering the southeast corner of the site has been left untouched by the moorage development. This standard is met.

10.9 Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable (MCC 34.5855(I)).

Applicant: "This site enhances public safety and mitigates criminal trespass and vandalism by virtue of the fact that the Moorage is occupied by permanent floating home residents. Their presence provides constant surveillance of the area during the course of their normal daily activities. The Parking Lot area, foot bridge and walkways are all well lit. The Sauvie Island Boat Ramp is directly across Ferry Road and is well lit. This provides additional sense that the vicinity is occupied and observed. Prior to the renovation of the Boat Ramp, suspicious behavior was observed and occasional vandalism occurred in the unlighted Boat Ramp Parking Lot area. Since the renovation we have not experienced vandalism in our Parking Lot area and the suspicious behavior is markedly reduced. We are located one quarter mile from the Sauvie Island Volunteer Fire Station and the Moorage is equipped with a standing 3" dry line which can provide over 250 gallons of river water at 100 psi to Y-valves (double lines) every 75 feet. 100 feet of 1½ inch fire hose is stationed every 75 feet, connected to one arm of the Y-valves, to provide for immediate fire suppression. One of the Sauvie Island Fire Department volunteer firemen lives at the Moorage. We are in the patrol area of the Multnomah County Sheriff."

Staff: The Mayfair Moorage is private property not catering to the public although a public boat ramp is located northwest of the site accessed by the same drive serving the moorage. The public boat ramp is not associated with the Mayfair Moorage. Personal injury to the public on the moorage grounds is minimized through the use of a private property sign posted at the entrance to the moorage to alert the boat ramp users that the adjacent property is not open for public use. The applicant is also proposing to replace a failing boat ramp and further strengthen the existing floating docks to increase safety for the residents. Although the design of the floating homes at the moorage present the 'front' of the house to the water, many of the two story homes at the moorage have windows facing the moorage upland areas allowing for more eyes to periodically scan the property in the event of an emergency or to see and curb suspicious activities and associated vandalism.

The moorage upland is very well kept in that the grass is kept short, the developed portions of the property are well lit, the parking area is neatly delineated and structures are well maintained. These amenities present a sense of stability and pride that would be expected to reduce the occurrence of vandalistic activity on the property. The moorage upland has utilized a very compact development style with structural improvements concentrated in the northwest corner of the site. This layout concentrates the ingress and egress of auto flow and parking making easy to patrol and effectively light a smaller, concentrated parking area at night as compared to a large parking area running the entire length of the site.

10.10 The natural vegetation along the river, lakes, wetlands and streams shall be enhanced and protected to the maximum extent practicable to assure scenic quality, protection from erosion, screening of uses from the river, and continuous riparian corridors (MCC 34.5855(J)).

Applicant: "The undisturbed native vegetation of the riparian zone has been described in (A). This native vegetation is some the densest on the upper reach of the Multnomah Channel on the Sauvie Island side. The dense red-osier dogwood groves and other native species stabilize the river bank. The two small erosion zones will be difficult to revegetate because of the rootless clay soils that constitute the majority of the bank. The topsoil at the apices of the eroded areas remains vegetated with native species described in (A). There is some blackberry near the foot bridge and the garage. Some of the blackberry can be removed. Some blackberry intermingles with native species, making its extrication problematic. To date the Moorage has not removed the blackberry for fear of disturbing the bank stabilizing native species."

Staff: With exception of a small area between the parking lot and the channel near the footbridge, the Mayfair Moorage property has effectively retained a natural and continuous riparian buffer along the entire south (channel) side of the property as evidenced in the aerial photo presented in Exhibit A3. This buffer ranges in width from 135-feet towards the southeast side of the property to roughly 30-feet along the northeastern portion of the property. Riparian vegetation that has been preserved includes dense groves of red-osier dogwood, cottonwood, willow, ash, snowberry, and Nootka rose. A small amount of invasive species such as bamboo and blackberry have established in the riparian area between the parking lot and the channel that will be removed by hand allowing native species to repopulate and enhance the riparian zone. The removal of invasive species adjacent to a river constitutes an improvement to the riparian area. This standard is met.

10.11 Areas of annual flooding, flood plains, water areas and wetlands shall be preserved in their natural state to the maximum possible extent to protect the water retention, overflow and natural functions (MCC 34.5855(L)).

Applicant: "The entire site lies within the 100 year flood plain. As described above, all 7.15 acres of Moorage property were submerged in the 1996 and 1997 floods. The garage and well house tolerated the 1996 flood without damage other than mud on all surfaces. Pressure tanks in the well house, however, were all destroyed. Because the pressure tanks are buoyant they floated up within the well house disrupting their connections and the associated plumbing. This is the reason for a new floating maintenance shed that rises with the water level. If the pressure tank were mounted in a floating shed, they would not have been submerged as they were in the land-based well house. Maintenance equipment was removed and smaller sheds also tolerated flood without significant damage. Well pump controls, sewage controls and telephone banks all suffered damage in the flood. Subsequently, Qwest has wisely moved the land based phone banks to the existing Moorage maintenance shed, but this shed does not have room for the well tanks and various controls that are currently located on land. The Parking Lot, though asphalt covered, drains to the grass lands. There is no drainage from the Parking Lot to the river. Since our wetlands are undisturbed, they accepted river overflow and likely mitigated the highly contaminated flood waters. The wetlands remained as lush after the flood as before. The riparian bank and the cottonwood grove are undisturbed and maintained in the natural state. The 5 yard dumpster is completely portable and was removed to higher ground during the flood."

Staff: In general, a moorage use is an appropriate design for flood prone areas as the docks and in-water structures are designed to rise and fall in harmony with fluctuating water levels. Developing the upland portions of the moorage outside of flood prone areas was not possible as the entire property is located within the Federal Emergency Management Agency designated 100-year floodplain. As indicated in the Shapiro and Associates, Inc. wetland delineation report, a total of 1.73 acres of wetland are located on the subject property (Exhibit A19). The largest wetland located along the northwest half of the site forms a broad and shallow swale with dimensions of 100-feet wide by 300-feet long which. A much smaller wetland (30-feet by 100-feet) is located to the south of the larger wetland. According to the wetland report prepared by Shapiro and Associates, Inc., it is suspected that neither wetland is hydrologically connected to the channel flow and that hydraulic contribution is solely from direct precipitation and site runoff attributed to the poor drainage of the site's silt loam soils. Upland impervious surfaces are located as far from wetland areas as possible given the shape of the site in comparison to the wetland locations. A grass buffer has been retained between the asphalt parking area and the wetlands to the north to help clean and infiltrate storm water prior to entering the wetlands. This arrangement is preferable as compared to the runoff draining to the south directly into Multnomah Channel.

The septic drain field system has been located roughly halfway between the wetland area along the north property line and the channel to the south providing the maximum setback to both water bodies (Exhibit A20). Even though the site's topography would suggest septic drainage would travel north, hydrologic bank storage release associated with subsiding flood conditions of the channel might temporarily reverse subsurface flow towards the channel for brief periods after flooding has occurred. Because of this potential, Staff believes an equidistant setback would seem most appropriate in attempting to minimize pollutants entering either the wetland area or Multnomah Channel. The channel bank paralleling the southern property line has not been physically altered by the moorage development and is very much in its natural state today. The bank sloughing threatening the moorage footbridge is typical of saturated silty loams exceeding the angle of repose.

10.12 Significant wetland areas shall be protected as provided in MCC 34.5865 (MCC 34.5855(M)).

Applicant: "National Wetlands Inventory indicates a contiguous area of PEMC and PSSC designation wetlands (see Shapiro, Wetland Delineation of Mayfair Moorage Site, 1999) which we refer to as the "wetlands" above. We believe that this wetland is a significant wetland. It remains undisturbed, maintained as a wetland and the nearest approach to the Parking Lot area is over 100 feet. The On site septic system is within approximately 50 feet of the wetland, but, as mentioned above the effluent of the sand filter is considered to be very clean by the permitting authority, Multnomah County and DEQ and no evidence exists that suggests a wetland impact of the sewage system. Thus, MCC.6376 is not applicable to this site."

Staff: As explained in detail in finding 10.11 of this report, wetland areas have been preserved. This standard is met.

10.13 Areas of ecological, scientific, historical or archaeological significance shall be protected, preserved, restored, or enhanced to the maximum extent possible (MCC 34.5855(N)).

Applicant: "There are no known or documented historical, scientific, or archaeological sites or resources on this property. Therefore, this criterion does not apply."

Staff: The most ecologically significant portion of the site in proximity to the development is the natural and continuous riparian buffer along the southern side of the property. This buffer ranges in width from 135-feet towards the southeast side of the property to roughly 30-feet along the northeastern portion of the property. Riparian vegetation that has been preserved by the land owner includes dense groves of red-osier dogwood, cottonwood, willow, ash, snowberry, and Nootka rose, although beaver are currently causing damage existing cottonwood stands on the site. A small area of invasive bamboo and blackberry will be removed by hand in the riparian zone around the footbridge to allow native species to repopulate and enhance the riparian area. Staff finds the existing development has adequately protected the most ecologically sensitive portion of the site. Areas of scientific, historical or archaeological significance have not been identified. This standard is satisfied.

10.14 Areas of erosion or potential erosion shall be protected from loss by appropriate means which are compatible with the character of the Greenway (MCC 34.5855(O)).

Applicant: "The riparian zone, particularly the river bank, has some areas of minor erosion described above. The bank is currently stabilized by red-osier dogwood, Nootka rose, cottonwood, willow and other native species. As mentioned above, there is some blackberry, but it is so intermingled with Nootka rose and other native species that it is likely only some not all of the blackberry can be removed without disturbing the native vegetation. Over the last 24 years, there is no evidence that the minor bank erosion that has occurred has produced local sediment buildup beneath the walkway. Depth of water beneath the walkways, normalized to river stage has been unchanged within the error of rope and weight measurement (2-3"). We, of course, have no way of knowing whether there has been downstream build up of bank sediments. Bank erosion is a constant feature of river banks above and below this site. After the 1996-1997 floods, the Army Corps of Engineers repaired eroded dike approximately one half mile upstream. Downstream for 1.5 miles the river bank demonstrates various stages of erosion with numerous trees down in the river or leaning greater than 45 degrees toward the river. The Moorage floating homes and walkways prevent much wake damage which is evident downstream. This site is not identified in the County Slope Hazards inventory."

Staff: The vast majority of the site's development consists of in-water docks and structures that never created an erosion risk as they rest on water rather than land. Only a small portion of the property is developed with a 100-foot long access drive, well house, parking area, septic system, garage and small sheds. No signs of erosion exist today from the construction of the moorage as it has been in place for years. The only sign of erosion on the property consists of natural bank sloughing around the footbridge area.

10.15 The quality of the air, water and land resources in and adjacent to the Greenway shall be preserved in development, change of use, or intensification of use of land designated WRG (MCC 34.5855(P)).

Applicant: "This application seeks to 1) to replace bridge attachment to bank, 2) pull and/or replace piling, 3) construct a floating maintenance shed and 4) comply with final provision of Policy 10 for the Sauvie Island/Multnomah Channel Rural Area Plan. . The Moorage does not seek to develop or change the use or intensify the use of land currently designated WRG. We do protect air, water and land resources in and adjacent to the Greenway.

1) A sand filter sewage treatment was installed voluntarily in 1994, which replaced our joint use of the Sauvie Island Moorage's floating treatment system. Their system, now replaced by one

similar to ours, was later (after we constructed our system) considered inadequate by DEQ. DEQ mandated replacement by a system similar to ours.

2) Riparian vegetation has been retained and enhanced to form a visual and auditory barrier for upland activities as experienced from the river.

3) The Parking Lot, though paved, drains to the on site wetlands. No Parking Lot run off drains to the river.

4) The wetlands area has been preserved and protected from development and no dwelling structures exist on the entire property as all of it is in the 100 year flood plain.

5) Dumpster and recycle containers are available for garbage disposal and are located together and centrally in the Parking Lot. Hazardous waste is taken to the Metro Household Hazardous Waste Disposal site in Northwest Portland.

6) The Moorage is a residential community. There is very little noise generation associated with Moorage activities.

7) No dredging has been necessary as indicated above. Thus, water quality and fish habitat are preserved.

Taken in the aggregate, these practices protect the air, water and land quality and this criterion is satisfied."

Staff: The Willamette River Greenway review only applies to the existing moorage configuration. The work proposed to repair the gangway plank, relocate the well and bring in a floating tool shed does not qualify as development, a change of use or intensification of use as defined by **MCC 34.5815** as the amount of land dedicated to the moorage lease area is not expanding. The proposed work will support, not expand the existing moorage use. This standard does not apply.

10.16 A building setback line of 150 feet from the ordinary low waterline of the Willamette River shall be provided in all rural and natural resource districts, except for non-dwellings provided in conjunction with farm use and except for buildings and structures in conjunction with a water-related or a water dependent use (MCC 34.5855(Q)).

Applicant: "The Mayfair Moorage, a floating home community, is a water dependent use as defined in 34.5815(F), "Water dependent use: also includes development which, by its nature, can be built only on, in or over a water body (including a river). The structures within 150 feet of the ordinary low waterline of the Willamette River are: A 3-car garage, the well house, several sheds and temporary shelters to protect maintenance equipment and boats. The maintenance equipment stored in the sheds includes a tractor and implements, tillers, mowers, and hand tools to maintain the 7.15 acres of Moorage property, especially the parking lot. Other structures include the foot bridge and the garbage/recycle facilities. These are all "buildings and structures in conjunction with a water-dependent use" which are exempt from the 150 foot set back required in all other areas where there is not a farm use or water dependent use. These are largely screen from the river. The Sauvie Island Moorage is a similar facility with a well pump house well within 150 feet of the river, multiple garages within 150 feet of the river, as well as other sheds for maintenance equipment. It is located about one quarter mile upstream or east of the Mayfair Moorage and has completed its WRG permit."

Staff: A moorage is a water dependant use as the homes are located on the water. Upland structural development on the site is all within 150-feet of Multnomah Channel – a channel of the Willamette River. Upland development includes a small well shed housing a pump for the existing well, a garage and five sheds storing goods owned by the moorage residents. The well will be relocated to the north outside of the 150-foot buffer in order to improve water quality. The well house will not be relocated from its current position. The tractor shed illustrated on Exhibit

A1 is used to store a tractor that maintains the moorage property. Since the moorage is a water dependant use, Staff finds the tractor shed is accessory to a water dependant use and can be located within the 150-foot setback. The second storage shed houses other tools which also allow property maintenance and repairs of the moorage property and structures. Similarly, Staff finds this shed is accessory to a water dependant use and therefore can be located in the 150-foot setback. The garage is located to the immediate east of the parking area and stores automobiles serving the floating home tenants. The garage is considered a structure accessory to (or in conjunction with) the moorage which has been determined to be a water dependant use and therefore it also can be located in the 150-foot setbacks. This standard is met.

10.17 Any development, change of use or intensification of use of land classified WRG, shall be subject to design review, pursuant to MCC 34.7000 through 34.7070, to the extent that such design review is consistent with the elements of the Greenway Design Plan (MCC 34.5855(R)).

Staff: The work proposed to repair the walkway and bring in a floating tool shed does not qualify as development, a change of use or intensification of use as defined by **MCC 34.5815** as the amount of land dedicated to the moorage lease area is not expanding. The proposed work will support, not expand the existing moorage use. Staff finds the Design Review standards do not apply to the proposed work.

10.18 The applicable policies of the Comprehensive Plan are satisfied (MCC 34.5855(S)).

Policy 13 - Multnomah County, recognizing that the health, safety, welfare, and quality of life of its citizens may be adversely affected by air, water and noise pollution, supports efforts to improve air and water quality and to reduce noise levels. Therefore, if a land use proposal is a noise sensitive use and is located in a noise impacted area, or if the proposed use is a noise generator, the following shall be incorporated into the site plan:

- 1. Building placement on the site in an area having minimal noise level disruptions.**
- 2. Insulation or other construction techniques to lower interior noise levels in noise-impacted areas.**

Applicant: "Policy 13: None of the 3 proposed projects should have any impact on air, water or noise quality. The steel piling in the water have no significant impact on water quality. The floating maintenance shed is intended only to serve as a storage facility. No regular use of machines or engines is intended or expected."

Staff: These policies (13, 14, 38 and 37) only apply to the existing moorage configuration as addressing these policies is a requirement of the Policy 10 process via the Willamette River Greenway requirements. There are no indications that the existing development layout has adversely impacted, or is adversely impacting water quality, air quality or creating noise pollution above that of a typical neighborhood compliant with local noise regulations. To Staff's knowledge; A moorage is not a noise sensitive use located in a noise sensitive area. The development complies with the intent of Plan Policy 13.

Policy 14 - The County's policy is to direct development and land form alterations away from areas with development limitations except upon a showing that design and construction techniques can mitigate any public harm or associated public cost and mitigate any adverse

effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:

- A. Slopes exceeding 20%;
- B. Severe soil erosion potential;
- C. Land within the 100 year flood plain;
- D. A high seasonal water table within 0-24 inches of the surface for 3 or more weeks of the year;
- E. A fragipan less than 30 inches from the surface;
- F. Land subject to slumping, earth slides or movement.

Applicant: "Policy 14: The proposed 2 a) mitigates the development limitations of our slowly eroding river bank by creating a footbridge support which anticipates slow bank erosion. 2) b) and c) are located in and on the water and are not directly related to Policy 14."

Staff: Developed portion of the site are nearly level and slope less than 20%. The proposed upland development has incorporated a gangplank design for the connection between land and floating moorage to span slopes exceeding 20%, i.e, the steep riverbank. Soils in the developed areas of the property consist of unit 44 (Sauvie Island Silt Loam) which illustrates an 'average' soil erosion potential (avg. $k = 0.32$) rather than 'severe'.

Since the entire property is located in the 100-year floodplain, development could not be directed away from the floodplain without denying the applicant an economically viable use of the land. Although a high seasonal water table is common in the Sauvie Island Silt Loam, such a limitation has not prevented development from occurring on the site or prohibited the development from functioning over the last 50 years. Similarly, the presence of a fragipan has not rendered the property unbuildable and is not expected to be a cause of future problems at the current levels of moorage intensity. Portions of the river bank are subject to slumping although the majority of the moorage improvements are not subject to these failures. Appropriate engineering can overcome these obstacles, as is seen in the engineered replacement footbridge. Staff finds the Mayfair Moorage development is consistent with Plan Policy 14.

Policy 37 - The purpose of this Policy is to ensure that no long range health hazard areas are created, and that excess water "runoff" will not damage property or adversely affect water quality. A second purpose of the Policy is to ensure that a particular development proposal, because of its size and use, does not reduce the energy supply to a level which precludes the development of other properties in the area as proposed by the Comprehensive Plan.

Applicant: Policy 37: Adequate private water system and sewage disposal system exist and are regulate by the appropriate authorities (Drinking Water Section, OHD and Multnomah County). Runoff from the site is naturally directed away from the river and toward on site wetlands. The proposed work does not affect that. The proposal does not require alterations in our energy supply (electric power) or communications (Q-West).

Staff: No evidence has surfaced suggesting the moorage development has created runoff problems on the site. In fact, the grass buffer draining towards the low level wetland area in the northwest portion of the site appears to be functioning well even with the poorly draining soils.

No new development is proposed that would increase the impervious surface of the upland area above pre-existing levels. Adequate electrical service has historically been supplied to the moorage as evidenced in the numerous electrical records contained in the permanent case file. Staff has no reason to suspect that electrical service will not be able to be provided to the moorage in the future or will be supplied in a way that reduces energy supply for surrounding users. Staff finds the existing development meets the intent of Plan Policy 37.

- 10.19 Significant wetlands consist of those areas designated as Significant on aerial photographs of a scale of 1"=200' made a part of the supporting documentation of the Comprehensive Framework Plan. Any proposed activity or use requiring an WRG permit which would impact those wetlands shall be subject to the following: (A) In addition to other WRG Permit submittal requirements, the application shall also include: (2) A site plan drawn to scale showing the wetland boundary as determined by a documented field survey, the location of all existing and proposed structures, roads, watercourses, drainageways, stormwater facilities, utility installations, and topography of the site at a contour interval of no greater than five feet (MCC 34.5865);**

Applicant: "See monograph provided entitled, "Wetland Delineation of the Mayfair Moorage Site," dated March 30, 1999, prepared by Shapiro and Associates. There have been not changes in upland structures since that time or since the 1998 closure of the Policy 10 inventory. A topographic map of the site does not exist and could not obtained from local and Internet sources. Topographic maps submitted are the product of laser survey measurement. Generally, the highest point of land is the river bank in the vicinity of the Parking Lot. It drops vertically approximately 2 feet from the river side of the Parking Lot lot. The adjacent grassland continues to decline to under 14 feet of river stage in the grassland and to 10-11 feet of river stage in the wetlands. This determines runoff drainage direction. The site does not vary by more than 3-4 feet in elevation throughout its 7.15 acres except for the wet lands...Due to our location in the 100 year flood plain, the entire property has been flooded on multiple occasions in the 49 year history of the Moorage. There is no mitigation possible for the flood hazard. Erosion is at the heart of this application. The slow but relentless river bank erosion threatens the Moorage footbridge and to mitigate this we propose the 4 piling structure to support the land base of the footbridge. This structure will not be affected by the erosion of the bank as described in the Engineer's Flood Plain Development plan."

Staff: The wetland area located in the northwest corner of the property is a significant wetland that has been professionally delineated by Shapiro and Associates, Inc (Exhibit A19). A topographic map of the property is presented as Exhibit A18. The applicant has submitted all required information.

- 10.20 The applicant shall demonstrate that the proposal: (1) Is water-dependent or requires access to the wetland as a central element of its basic design function, or is not water dependent but has no practicable alternative as described in subsection (C) below (MCC 34.5865(B)(1));**

Applicant: "The central feature of the Mayfair Moorage is that it is a floating home community with floating and land based structures and utilities to support its water dependent use. By definition, a Moorage is a water dependent use."

Staff: A 'floating' home moorage is not possible without water and therefore the Mayfair Moorage is a water dependant use. This standard is met.

- 10.21 Will have as few adverse impacts as is practical to the wetland's functional characteristics and its existing contour, vegetation, fish and wildlife resources, shoreline anchoring, flood storage, general hydrological conditions, and visual amenities. This impact determination shall also consider specific site information contained in the adopted wetlands inventory and the economic, social, environmental, and energy (ESEE) analysis made part of the supporting documentation of the comprehensive plan (MCC 34.5865(B)(2));**

Applicant: "Most structures which support the Moorage are located well away from the wetland. The wetland has the lowest elevation on the property, below Ordinary High Water and as such is subject to more frequent flooding than areas currently utilized for structures and Parking."

Staff: The moorage development has been situated as far from the wetland as possible while still attempting to develop on the highest portion of the site near the access road. A vegetated buffer exists between the upland development and the wetland and the upland development and the channel itself. The in-water development rises and falls with the river allowing the river to flood without hindrance. This design in itself retains any flood storage potential the wetland may offer to the site. This standard is met.

- 10.22 Will not cause significant degradation of groundwater or surface-water quality (MCC 34.5865(B)(3));**

Applicant: "The Moorage well is 185 feet deep. The only contamination from the Moorage would be fecal coliforms associated with the sand filter septic system. Except for the 1996 flood when the well head was completely submerged, monthly fecal coliform testing has been uniformly negative (Oregon Health Division, Drinking Water section records)."

Staff: The moorage has been established at this site since 1955. Evidence has not been presented suggesting the moorage has degraded local groundwater or surface water quality since the time of establishment. The existing sand filter septic system built in 1995 is functioning properly as verified by the City of Portland Sanitarian (Exhibit A21) and the site's wetland areas do not appear to be filled with on-site sediment or contain obvious visual or olfactory evidence of chemical pollution. The well is being proposed to be relocated to a few hundred feet to the north and drilled to a different depth to improve water quality chemistry. Staff finds the moorage has not caused a significant degradation of ground or surface water quality.

- 10.23 Will provide a buffer area of not less than 50 feet between the wetland boundary and upland activities for those portions of regulated activities that need not be conducted in the wetland (MCC 34.5865(B)(4));**

Applicant: "The closest approach of Moorage utilities is the sand filter septic system (see site plan) at greater than 50 feet."

Staff: All currently developed portions of the upland areas are more than 50 feet from a wetland. The relocated well will be at least 50-feet from any wetland areas as conditioned by this approval.

- 10.24 Will provide offsetting replacement wetlands for any loss of existing wetland areas. This Mitigation Plan shall meet the standards of subsection (D) (MCC 34.5865(B)(5));**

Applicant: “No planned or proposed activity will impact or remove wetlands therefore, this criteria is not applicable.”

Staff: Staff concurs with the applicant’s statement. The development has not caused a loss of wetland areas. This standard does not apply.

10.25 A finding of no practicable alternative is to be made only after demonstration by the applicant that: The basic purpose of the project cannot reasonably be accomplished using one or more other practicable alternative sites in Multnomah County that would avoid or result in less adverse impact on a wetland. An alternative site is to be considered practicable if it is available for purchase and the proposed activity can be conducted on that site after taking into consideration costs, existing technology, infrastructure, and logistics in achieving the overall project purposes (MCC 34.5865(C)(1));

Staff: Impact to the wetland areas has been avoided by the moorage design as site development is not located in or adjacent to significant wetlands. Therefore, the practicable alternative exercise outlined in **MCC 34.5865(C)(1)-(3)** need not be applied to this project.

10.26 A Mitigation Plan and monitoring program may be approved upon submission of the following MCC 34.5865(D)):

Applicant: “No mitigation is necessary as there are not measurable impacts to or Moorage activities in the wetland.”

Staff: A mitigation plan is not required as damage has not occurred to a significant wetland area in need of mitigation.

Conclusion

Based upon the findings contained herein, the applicant has carried the burden necessary to demonstrate that, with conditions, the applicable criteria have been met. Staff finds the Mayfair Moorage is a non-conforming use that is authorized to be altered in the ways proposed. This approval also concludes the Policy 10 process for the Mayfair Moorage.

Exhibits

A1	1 p.	Property Development Plan
A2	1 p.	Well Relocation Plan
A3	1 p.	2002 Aerial Photo
A4	1 p.	Zoning Map
A5	1 p.	100-Year Flood Plain Map
A6	1 p.	Willamette River Greenway Map
A7	3 p.	Photos of Slope Failure
A8	1 p.	Comment Letter, Alison Winter – Multnomah County Transportation Specialist
A9	7 p.	Policy 10 Inventory Results
A10	3 p.	State of Oregon Business Directory Records
A11	1 p.	Krupe Insurance Letter
A12	12 p.	PGE Records
A13	5 p.	Engineering Analysis, Michael Elia, P.E.
A14	1 p.	New Piling Locations

A15	1 p.	“No Rise” Flood Certificate
A16	5 p.	Photos of and Around Moorage Property
A17	3 p.	In-Water Development Plan
A18	1 p.	Topography Map
A19	16 p.	Shapiro and Associates, Inc. Wetland Delineation
A20	1 p.	Septic Drain field Plan
A21	1 p.	City of Portland Sanitation Signoff
A22	1 p.	Application for Floating Structure Placement