

# Appendix 3: Marinas & Floating Homes Background Report

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Winter View of Hadley's Landing, Multnomah Channel. *Oregon Marine Guide* (OSMB 2005)

## Introduction

As described on the Multnomah County website:

*The Sauvie Island/Multnomah Channel Rural Area includes those portions of Sauvie Island and the Multnomah Channel within Multnomah County. The Plan Area is bounded by U.S. Highway 30 on the west, Columbia County on the north, the Columbia River on the east, and the Willamette River and the city of Portland on the south. The area is dominated by agricultural uses and a wildlife refuge, with various water-related uses on and along Multnomah Channel, ranging from protected wetlands to marinas.*

*Appendix 3 – Marinas and Floating Homes Background Report* is the fourth of a series of topic-specific background documents that are intended to serve as the factual and analytical basis for the 2013-2014 update of the *Sauvie Island – Multnomah Channel Rural Area Plan and Transportation System Plan* (SIMC Plan).

Appendix 3 addresses land use and water issues in the **Multnomah Channel Area** of the SIMC Plan. As shown on Map 1, the Multnomah Channel Area includes land and water areas between US Highway 30 and the channel, the channel itself, the Willamette River Greenway, and adjacent water-dependent and water-related uses (marinas, boat ramps and related parking areas).

## Map 1. North Multnomah Channel Area



Map 2. South Multnomah Channel Area



## Historical Context

The following statement provides historical context for the *Marinas and Floating Homes Background Report*.<sup>1</sup>

*“Multnomah Channel begins three miles upstream from the Willamette’s main confluence with the Columbia. It traverses the west flank of Sauvie Island for 21 miles until it, too, connects with the Columbia River (at St. Helens).*

*The Native American name for the plant is Wapato. The island was once a center of trade for Native Americans stretching from the Willamette Valley to Idaho and Wyoming. Meriwether Lewis and William Clark, explorers for the young republic of the United States, noted the island during their 1804-06 expedition, calling it Wapato Island after the large beds of arrowhead, or wild potato, growing there.*

*A French-Canadian employee of the Hudson’s Bay Company, Laurent Sauve, for whom Sauvie Island is now named, established the first non-native settlement in 1838—a dairy. Since then, little other than agricultural development has occurred on the island. The channel is mostly a peaceful water way featuring quiet moorages, lush vegetation, plentiful song birds and waterfowl.”*

## Acknowledgments

Appendix 3 resulted in large part from the work and recommendations of the SIMC Community Advisory Committee (CAC), the SIMC Technical Advisory Committee (TAC) and most particularly the Marinas and Floating Homes Subcommittee, comprised of select CAC and TAC members who expressed an interest in and knowledge of the complex issues addressed in this report. Subcommittee members who actively participated in the preparation of this appendix include the following:

### CAC Subcommittee Members

- Timothy Larson, Floating Home Resident
- Stan Tonneson, Marina Owner
- Cherie Sprando, Marina Owner
- John Nelson, Floating Home Moorage Owner

### TAC Subcommittee Members

- Dick Springer, West Multnomah Soil and Water Conservation District
- Mark Doyle, Burlington Water District
- Erin Mick, Portland Bureau of Development Services
- Tami Hubert, Department of State Lands
- Anne Squier, Floating Home Resident

The process leading up to these recommendations is documented in Section 6 of this report.

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<sup>1</sup> The quotation is provided courtesy of the Oregon State Marine Board. Please follow this link for the full report to the Willamette River Guide: <http://www.oregon.gov/OSMB/library/docs/willametteriverguide-07/willametteriverguidepdf-multnomahchannel.pdf>

## Relation of Appendix 3 to the SIMC Plan

The SIMC Plan itself will include a vision statement, plan policies and implementation strategies, plan and zoning maps, and land use regulations for the entire SIMC planning area. The SIMC Plan will also include basic explanatory text and tables, as well as composite inventory maps – but the detailed substantive and procedural information leading up to the adoption of the SIMC Plan is found in the series of appendices listed below. To become effective, the SIMC Plan must be “acknowledged” as complying with all fifteen applicable statewide planning goals; findings documenting compliance with these goals is found in Appendix 7.

The nine appendices listed below will provide the detailed inventory information and analysis, consideration of alternative policy choices, explanation of the reasons for ultimate policy choices, and documentation of the robust community engagement effort that culminated in plan adoption. Section 7 of this document includes a complementary Multnomah Channel vision statement, draft policies and implementation for the Multnomah Channel area that will be incorporated (in some form) into the final SIMC Plan.

Unlike the SIMC Plan, the appendices (background reports) are not intended to serve as policy documents in themselves – but do provide the information required by Statewide Planning Goals 1 (Citizen Involvement) and 2 (Land Use Planning) necessary to support the County’s ultimate policy choices.

- Appendix 1: SIMC Scoping Report (CH2M Hill)
- Appendix 2: Agriculture and Agri-Tourism Background Report
- **Appendix 3: Marinas and Floating Homes Background Report**
- Appendix 4: Natural and Cultural Resources Background Report
- Appendix 5: Public Facilities and Semi-Public Facilities Background Report
- Appendix 6: Transportation Background Report
- Appendix 7: Consistency with Applicable Statewide Planning Goals

Focusing on topical areas is useful when identifying and resolving specific issues. For example, the redevelopment of existing marinas as floating home moorages has been foremost on the minds of Multnomah Channel property owners for many years. However, focusing attention on any specific issue can lose sight of the big picture. For this reason, the CAC will hold a special meeting towards the end of the community involvement process to consider and integrate the results of each topical appendix. Moreover, the SIMP Plan itself includes a vision statement and a chapter devoted to the big picture – with the intent of fully integrating the series of topical issues and policies into a cohesive and internally consistent rural area planning document.

## Maps & Figures

Appendix 3 includes the following maps and figures for land and water areas within the Multnomah Channel Area. Portions of the maps and figures listed below will be incorporated into the SIMC Plan for the entire planning area, which includes all of Sauvie Island, Multnomah Channel and land between the Channel and US Highway 30.

1. Vicinity Map of Multnomah Channel Area showing:
  - a. Marinas
  - b. Wapato Park and Burlington Bottom
2. Sauvie Island Marinas & Floating Home Moorages (names of facilities shown on map –use Oregon State Marine Board as resource)
3. Aerial Photo Showing Marinas and Floating Home Moorages
4. Map Showing Land Use Approvals
  - a. DSL Leases and Permits
5. Zoning Map Showing of Multnomah Channel Area:
  - a. Base Zones
  - b. Willamette River Greenway
  - c. Policy 26 Moorage Boundaries
  - d. Floodplain and Floodway
6. Map Showing Multnomah Channel Land Ownership and Conservation Easements
  - a. Private Ownership
  - b. Public Ownership (Metro, ODFW, Multnomah County, Other)
7. Multnomah Channel Public and Private Facilities
  - a. Water (wells or Burlington Water District)
  - b. Fire Protection
  - c. Railroad Crossings

## Section 1: Key Marina and Floating Home Issues

The following issues are quoted directly from the May 6, 2013 staff report to the Multnomah County Planning Commission related to PC-2013-2659 (Scoping Report in support of updating to the 1997 Sauvie Island – Multnomah Channel Rural Area Plan).

- Concern for maintaining the rural character and agricultural nature of Sauvie Island.
- Desire for preservation, restoration and enhancement of natural habitat.
- Need for strategies that reduce traffic conflicts between modes on Sauvie Island roads, particularly between bicycles and motorists, but also including farm equipment and pedestrians.
- There is a strong desire for better accommodations for bicycles and pedestrians. The lack of road shoulders and/or multi-use paths is a common theme.
- Need for clear policies and codes for floating moorages and marinas.
- Examine consistency of Policy 15 Willamette River Greenway with corresponding statewide planning goal. Incorporate changes needed to maintain consistency into policy and land use regulations WRG, base zones, and conditional/community service use regulations.
- Examine zoning code provisions for riparian habitat protection along the channel for consistency with community goals and both state and federal law.
- Review and if necessary amend MCC Policy 26 Houseboats to ensure consistency of the county's regulatory program with other applicable plan policies and federal, state or local policies. Statewide Planning Goals 11, 14, and related case law.
- Review and if necessary amend Sauvie Island/Multnomah Channel RAP policies 10 through 17 for consistency with state and federal law. Include both houseboat and marina facilities in consistency review.
- Consider code amendments to adopt building and fire codes for floating structures to be consistent with City of Portland and Marine Board rules.
- Consider update to natural disaster policies in RAP that recognize natural gas/petroleum products pipelines that run through the Island and across the Channel.

## Related Issues

The Subcommittee generally agreed that our attention should be focused on “key issues”. Based on review of the general issues identified above and the Subcommittee meeting summary, the following *key issues* are identified (or clarified and made more specific) below and addressed in Section 7 of this report:

- A. Need to define “rural character” specifically for the Multnomah Channel – which has a different character than Sauvie Island itself.
- B. Need to clarify whether Goal 14 *Urbanization* in combination with Policy 6A *Urban and Rural Reserves* limits the ability of marina owners to redevelop as “community service” uses in the MUA-20 Zone.
- C. Need standardized definitions for the terms related to marinas used in the SIMC Plan.
- D. Need to coordinate with ODOT Rail and railroad companies regarding long oil trains that block normal and emergency road access to marinas; a related need to have an emergency plan to address spills – especially in cases where a spill is combined with road blockage.

- E. Need to review Policy 10 which in 1997 was intended as a short-term option for recognizing existing marinas.
  - a. Corollary need for a legislative determination of the local and state permit status for each marina within the SIMC planning area – preferably as part of the SIMC Plan amendment process.
  - b. Need to prohibit the expansion of existing marina footprints – as opposed to redevelopment within existing footprints.
- F. Once permit status has been determined through Policy 10, there is a need to streamline and clarify the permitting process for redevelopment of marinas within their existing footprints for floating home moorages.
  - a. Need to ensure that floating homes meet the building and safety code standards for plumbing, water, electrical and structural permits.
  - b. Need to ensure that redevelopment of existing marinas is consistent with the Endangered Species Act and Clean Water Act.
  - c. Need to determine which agency (agencies) is (are) primarily responsible for implementing the Clean Water Act and Endangered Species act along the channel. Multnomah County, the City of Portland (under contract with Multnomah County), the Oregon Department of State Lands and the Oregon Department of Environmental Quality all have some responsibility.
  - d. Need to clarify how the County’s Willamette River Greenway provisions apply, in practice, to redevelopment proposals for existing marinas, and to define the terms “water-dependent” and “water-related” as they apply to proposed WRG developments.
- G. Need to address issue of live-aboard boats being used as permanent residents. It is reported that live-aboards being used in this is wide spread. The issue can be considered as part of any overall reconciliation process (see item E discussion above) and should be considered as part of the equation regarding any redevelopment considerations (see item F above). Additionally, there is need to address the problems associated with live-aboard boats, especially electrical hazards and lack of sanitary systems. Corollary needs include:
  - a. Need to monitor and enforce DEQ and County water quality regulations within the channel.
  - b. Need to give Portland BDS the authority to apply and enforce sanitary and electrical standards to live-aboards.

Policy alternatives and recommendations regarding Issues A-G are addressed further in Section 7 of this report.

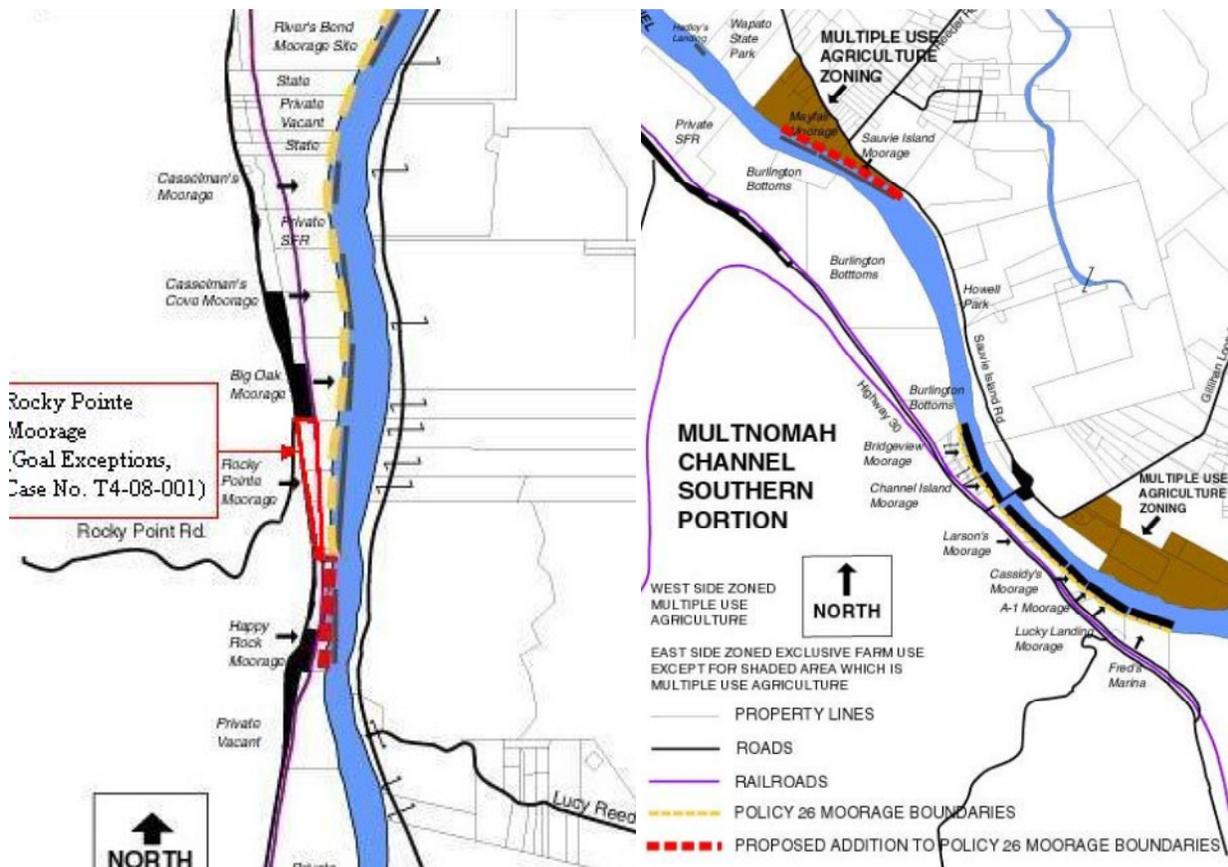
## Section 2: Inventory & Analysis

The project team is preparing an inventory of existing marinas and floating home moorages<sup>2</sup> – including their permit status. This is a two-track process:

1. Multnomah County planning staff is documenting the permit status of existing marinas that have provided the documentation required under Policy 10 of the existing SIMC Plan or which have received Conditional Use / Community Service Use approvals and/or Goal 14 exceptions.
2. Winterbrook Planning is working with marina owners to develop a baseline of information from available sources (primarily nautical guides, OSMB and DSL).

The information may be used as part of a legislative process to determine (a) what exists today and (b) the local and state permitting status of existing marinas and floating home moorages within the study area.

The 1997 SIMC Plan includes maps of existing marinas. These maps are copied below.



Source: SIMC Plan 1997

<sup>2</sup> In this report, the terms “marinas” and “moorages” are used interchangeably. However, the term “floating home moorage” means a relatively permanent space over the water for a floating home that is leased from the marina owner and which has DSL approval.

The marinas shown on the 1997 SIMC Plan (from north to south) include the following:

- Casselman’s Wharf Moorage
- Casselman’s Cove Moorage
- Big Oak Moorage
- Rock Pointe Moorage
- Happy Rock Moorage
- Haley’s Landing
- Mayfair Moorage
- Sauvie Island Moorage
- Bridgeview Moorage
- Channel Island Moorage
- Larson’s Moorage
- Cassidy’s Moorage
- A-1 Moorage
- Lucky Landing Moorage
- Fred’s Marina

Some marinas names have changed over the years and some marinas may have been established after 1997. Marina names that do not appear on the 1997 plan include Enyarts and Weilert Marinas.

### ***Oregon Marine Guide Information Regarding Marinas and Related Facilities***

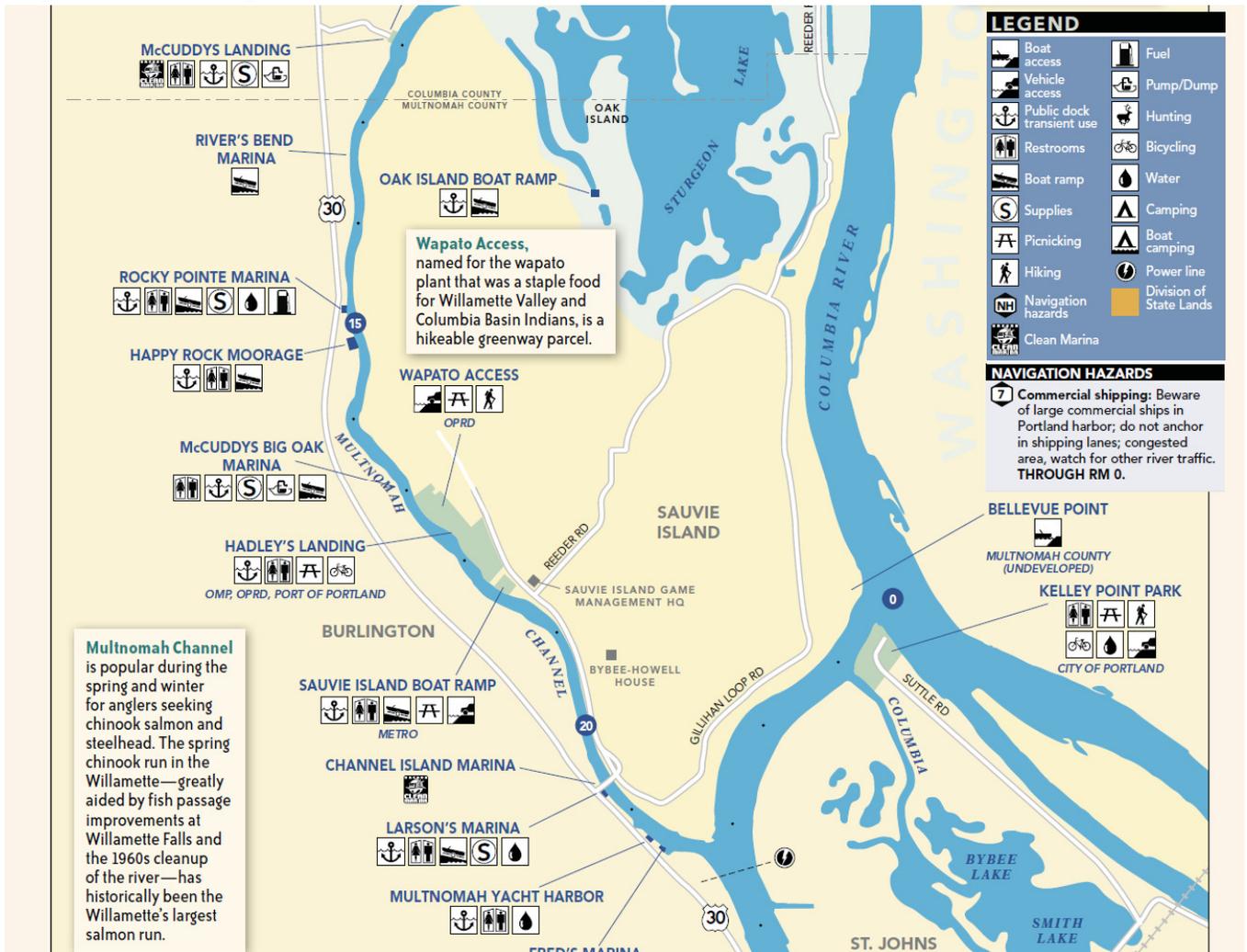
At this point (January 2013), the most readily-available inventory of publicly-accessible marinas and related facilities is found in the *Oregon Marine Guide* (OSMB, December 2004). Although the *Oregon Marine Guide* does not document the permitting status of Multnomah Channel marinas, or describe floating home moorages, it does provide a snapshot of what was in existence (but not necessarily permitted) in 2004.

Page 3 of the *Oregon Marine Guide* describes the methods used to obtain inventory information, its purpose and its limitations.

*“This guide is for use by recreational boaters who are looking for a public or private marina or transient facility to moor their boat. It lists boating-related services available at these facilities; and a special section for disposing of boat sewage. The focus is on mid- to larger-sized recreational boats (over 26 feet in length). Information on small boat access sites, parks or other facilities is not listed in this publication, but can be found in other State Marine Board guides (see index page for a list of publications). Also not included in this guide are large commercial moorages, restricted members-only marinas or any other facility that doesn’t allow general public access. The base information was collected by a mail and phone survey conducted in 2001. To the best of our knowledge, all information was reliable as of the date of publication. However, marinas rapidly change owners and names, so all information may not be current.”*

The following marina information is gleaned from this 2005 publication. The *Oregon Marine Guide* divides the state in to discrete sections. Of particular interest to the SIMC Planning Process are Section 6 (Rainier – Scappoose) and Section 7 (Portland).<sup>3</sup> The complete guide may be viewed by clicking on this link: <http://www.oregon.gov/OSMB/library/docs/oregonmarinaguide.pdf>

Map 1. OSMB Boating Facilities along Multnomah County Portion of the Multnomah Channel



Map 1 above is copied from the *Willamette River Guide* (Oregon Department of Parks and Recreation) that shows Section V – Multnomah Channel. The map above shows available boating facilities, but does not list floating home moorages. These marinas are listed below (from north to south) and include:

- Rivers Bend Marina
- Rocky Pointe

<sup>3</sup> What is needed - but missing - from this Guide is the number of floating home moorages (if any) in each of the listed marinas. There are also marinas and floating home moorages that are not open to the public – and therefore are not listed in the *Oregon Marine Guide*. Multnomah County staff is researching this information.

- Happy Rock Moorage
- Big Oak Marina
- Hadley’s Landing
- Channel Island Marina
- Larson’s Moorage/Marina
- Marina Way Moorage
- Multnomah Yacht Harbor (Lucking Landing)
- Fred’s Marina

### Moorage Terms

- The following definitions are excerpted from the *Oregon Boaters Guide*:
- **Slip** A space to moor or store a boat
- **Open (Wet) Slip** A slip that is not covered, and therefore unprotected from the elements (wind, rain, etc.)
- **Covered Slip** A slip which is covered, e.g. by a wooden structure, to protect boats from the elements
- **Dry Storage** A space where the boat is out of the water; includes dry moorage as well as dry storage spaces
- **Transient Dock** A float where boats can moor for a short period of time; usually broadside moorage

**Comment:** Whether a slip is “covered” or not affects in-water shading, which in turn affects the quality of salmon habitat. Thus, the impacts of converted covered slips to floating home slips may not be as great as impacts from converting open slips to floating home slips. A “dry storage space” might be expected to have shading impacts similar to a floating home.

### Summary of Marina Inventory Data (January 2014)

Table 1 below provides a summary of available OSMB data and preliminary research by Multnomah County planning staff. Marinas can include a wide range of facilities, including restrooms, stores, waste disposal, transient accommodation, boat ramps and restaurants. Facilities for each of the marinas listed below are identified in Sections 6 and 7 of the *Oregon Marine Guide*.

**Note:** There are some definitional problems with the terms in Table 1 below. For example, a “slip” can be many sizes and can be covered or uncovered. So it’s important to define the terms used in the inventory. The OSMB inventory attempts to do this – but is not entirely consistent – probably because the data they were given by the marinas was not entirely consistent. Some marinas may have changed names. Some facilities have both marinas and floating home moorages – support facilities such as grocery stores, gas stations, recreational facilities, restrooms, boat ramps, etc.

The column labeled “1997 Inventory” lists the number of floating home moorage spaces identified when the 1997 SIMC Plan was prepared. County planning staff is revising the numbers in this column based on the number of *permitted* floating home spaces – according to their records. The columns labeled

Floating Homes Preliminary and Boat Houses Preliminary are based on County planning staff's most recent analysis – which is subject to change based on more detailed information.

Table 1: Multnomah Channel Marinas and Floating Home Moorages

Facility Name(s) and NW Address	Channel Side and Location	Number/ Type of Slips	Floating Homes (1997 Inventory)	Floating Homes – Preliminary (County Records)	Boat Houses – Preliminary (County Records)
<b>Fred's Marina</b> 12800 Marina Way	West – RM 21.5	<ul style="list-style-type: none"> <li>• 3 Covered Wet Slips</li> <li>• 200+ Open Wet Slips</li> <li>• Dry Storage Spaces</li> </ul>	4	4	
<b>Lucky Landing aka Multnomah Yacht Harbor</b> 12900-02 Marina Way	West – RM 21.0	<ul style="list-style-type: none"> <li>• 45 Open Wet Slips – A/S/T</li> <li>• 45 Covered Wet Slips</li> </ul>	10	5	4
<b>A-1 Moorage aka Gulbrandson's</b> 12950 Marina Way	West – RM 20.5	<ul style="list-style-type: none"> <li>• 25 Open Wet Slips – A/S</li> <li>• 20 Dry Storage Spaces</li> </ul>	0	1	
<b>Larson's Moorage / Marina</b> 14426 Larson Rd	West – RM 20.0	<ul style="list-style-type: none"> <li>• 75 Covered Wet Slips</li> <li>• 25 Open Wet Slips</li> </ul>	3	46	
<b>Marina Way Moorage aka Cassidy's Moorage</b> 1300 Marina Way	West – RM 20.3	<ul style="list-style-type: none"> <li>• 30 Open Wet Slips</li> <li>• 15 Dry Storage Spaces</li> </ul>	17	17	
<b>Channel Island Marina</b> 14555 Larson Rd	West – Detailed information no available from OSMB		14	19	27
<b>Sauvie Island Moorage</b> 17505 Sauvie Island Rd	East - Not listed on OSMB map		46	0	
<b>Enyart's Marina</b> 17600 St Helens Rd	East - Not listed on OSMB map		1	1	
<b>Big Island Marina aka Parkers</b> 18015 Sauvie Island Rd	East – Not listed on OSMB map (note 3 county-approved live-aboard boats)		0	0	
<b>Bridgeview Moorage</b> 1400 NW Mill	East - Not listed on OSMB map		28	35	
<b>Mayfair Moorage</b> 14400 Burlington Ferry Rd	East – Not listed on OSMB map		21	21	
<b>Happy Rock Moorage</b> 23548 St. Helens Rd	West – RM 16.0	<ul style="list-style-type: none"> <li>• 14 covered wet</li> <li>• 26 open wet</li> </ul>	4	27	
<b>Rocky Pointe Moorage</b> 23586 St. Helens Road	West – RM 15.0	<ul style="list-style-type: none"> <li>• 56 Houseboat Slips</li> <li>• 180 Open Wet Slips</li> </ul>	19	47	
<b>Big Oak Moorage</b> 25200 St. Helens Rd	West - RM 17.0	<ul style="list-style-type: none"> <li>• 10 open wet slips</li> <li>• 129 covered wet</li> </ul>	0	0	9
<b>Casselman's Cove Moorage</b> 25200 NW St. Helens Rd	West – Not listed on OSMB map		0	0	
<b>Weilert Marina</b> 26312 St Helens Rd	West – Not listed on OSMB map		3	3	
<b>Casselman's Wharf</b> 26400 St Helens Rd	West – Not listed on OSMB map		19	40	
<b>River Bend Moorage</b> 27448 St Helens Rd	West - RM 13.8	<ul style="list-style-type: none"> <li>• 36 open wet slips</li> </ul>	9	19	38
<b>Totals</b>	<b>18</b>		<b>198</b>	<b>285</b>	<b>74</b>

Source: Oregon State Marine Board and Multnomah County Department of Land Use and Transportation

# Marinas Moorages Inventory 10.21.2014

## Moorages and Marinas Inventory

Inventory ID	Facility Name (in Policy 10 Book)	Current Name if different from Policy 10 Book	Primary Address	Primary property ID	Other tax lots (property ID)	Floating Homes (97 Inventory)	Existing no. Floating Homes Per	Approved no. Floating Homes	Number of FH Compos Per DART	Number of Live-Aboards (per property manager)	Number of Live-Aboards (County Field Verification)	Approved Full-Time Live Aboards	water frontage in feet	unit allowance based upon 1/50 formula	Possible # of dwellings above existing #	Possible # of additional dwellings above approved #	Policy 10 Status	County recognition status
1	Fred's Marina	AKA - FREVACH LAND CO	12800 NW MARINA WAY	R325463	R502890	4	3	0				0	425	8	4	8	Not Completed	1. Case file CS 77-14g approved 50 additional boat slips. Case file indicated that existing marina contained 150 boat slips and that marina established in 1946. However, the case did not reveal discussion about whether any floating homes existed at that time. A site plan in the case file shows structures that are labeled as being either a floating home or a boat house, so the site plan does not prove the existence of floating homes in 1977. 2. Case file T3-01-022 was a new CS that allowed for an expansion of the marina but did not approve dwellings and there were no findings addressing Policy 10 - this case acknowledges the 1977 CS but erroneously states that the case approved a boat marina and floating homes when in fact only an expansion of the existing boat marina was approved. It is possible the 3 existing floating homes are a non-conforming use, but this theory has not been tested through a non-conforming use determination application.
2	Lucky Landing	MULTNMAH YACHT HARBOR	12900-12902 NW MARINA WAY	R325447	R325458, R325290	10	4	5				0	1039	20	10	16	Completed	1. Approved via CS 1-98, CU 6-98, WRG 2-98 (recognized 10 floating dwelling units). Up to 98 boat slips allowed via T3-01-007.
3	Gulbrandson's Marina Way		12950 NW MARINA WAY	R325279		0	0	1				0	326	6	6	5	Completed via T3-09-002 but permit can be revoked if not in compliance	1. File T3-08-002 approved 45-boat marina (20 in-water boat slips and 25 boat spaces on-land) with accessory marina-related construction and repair, and one floating residence. The approval includes: 1 floating home slip, 2 household parking spaces, 30 automobile parking stalls, a boat ramp and lift, log salvage yard, and construction and repair activities related to the marina and moorage. 2. However, there is an open code compliance case indicating they are not complying with conditions of approval and there is filling and dumping over bank of property into Channel w/o silt fences. Not posting permit at entrance to property. Creating and paving a boat launch ramp - unpermitted. Moving in covered moorage and docks w/o permits. Landscaping not done, no planting. Operating a boat repair facility and construction on property without demonstration of compliance. Encroachments into setbacks not corrected. Elevation changed prior to approval. Note that Approvals can be revoked if not in compliance.
4			1300 NW MARINA WAY	R325242		17	14	17				0	644	12	0	0	Completed	Approved WRG 10-98
5	Larson's		14426 NW LARSON RD	R209668	R325243, R209668, R556555,	9	16	46				0	2231	44	35	0	Completed	1. Completed Policy 10. 2. Need to finish FD conditions of approval
6	Channel Island		14555 NW LARSON RD	R325244	H645828	14	17	19				0	976	19	5	0	Completed	Approved via CU 4-91, WRG 1-9, CS 4-91
7	Bridgeview		14900 NW MILL	R498346	R498700	28	28	35				0	1260	25	0	0	Completed	Approved via WRG 2-99
8	Sauvie Island		17505 NW SAUVIE ISLAND RD	R324999	R325001	46	46	33				0	1604	32	0	0	Not Completed	Approved via CS 58-80. Did not complete policy 10 however and appears to be beyond approval both in number of floating homes and possibly in extent of moorage.
9	Mayfar		15500 NW BURLINGTON FERRY RD	R324997		21	17	21				0	1001	20	0	0	Completed	Approved via T2-04-076
10	Happy Rock		23548 NW ST. HELENS RD	R326366		4	14	27				0	811	16	12	0	Completed	Completed Policy 10
11	Rocky Pointe		23586 NW ST. HELENS HWY	R326363	H326369	24	39	56				0	3142	62	38	6	Completed	Approved via 14-08-001 and 13-06-005
12	Big Oak	AKA - Mc Cuddy	25000 NW ST. HELENS RD	R326372		5	7	14				0	1332	26	21	12	Completed	1. Approved via CU 3-76g, CS 16-76 2. May have land division problem.
13	Willet		26312 NW ST. HELENS RD	R326146		3	4	3				0	668	13	10	10	Not Completed	Property owners are currently pursuing approvals - T2-2013-2907 in process. Issue with current unpermitted sewer hook-up.
14	Casselman's Wharf		28400 NW ST. HELENS RD	H496387		34	26	40				0	840	16	0	0	Completed	Originally Approved for 16 floating homes via CS 16-86. Policy 10 approval for 80 floating homes.
15	River's Bend		27448 NW ST. HELENS RD	R326186		14	20	19				0	1029	20	6	1	Completed	Approved via CU 11-86, CS 9-86, WRG 1-86
16	Enyofo		17600 NW ST. HELENS RD	R325030		0	1	1				0	N/A	N/A	N/A	N/A	Recognized one floating home	One floating home has been recognized through Policy 10. However, the site is not eligible for expansion because it is not within an area recognized as suitable for a moorage under Policy 26 and is not eligible for expansion per Policy 10(1).
17	Parkers	Big Island Marina	18015 NW SAUVIE ISLAND RD	R324973		0	0	0				3	480	9	9	9	Completed	CS 2-75 approved boat marina including 3 permanent live-aboards. There is a code compliance complaint alleging unpermitted utility work and additional non-permitted live-aboards (20+)
18	Casselman's Cove	Pirate's Cove Marina	25200 NW ST. HELENS RD	R326189	R326347	0	0	0				0	768	15	15	15	Not Completed	1. Approved as boat marina via CU 3-76g, CS 16-76 2. Once part of same parcel as Big Oak Marina 3. May have land-division issue!
<b>SubTotal Minus the vacant properties below</b>						<b>233</b>	<b>255</b>	<b>337</b>				<b>3</b>		<b>363</b>	<b>174</b>	<b>84</b>		

Inventory ID	Facility Name (In Policy 10 Book)	Current Name if different from Policy 10 Book	Primary Address	Primary property ID	Other tax lots (property ID)	Floating Homes (97 Inventory)	Existing no. Floating Homes Per	Approved no. Floating Homes	Number of FH Combos Per DART	Number of Live-Aboards (per property manager)	Number of Live-boards (County Field Verification)	Approved Full-Time Live Aboards	water frontage in feet	unit allowance based upon 1/50 formula	Possible # of dwellings above existing #	Possible # of additional dwellings above approved #	Policy 10 Status	County recognition status
19	N/A	Vacant land owned by CASSELMAN'S COVE INC. Located between Pirate's Cove and Welllets	None	R326184		0	0	0				0	714	14	14	14	NA	NA
20	N/A	Vacant land owned by CASSELMAN,SHERRY north of and adjacent to Casseleman's Wharf.	None	R326206		0	0	0				0	460	0	0	0	NA	NA
<b>Totals</b>						<b>233</b>	<b>265</b>	<b>337</b>				<b>3</b>		<b>366</b>	<b>194</b>	<b>104</b>		
Known # of floating homes that are over the approved number - 30																		
Other parcels with floating infrastructure per aerial photos																		
		Owner name: Smith		R324976														Notes indicate there is a boathouse for rowing - do not know if this was permitted.
		Owner name: Oregon State Parks		R324981	Multiple													Appears to be an approval from 1981 (CS 6-81) for some structures but use as a public park not approved. State parks is close to submitting an application for a public park at the site. Note that boat launch operated by Metro.
		Owner name: Holmes		R324841														Dock + multiple floating structures - no approvals on file
		Owner name: Fazio		R326093														Appears to be a boat dock - do not know if this was permitted.



Rocky Point Marina was approved for additional floating homes by taking a Goal 14 Exception (which allows densities of greater than one unit per acre outside of an urban growth boundary) and receiving conditional use / community service use and Willamette River Greenway approval. The Goal 14 Exception occurred prior to the Rural Reserve designation in the SIMC plan area. Under the Rural Reserve designation this type of Goal 14 Exception is no longer an option.

Photo courtesy of Oregon State Marine Board

## Public Marinas and Boat Launches

Multnomah Channel (below the Columbia County line) has two public boat ramps with supporting facilities. As noted on Map 2 below, Hadley's Landing has a transient boat dock, restrooms, picnic and biking facilities. Sauvie Boat Ramp has a transient dock, restrooms, a boat ramp, picnic facilities and vehicular access to the channel.

Map 2. Public Boating Facilities



Source: Oregon State Marina Board and Oregon State Parks

## Section 3: Statewide Regulatory Framework

Oregon’s Statewide Planning Goals and implementing “administrative rules” apply when comprehensive plans are adopted or amended. The Multnomah County Comprehensive Plan and the SIMC Plan have been “acknowledged” by the Oregon Land Conservation and Development Commission (LCDC) as complying with applicable Statewide Planning Goals and administrative rules. Therefore, the County can rely on its acknowledged plans and (in most cases) need not do a separate goal analysis when implementing acknowledged plans.

The exception to this rule occurs when the County *interprets* the meaning of applicable statutes, goals and rules; the Greenfield v. Bella Organics cases are an example of the Oregon Land Use Board of Appeals and the Oregon Court of Appeals reversing and remanding a County decision because those decisions improperly construed applicable statutes.

In any case, the SIMC Plan is part of the Multnomah County Comprehensive Plan; therefore, any amendments to the SIMC Plan must comply with applicable Statewide Planning Goals, rules and statutes. Appendix 7: *Compliance with Applicable Statewide Planning Goals* provides findings of fact and conclusions of law explaining how proposed amendments to the SIMC Plan so comply.

### Goal 5 (Natural & Cultural Resources), Division 023 (Goal 5 Rule)

Generally speaking, Goal 5 has not been applied to land within the Willamette River Greenway. This is because the WRG protects significant natural and cultural resources within its boundaries (150’ of the ordinary low water line).

Goal 5 issues related to wetlands, stream corridors and upland habitat are addressed in detail in Appendix 4: *Natural and Cultural Resources*.

### Goal 6 (Air, Land and Water Quality)

Goal 6 is implemented by County policies to protect air, land and water resource quality. Generally, these policies rely on coordination with the Department of Environmental Quality (DEQ) for their implementation.

### Goal 7 (Natural Hazards)

The primary Goal 7 natural hazard is flooding. The Subcommittee raised concerns about earthquakes and human-made hazards including gas pipelines, railroad crossing blockages, coal dust (from rail cars) and oil spills (from rail cars).

### Goal 11 (Public Facilities)

Goal 11 does not permit the extension of public sanitary sewer facilities outside of urban growth boundaries (UGBs). Goal 11 also limits extension of public water systems to new development.

In 2010, Rocky Pointe Marina also received a Goal 11 exception for a community sanitation system outside the UGB.

## Goal 14 (Urbanization)

Goal 14 confines urban uses and densities to land within an urban growth boundary. Generally, development with lot sizes of less than two acres is considered “urban” in character and therefore inappropriate outside of UGBs. The MUA-20 zone prohibits new land divisions below 20 acres – and exceeds Goal 14 requirements in this regard.

Goal 14 is silent with respect to the densities that may occur over waters of the state – which are regulated primarily by the Oregon Department of State Lands. However, OAR Chapter 660, Division 004 *Interpretation of Goal 2 Exception Process* has been interpreted by DLCD and Multnomah County to apply to floating home moorages that exceed one floating home per two acres. (See OAR 660-004-0040 *Application of Goal 14 to Rural Residential Areas*<sup>4</sup>)

## OAR 660, Division 027 Planning of Urban and Rural Reserves

The Urban and Rural Reserve Rule applies only to the Portland region and to its three counties (Washington, Multnomah and Clackamas). The rule sets forth standards for determining the location of urban and rural reserves, and for planning within Multnomah County, in coordination with Metro, applied these standards when it designated the SIMC planning area as “Rural Reserve.” Please see discussion under *Appendix 2: Agriculture and Agri-Tourism Background Report*.

Notably, OAR 660-027-0070 Planning of Urban and Rural Reserves provides that:

*(3) Counties that designate rural reserves under this division shall not amend comprehensive plan provisions or land use regulations to allow uses that were not allowed, or smaller lots or parcels than were allowed, at the time of designation as rural reserves unless and until the reserves are re-designated, consistent with this division, as land other than rural reserves, except as specified in sections (4) through (6) of this rule. (Emphasis added.)*

**Comment:** Multnomah County Comprehensive Framework Plan Policy 6A substitutes the term “density” for “smaller lots or parcels” as used in the administrative rule. So, for example, if the County were to amend MCC 34.6750 Waterfront Development to allow floating home densities to increase beyond the one floating home per 50 lineal feet of shoreline standard, then this would probably violate Policy 6A and Division 027. At first glance, the rule does not appear to limit the County’s ability to apply existing regulations related marinas and floating home moorages found in acknowledged Policies 26 and 10, and implemented by MCC 34. However, the Rural Reserve designation rule *may* limit the County’s ability to approve a Goal 14 exception in Rural Reserve areas.

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<sup>4</sup> OAR 660-004-0040(5)(b) states:

“(b) A rural residential zone does not comply with Goal 14 if that zone allows the creation of any new lots or parcels smaller than two acres. For such a zone, a local government must amend the zone’s minimum lot and parcel size provisions to require a minimum of at least two acres or take an exception to Goal 14. Until a local government amends its land use regulations to comply with this subsection, any new lot or parcel created in such a zone must have an area of at least two acres.”

## Goal 15 (Willamette River Greenway)

### Goal 15: Willamette River Greenway [OAR 660-015-0005]:

To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

#### From the County Comprehensive Framework Plan:

*“The Willamette River Greenway is a cooperative management effort between the State and local jurisdictions for the development and maintenance of a natural, scenic, historical, and recreational ‘greenway’ along the Willamette River. The General Plan has been formulated by the Oregon Department of Transportation pursuant to ORS 390.318. The Land Conservation and Development Commission has determined that a statewide planning goal (Goal 15) is necessary not only to implement the legislative directive, but to provide the parameters within which the Department of Transportation Greenway Plan may be carried out. Within those parameters local governments can implement Greenway portions of their Comprehensive Plans.”*

#### Policy 15 of the Comprehensive Framework Plan addresses state Goal 15. Comprehensive Plan Policy 15 follows:

*“POLICY 15 - The County’s policy is to protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River. Further, it is the County’s policy to protect identified Willamette River Greenway areas by requiring special procedures for the review of certain types of development allowed in the base zone that will ensure the minimum impact on the values identified within the various areas. The procedures shall be designed to mitigate any lost values to the greatest extent possible.*

#### STRATEGIES

*A. The Willamette River Greenway should be based on the boundaries as developed by the State Department of Transportation. For the County, those areas are generally depicted on the map entitled, “Willamette River Greenway.”*

*B. The following strategies should be addressed in the preparations of the Community Development Title:*

*1. The Zoning Code should include:*

*a. An overlay zone entitled, “Willamette River Greenway,” which will establish an administrative review procedure to implement the requirements of the State of Oregon, Greenway Goal. The overlay zone should contain provisions related to:*

*(1) Setback lines for non-water dependent uses;*

*(2) A design plan;*

*(3) The review procedures;*

*(4) Specific findings required.*

*b. Those wetlands and water areas listed on Policy 16, Natural Resources, that are located within the Willamette River Greenway should receive a development review procedure comparable to the review procedure established for the Significant Environmental Concern zone.”*

The Multnomah County Code (MCC) 34.5800 through MCC 34.5865 implements the Willamette River Greenway standards in the SIMC plan area.

## Section 4: Relevant County and Agency Plans

In addition to master plans identified in Section 2 (e.g., Metro master plans for Howell Territorial Park and Wapato Park, :ODWF master plan for Sauvie Island Wildlife Refuge, Sauvie Island Drainage Company master plan, etc.)

### Relevant Multnomah County Comprehensive Plan policies regarding Marinas and Floating Homes

#### Policy 2 Conditions of Approval

*The county's policy is to apply conditions to its approval of land use actions where it is necessary to: A. Protect the public from the potentially deleterious effects of the proposed use; or B. Fulfill the need for public service demands created by the proposed use*

**Comment:** This policy is applied through the quasi-judicial land use review process.

#### POLICY 6-A Urban and Rural Reserves

##### *Introduction*

*The purpose of Urban and Rural Reserves is to facilitate planning for urbanization of the Portland metro region over the 50 year plan period from 2010 to 2060. Urban reserves provide greater certainty to the agricultural and forest industries, urban industries, and service providers about the future location of urban growth boundary expansion. Rural reserves are intended to provide long-term protection of agricultural and forest land and landscape features that enhance the unique sense of place of the region.*

*The reserves plan that designates land for urban and rural use is an alternative approach to manage urban growth through a coordinated regional process provided for in Oregon Laws 2007, chapter 723 and implementing Oregon Administrative Rule 660 Division 27(2008). The reserves plan supplements Policy 6 Urban Land Area with a specific map and implementing policies that define limits to urban growth for a time period much longer than the 20 -25 year UGB plan period.*

*The reserves plan relies on designation of urban reserves land which can only be designated by Metro, and on rural reserve areas that can only be designated by the County. Because of this division of authority in the reserves plan, the County has amended its plan and zoning map to adopt rural reserves, and also shows urban reserve designations on the map.*

##### **Policy 6A**

*It is the County's policy to establish and maintain rural reserves in coordination with urban reserves adopted by Metro and in accord with the following additional policies:*

- 1. Areas shown as Rural Reserve on the County plan and zone map shall be designated and maintained as Rural Reserves to protect agricultural land, forest land, and important landscape features.*

2. *Rural Reserves designated on the plan map shall not be included within any UGB in the county for 50 years from the date of the ordinance adopting the reserves designations.*
3. *Areas designated Rural Reserves in the county shall not be re-designated as Urban Reserves for 50 years from the date of the ordinance adopting the reserves designations.*
4. *The County will participate together with an appropriate city in development of a concept plan for an area of Urban Reserve that is under consideration for addition to the UGB.*
5. *The County will review the designations of Urban and Rural Reserves, in coordination with Metro and Clackamas and Washington Counties, 20 years from the date of the ordinance adopting the reserves designations, or earlier upon agreement of Metro and the other two counties.*
6. *The County will not amend the zoning to allow new uses or increased density in rural and urban reserve areas except in compliance with applicable state rules.*

**Comment:** The entire Sauvie Island/Multnomah Channel plan area is within a Rural Reserve designation. Policy 6A prohibits zone amendments, and possibly Goal 11 and 14 exceptions, which would allow new uses, decreased lot sizes, or overall densities in excess of one unit per two acres. Currently the MUA-20 zone provides for the establishment of marinas and moorages as a Community Service use; however, County staff is unclear whether this is still possible within a Rural Reserve designation. Please see discussion of Policy 6A in *Appendix 2: Agriculture and Agri-Tourism Background Report*.

### **Policy 13 Air, Water and Noise Pollution**

*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; and (2) Insulation or other construction techniques to lower interior noise levels in noise-impacted areas.*

### ***Strategies***

1. *As part of the ongoing planning programs the County should:*
  - A. *Maintain staff capability to advise the legislative body and its representatives on Federal and State air, water and noise quality standards and programs, and to report pollution impacts on these resources.*
  - B. *Cooperate in the development and implementation of regional efforts to maintain and improve air, water and noise quality.*
  - C. *Inventory existing and potential air, water, and noise impacts at the local level as part of the community planning process.*

- D. *Facilitate the establishment of expanded sewer infrastructure and wastewater treatment in urban unincorporated East Multnomah County, with priority given to areas where existing in-ground systems are failing, and where industrial, commercial, and intensive residential development is constrained by lack of sewers.*
  - E. *Evaluate the effectiveness of the 1982 Sound Control Ordinance in resolving noise problems.*
  - F. *Work with local jurisdictions, affected communities and Port of Portland staff to adopt a noise impact overlay zone. Such a zone should be applied to all areas within the 65 Land noise contour once the noise abatement plan has been implemented.*
  - G. *As part of the Erosion and Sediment Control Ordinance, include development standards relating to erosion protection and local drainage capacity.*
  - H. *Cluster, buffer or isolate land uses which cause negative impacts on air and water resources, or are noise generators.*
2. *Air, water and noise quality enforcement should be provided by the appropriate Federal and State agencies.*

**Comment:** This policy makes it clear that the County will address air and water quality issues through coordination with regional, state and federal agencies; through the community planning process (such as the SIMC Plan); and by adopting erosion control and design review standards. This policy clearly relies on federal agencies to enforce federal pollution standards.

#### **Policy 15 Conservation of Willamette River Natural and Cultural Resources**

*The County's policy is to protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River. Further, it is the County's policy to protect identified Willamette River greenway areas by requiring special procedures for the review of certain types of development allowed in the base zone that will ensure the minimum impact on the values identified within the various areas. The procedures shall be designed to mitigate any lost values to the greatest extent possible.*

**Comment:** This policy is implemented through MCC 34.5800 Willamette River Greenway.

#### **Policy 26 Houseboat Locational and Expansion Criteria**

*The County, in order to provide a broad range of housing opportunities for its citizens, recognizes houseboats as a housing option. Therefore, it is the County's policy to provide for the location of houseboats in a manner which accords with:*

- A. *The applicable policies in this plan, including Policies 2 (Off-Site Effects), 13 (Air, Water, Noise), 15 (Significant Environmental Concern), 16 (Natural Resource), 21 (Housing Choice), 24 (Housing Location), 32 (Capital Improvements), 34 (Traffic ways), 36 (Transportation System Development), 37 (Utilities), and 38 (Facilities).*

*B. Any other applicable federal, state or local policies that regulate waterway area development.*

*C. The following criteria for locating or expanding a houseboat moorage: 1. The mean low water line exceeds five feet; 2. The moorage area should be protected from siltation problems which might require costly dredging to achieve the proper water depth; 3. The moorage is adequately protected from the adverse effects of wind, wave action, icy conditions, and other hazards; 4. Adequate land area exists to accommodate parking and any accessory building requirements; 5. The proper maintenance and operation of dikes, as determined by the army corps of engineers is not adversely affected by the moorage; 6. The upland area adjacent to the moorage does not have unique recreational, ecological or wildlife habitat value; 7. The upland area adjacent to the moorage is not zoned for exclusive agricultural use; and 8. The procedures for which Multnomah County will determine the status of existing moorage/marina uses in the Multnomah Channel as given in Policy 10 of the "Sauvie Island/Multnomah Channel Rural Area Plan," adopted October 30, 1997, by Ordinance No. 887.*

*The following areas are designated as suitable for houseboats:*

*9. Multnomah Channel (west side). a. From Rocky Point Moorage, or from an area 1650 feet north of the southern boundary of Section 36, T3N, R2W, known as Rocky Point, north to the Columbia County boundary. b. From the City of Portland corporate limits north to 1/2 mile north of the Sauvie Island Bridge. c. Area occupied by Happy Rock Moorage, Sauvie Island Moorage, Parker Moorage, and Mayfair Moorage. (Added by Policy 10, No. 2, "Sauvie Island/Multnomah Channel Rural Area Plan," Adopted October 30, 1997, Ordinance No. 887).*

*10. Oregon Slough. a. the south shore of Tomahawk Island. b. any other areas identified as suitable for houseboats by the Hayden Island Plan.*

*11. Columbia River (near 185th Avenue). a. from the northwest corner, George B. Pullen D.L.C., to the northeast corner, Pullen D.L.C. Houseboats and moorages existing outside these areas shall be limited to existing sites and levels of development.*

### **Strategies**

*A. As part of the continuing planning program, the County should consider the provision of commercial accessories and/or community service uses as a condition of moorage development, in order to mitigate the impacts of moorage populations.*

*B. The Zoning Ordinance should be amended to: 1. Allow for the location and expansion of houseboat moorages within designated areas. 2. Include safety and fire protection standards to provide a safe living environment for houseboat dwellers. 3. Provide standards which minimize the adverse effects of houseboat development on surrounding areas.*

**Comment:** The current area included in Policy 26 (as modified by SIMC Policy 10) of the Multnomah County Comprehensive Plan includes all of the existing except for Enyarts. It should be noted that Policy

26 currently speaks to floating home (houseboat) moorages, not marinas which also serve transient boaters. Policy 26 is clarified and implemented in part by SIMC Plan Policy 10.

## Relevant SIMC Plans policies regarding Marinas and Floating Homes

### POLICY 5: Metro Coordination

*Assist METRO in development of a regional hiking, equestrian, and bicycle trail along Multnomah Channel south of Burlington Bottoms connecting to the Cornelius Pass rails-to-trails potential conversion, which runs in upland areas in the vicinity of Highway 30 and the existing Burlington Northern Railroad, and minimizes impacts to existing waterfront uses.*

#### **Strategy:**

*Multnomah County shall forward this policy to Metro, and shall review and consider permit issuance for any proposed trail use by Metro.*

### POLICY 6: Channel Safety Education

*The County should participate in educational information and programs to better educate Channel users on safety issues and required laws including no wake and buffer zones.*

#### **Strategy:**

*Multnomah County shall forward this issue on as a recommendation to the State Marine Board.*

**Comment:** The lack of education regarding the laws, most importantly speed limits and water pollution, could be addressed by Multnomah County. The County could consider such things as signage, informational handouts at central locations as well as partnerships with such agencies as the State Marine Board.

### POLICY 7: Boating Licensing

*The County should recommend to the State Marine Board that all boaters be required to obtain licenses through the State prior to operating motorized marine craft over 25 horsepower including personal watercraft.*

**Comment:** Boat operators are not required by Multnomah County to meet any guidelines or qualifications prior to operating watercraft. Policy 7 commits Multnomah County to working through the OSMB in establishing minimum safety criteria for boat operators. The horsepower threshold was chosen to include personal water craft and exclude non-motorized boats and boats with smaller motors.

### POLICY 8: Law and Zoning Enforcement

*a. Multnomah County should make river patrol and enforcement of laws a higher priority to the Sheriff's Department.*

*b. Multnomah County should make enforcement of zoning laws in the Channel a higher priority to the Transportation and Land Use Planning Department.*

**Comment:** Policy 6 recommends that the County prioritize enforcement of existing laws in place in the Channel and maintain a presence to enforce the laws. There is a perception among many in the community that the level of law enforcement patrols and zoning enforcement falls short of ideal.

#### **POLICY 9: Noise Impacts from Watercraft**

*Multnomah County should begin studying the noise impacts of motorized watercraft in order to establish base levels of noise pollution in the Channel.*

**Comment:** With the increase in noise associated with personal watercraft, the residents of the Channel and Island would like the County to start documenting base noise levels in the event of increases due to increased Channel traffic. With increased volume and traffic on the Channel, an inventory of average noise levels is needed to gather information for future studies because Channel and Island residents are currently concerned with existing noise levels.

#### ***Strategy:***

*Multnomah County should forward this issue on as a recommendation to the State Marine Board.*

**Comment:** See discussion under OSMB responsibilities in Section 5 of this report. Policies 6-9 all address coordination with state agencies and the county sheriff's office on boating safety, boating impacts and enforcement policies. These policies could be reformatted as a single coordination and lobbying policy.

#### **POLICY 10: Procedure for Determining Regulatory Status of Existing Marinas**

*For the purposes of establishing a procedure for which Multnomah County will determine the status of existing moorage/marina use, the Multnomah County Comprehensive Framework Plan Policy 26 should be amended and rewritten to include the following:*

- 1. That moorages and marinas will only be permitted within the boundaries identified by Policy 26.*
- 2. That the area occupied by Happy Rock Moorage, Sauvie Island Moorage, Parker Moorage, and Mayfair Moorage be included within the area where houseboats are currently permitted under Policy 26.*
- 3. That the moorages within policy 26 and the existing Happy Rock, Sauvie Island, Parker and Mayfair moorages sites are to be treated as permitted (permitting continuation of the use and level of intensity in existence as of the Multnomah County Moorage Report Listing of Float houses and Watercraft as of July 1, 1997 produced by the Department of Assessment and Taxation and reconciled through supplemental information provided by the moorage owner) if:
  - 1. Proof that permits, where applicable, from the Division of State Lands, Army Corps of Engineers, Department of Environmental Quality, the State Health Department and the appropriate fire authority were obtained prior to July 1, 1997. Proof that permits from the Public Utility Commission, the Oregon Department of Transportation, County Right of**

*Way, where applicable, have been applied for prior to December 1, 1997. Those permits that were not issued prior to July 1, 1997 shall be approved by either the Public Utility Commission, the Oregon Department of Transportation or the County Right of Way prior to the County issuance of a Willamette River Greenway Permit under this policy. All permits must have been issued for the same density and the same use requested in the Policy #10 process. If there are discrepancies in the Army Corps of Engineers or Division of State Land Permits between what the permit was issued for and the density/use the moorage owner is having reviewed by the County as part of this process, the moorage owner shall provide current documentation from the agency that the proposed use/density is still consistent with the agency's requirements. The proof must then be given to the County Division of Transportation and Land Use Planning for review; and*

*2. Multnomah County approves a Willamette River Greenway permit for the moorage.*

*4. That an inventory of each moorage identified in Section 3 above is to be undertaken within 120 days of the effective date of the adoption of the Sauvie Island Multnomah Channel Rural Area Plan amending Policy 26. This inventory may be performed by the County, or prepared by each moorage and verified by the County. Through this inventory, the County will:*

*1. Determine the level of existing development to be considered as a permitted use (number of existing dwelling units as determined using the Multnomah County Moorage Report Listing of Float houses and Watercraft as of July 1, 1997 and reconciled through supplemental information provided by the moorage owner); and*

*2. Receive proof that the non-County permits have been obtained. Once a conclusion has been reached on the number of units/structures through reconciliation process between the Transportation and Land Use Planning Division and the moorage owner, the moorage owner may then apply for a Willamette River Greenway Permit. If these three things are done and verified by the County, and the Willamette River Greenway permit is approved by Multnomah County, then the permitted use would be accepted.*

*5. That if any moorage is subsequently in violation of any non-County permit, of County zoning codes enacted after the effective date of amended Policy 26 and implementing measures, then that moorage must meet all applicable zoning codes in effect at that time, which would include the provisions of the Special Planning Area once the zoning code revisions have been made and are in effect.*

*6. That if those moorages that are deemed permitted subsequently seek a modification of alteration of their inventoried use, they must meet all applicable zoning codes in effect at that time. Alteration or modification does not include a reduction in the number of structures/dwellings within a moorage.*

*7. All moorages applying for a Willamette River Greenway Permit required pursuant to Policy #10, shall be exempted from the Design Review Process and criteria.*

8. That this action does not set a precedent for acceptance of any unauthorized land use in the jurisdiction of Multnomah County. That this action by the board is done in the context of the adoption and speedy, practical implementation of the Sauvie Island/Multnomah Channel Rural Area Plan.

**Strategy:**

*Multnomah County shall implement this policy with an amendment to the Comprehensive Plan.*

**Comment:** Policy 10 of the existing RAP was followed by an inventory of existing marinas in 1997. Many marinas and floating home moorages were verified at that time and several have been verified in the 16 years since.

Multnomah County Framework Plan Policy 26 currently does not include the developed marina or moorage sites listed above, allowing them to continue as existing non-conforming uses with limited ability to expand or reconfigure their sites. These uses are long-term substantial facilities which are an integral part of the Multnomah Channel environment. They should be allowed the same opportunities for change in land and water use afforded to the marinas and moorages which currently fall within the boundaries of Policy 26. This action, along with the inclusion of marinas into the Policy 26 framework, will convert Policy 26 into a determination of where marine related development (as opposed to conservation areas) is allowed along the Multnomah Channel.

**POLICY 11: Maintenance of Marina Inventory**

*The County should develop and maintain a current inventory of all marinas and moorages.*

**Strategy:**

*In order to accomplish this, the budget should reflect an increase in funding and allocation of resources.*

**Comment:** Multnomah County needs an accurate account of all floating structures on the Channel in order to accurately administer and enforce zoning laws.

**POLICY 12: Consistency of Definitions**

*The County Zoning Code should be consistent with the County Assessor and the State regarding the definitions of houseboats, boathouses and combos. For purposes of density calculations, "houseboats" shall be defined as 1) any houseboat, and 2) any boathouse or combo which is used as a residence (occupied 7 or more days per month).*

**Strategy:**

*Multnomah County shall amend the Zoning Ordinance to include this definition.*

**Comment:** A revised set of definitions is included in Section 7 of this report that incorporate adopted DSL and OSMB definitions. At present, the County Zoning Code defines whether a structure is a "dwelling" based on information regarding kitchen and restroom facilities. (See definition of "dwelling unit" in MCC 34.0005 and "houseboat" in MCC Section 34.6750.) The County Assessor makes the determination based on different information, as does the State of Oregon. The difference becomes a

problem when the County Staff uses the Assessor's information to determine the number of dwellings existing within a moorage/marina and consistency becomes an issue of real importance to the moorage owners.

### **POLICY 13: Marina Special Planning Areas**

*Multnomah County should adopt procedures to allow existing moorage/marina to become a 'special plan area' under MCC 11.15.6600 at the initiation of the property owner, to determine uses and densities allowed for each moorage on the channel. The special plan area designation would be allowed when the property owner requests an expansion or alteration, or for any new marina/moorage developments. The provisions of the existing Conditional Use criteria would still be in place in addition to the new special planning area procedure.*

#### ***Strategy***

*Multnomah County shall implement this policy by amending the Special Plan Area code of the Zoning Ordinance and by requiring any moorage or marina which is determined to be in violation of the Zoning Code or which proposes changes to an existing moorage to go through the Special Plan Area process.*

**Comment:** MCC 34.5000 allows each marina owner apply for special plan area overlay – which in turn would allow development based on a master plan approved by the County. Special area plans function as overlay districts that can be applied on a case-by-case basis to determine existing marina uses, densities, service levels and legal status of the property. However, this provision has not been applied in the SIMC planning area. Moreover, it is unlikely that this policy could be implemented in a Rural Reserve designation – because the SAP overlay zone would amount to a zone change in violation of Policy 6A.

### **POLICY 14: Baseline for Determining Overall Intensity of Marina Uses**

*The overall density for each existing moorage/marina that chooses to go through the special planning area process shall not exceed the existing levels as measured by factors such as area and length of docks and number of slips (existing in the Multnomah County Moorage Report Listing of Float houses and Watercraft as of July 1, 1997 and reconciled through supplemental information provided by the moorage owner). The actual number of slips for each moorage/marina shall be determined at the time a special plan area is approved for the moorage/marina. The specific plan will look at such things as 'legally existing' issues, non-conforming status and carrying capacity of the land to determine the number of dwellings and other uses allowed in each marina/moorage.*

#### ***Strategy:***

*Multnomah County shall implement this policy at the time each special plan area is adopted.*

### **POLICY 15: Multnomah Channel Special Area Plan Approval Criteria**

*Development on Multnomah Channel within Special Plan Areas shall be judged upon the following criteria.*

#### **Water Environmental**

- *River Bank Protection - Development which protects the river bank from erosion caused by boat traffic.*
- *Water Quality - Development which contributes to or does not significantly degrade water quality*
- *Septic tanks/Sewage - Development which is more amenable to safe and sanitary sewage disposal, along with adequate upland facilities for disposal of sewage.*
- *Fish and Wildlife - Development which contributes to or does not have a significant detrimental impact to the fish and wildlife in the water.*

#### **Land Environmental**

- *Development in Wetland - Development which does not impact wetlands.*
- *Traffic Increase - Development which minimizes increases in traffic on moorage access roads, on railroad crossings, and onto Highway 30.*
- *Parking - Development which minimizes the amount of parking area necessary.*
- *Ground Water Quality - Development which minimizes impacts to ground water quality.*
- *Need for Restroom Facilities - Development which minimizes the need for additional communal restroom facilities to serve the proposed uses.*
- *Land Wildlife - Development which minimizes impacts to land wildlife.*
- *Necessary Utilities - Development which requires fewer utilities to serve proposed uses.*
- *Floodplain Development - Development which minimizes placement of permanent structures and uses in the floodplain.*
- *Accessory Structures - Development which minimizes the need for accessory on-land structures to serve proposed uses.*

#### **Aesthetic**

- *Vegetation on Land - Development which minimizes the loss of land vegetation.*

- *Visibility of Shore - Development which minimizes changes to natural shoreline features.*
- *Massing and Scale - Development which has a human scale or architectural quality to it.*
- *Diversity/Rural character - Development which maintains the existing diversity and rural character of Multnomah Channel.*
- *Lighting - Development which minimizes night lighting of uses.*
- *Vegetation/landscape on Water - Development which minimizes its visibility from the Multnomah Channel waterway.*

### **Safety**

- *Contribution to Channel Traffic - Development which minimizes Channel traffic.*
- *Residential Link - Development with a permanent residence component which provides a human presence to both report*
- *Emergencies and violations on Multnomah Channel.*
- *Fire Hazard - Development which minimizes fire hazard.*
- *Emergency Services - Development which minimizes the need for emergency services.*
- *Economic - Development which provides economic value to Multnomah County in the form of assessment value and reduced need for public services.*

### **Recreation**

- *Contribution to Public Recreation - Development which contributes to public recreation opportunities on Multnomah Channel.*
- *Protect Public's Right to Access and Utilize Public Waterway - Development which promotes and does not infringe on public's ability to access the public waterway (Multnomah Channel) for recreational purposes.*

### **Cumulative Impacts**

*The cumulative impacts of the proposed development on the overall carrying capacity of Multnomah Channel shall be considered and minimized. The criteria listed shall be weighed and balanced by the hearing body considering each Special Plan Area so as to determine the most appropriate intensity and type of development allowed within each of these areas. In reviewing each Special Plan Area, Multnomah County shall consult with other relevant local, state, and federal agencies, including but not limited to the following agencies: Division of State Lands; Oregon Department of Fish and Wildlife; Oregon Parks and Recreation Department; Oregon State Marine Board; U.S. Army Corps of Engineers; Metro Parks and Green spaces.*

**Strategy:**

*These criteria shall be included in the general special plan area code and shall be used to review proposed uses in each specific plan area is adopted.*

**Comment:** This policy is implemented by MCC 34.5000 Special Area Plans. As noted above, no marina owner has taken advantage of this policy since its adoption as part of the SIMC Plan in 1997.

**POLICY 16: Implementing Code Text**

*Implement code language within the special plan area criteria that incorporates the more specialized ideas in these policies. This concept should be carried out with input from citizens on the channel and should include guidelines regarding lighting, landscaping and architectural design within the special plan areas for development.*

**Strategy:**

*Multnomah County shall implement this policy as part of the Special Plan Area process.*

**Comment:** This policy is implemented by MCC 34.5000. See discussion regarding Special Area Planning below.

**POLICY 17: Responsible Recreational Uses**

*Multnomah County should promote responsible recreational uses in the channel by allowing public access or boat launches to occur as part of any redevelopment or development of public recreation facilities.*

**Strategy:**

*Multnomah County shall implement this policy as part of the Special Plan Area process and the community service review process for public park development.*

**Comment:** The other policies in this plan shall not be construed to discourage public access to the water from the land or vice versa.

**POLICY 29: Sewage Collection and Disposal**

*Provide for safe and easy collection and disposal of sewage from marine uses in Multnomah Channel.*

**Strategy:**

*Multnomah County shall implement this policy through the Special Plan Area review process for each marina and moorage. Marinas and moorages shall be required to meet, at minimum, state standards for sewage collection and disposal from various types of marine uses. They shall be required to provide connections to sewage disposal facilities for all floating homes and boathouses which are plumbed. Live-aboard boat slips must be provided with an on-site mechanism for disposal of sewage, either through connections at each slip or through the availability of on-site alternative pump out facilities which are reasonably safe from accidental spillage. Marinas and moorages which serve "transient" boats to have reasonable geographic access to an on-site method of sewage disposal in order to service such boats.*

### POLICY 30: Removal of Illegal Floating Structures

*Coordinate with the Division of State Lands to remove floating structures which are illegally sited and do not meet County zoning standards.*

#### **Strategy:**

*Multnomah County shall implement this policy by requesting the Division of State Lands to prepare a joint program for removal of illegal floating structures.*

**Comment:** Implementation of this policy was discussed at some length at the Marinas and Floating Home Subcommittee meeting – and is addressed in Section 7 of this report.

### POLICY 31: Fill from Dredging Activities

*Recommend that any fill generated as a result of dredging activities in the Columbia River be located on Sauvie Island only under the following conditions:*

- *To assist in flood control*
- *Not on designated wetlands*
- *Not on high value farmland unless placement of such fill improves a farm's soils or productivity*
- *In areas where it will not negatively impact wildlife habitat*

#### **Strategy:**

*Multnomah County shall implement this policy when reviewing any federal dredging projects proposed for the Columbia River.*

## **Relevant Zoning Ordinance Provisions (EFU and MUA-20 zones)**

### DEFINITIONS (MCC 34.0005)

The definitions in MCC 34.0005 do not define terms discussed in the SIMC and defined in DSL rules. The following definitions have some relevance to issues raised in Section 2 of this report.

**Building** – *Any structure used or intended for supporting or sheltering any use or occupancy.*

**Dwelling Unit** – *A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.*

**Dwelling (Single Family Detached)** – *A detached building designed for one dwelling unit including Mobile Homes under the provisions as specified within the district.*

**Emergency/Disaster** – *A sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to pre-vent or mitigate significant loss or damage to life, health, property, essential public services, or the environment.*

**Habitable dwelling** – *An existing dwelling that: (a) Has intact exterior walls and roof structure; (b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a*

*sanitary waste disposal system; (c) Has interior wiring for interior lights;(d) Has a heating system; and (e) Was lawfully established.*

**Lawfully established dwelling** – *A dwelling that was constructed in compliance with the laws in effect at the time of establishment. The laws in effect shall include zoning, land division and building code requirements. Compliance with Building Code requirements shall mean that all permits necessary to qualify the structure as a dwelling unit were obtained and all qualifying permitted work completed.*

**Permitted Use** – *A use permitted in a district without the need for special administrative re-view and approval, upon satisfaction of the standards and requirements of this Chapter.*

**Structure** – *That which is built or constructed. An edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.*

#### **MCC 34.6750 Definitions:**

The following definitions are found in MCC 34.6750.

*A) Houseboats shall mean any floating structure designed as a dwelling for occupancy by one family and having only one cooking facility.*

*(B) Houseboat moorage shall mean the provision of facilities for two or more houseboats.*

**Comment:** Recognizing that the definitions section of the code does not adequately address marinas and floating home moorages, the Subcommittee stressed the need for consistent and useful definitions. Section 7 of this report provides DSL definitions that may be helpful in this regard. Section 7 of this report includes recommendations for incorporating the definitions into the SIMC Plan and the MCC 34.0005.

#### **EXCLUSIVE FARM USE ZONE (MCC 34.2800)**

Land uses and review procedures in the Exclusive Farm Use (EFU) zone are discussed in greater detail in Appendix 2: *Agriculture and Agri-Tourism Background Report*. All existing marinas are located in the MUA-20 zone. Marinas and floating home moorages are not permitted in the EFU zone.

#### **MUA-20 ZONE (MCC 34.2800)**

Marinas and floating home moorages are allowed through the conditional use / community service use process in the MUA-20 zone.

### **§ 34.2830 CONDITIONAL USES**

*The following uses may be permitted when found by the approval authority to satisfy the applicable ordinance standards:*

*(A) Community Service Uses pursuant to the provisions of MCC 34.6000 through 34.6230;*

*(B) The following Conditional Uses pursuant to the provisions of MCC 34.6300 through 34.6660:*

*\* \* \* (9) Houseboats and houseboat moorages.*

**Comment:** Floating homes and their moorages are allowed as conditional uses / community service uses in the MUA-20 zone. A change in zoning is not required to allow redevelopment of existing marinas. However, a Goal 14 exception (to the requirement that residential densities not exceed one unit per two acres) may be required, and such an exception may not be permitted by Rural Reserve Policy 6A and OAR 660-027. See further discussion in Section 7 of this report.

The Subcommittee devoted considerable attention to the need to address ESA (Endangered Species Act) and CWA (Clean Water Act) requirements before permitting new floating home moorages and/or reconfigurations. MCC 34.5800 *Willamette River Greenway* and MCC 34.6750 *Waterfront Uses* both have criteria that allow the County to condition CU/CS approvals to mitigate ecological impacts – which include impacts to fish habitat and water quality. The Department of State Lands also has the authority to mitigate ecological impacts through its in-water leasing program.

### **SEC OVERLAY ZONE (MCC 34.4500)**

The Significant Environmental Concern (SEC) overlay zone does not apply along the Multnomah Channel because the channel is considered to be part of the Willamette River and is covered by Willamette River Greenway (WRG) standards. Wetlands within the WRG boundary, in particular, are protected by MCC 34.6855 Significant Wetlands. Other portions of Sauvie Island are covered by the SEC overlay zone; see discussion in *Appendix 4: Natural and Cultural Resources Background Report*.

### **§ 34.4500- PURPOSES**

*The purposes of the Significant Environmental Concern sub district are to protect, conserve, enhance, restore, and maintain significant natural and man-made features which are of public value, including among other things, river corridors, streams, lakes and islands, domestic water supply watersheds, flood water storage areas, natural shorelines and unique vegetation, wetlands, wildlife and fish habitats, significant geological features, tourist attractions, archaeological features and sites, and scenic views and vistas, and to establish criteria, standards, and procedures for the development, change of use, or alteration of such features or of the lands adjacent thereto. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)*

### **§ 34.4505 AREA AFFECTED**

*Except as otherwise provided in MCC 34.4510 or MCC 34.4515, this subsection shall apply to those lands designated SEC on the Multnomah County Zoning Map. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)*

### SPECIAL PLAN AREA SPA (MCC 34.5000)

SIMC Policy 10 refers to the SPA process as a method of approving floating home moorages. The SPA process allows property owners to work with the County to adopt and apply specific standards that are appropriate for the proposed use(s) in a specific location. This made sense along the Multnomah Channel, where floating home moorages present unusual development and environmental conservation challenges. Relevant sections of this MCC 34.5000 are quoted below. However, a special plan area that increased the density of floating homes (above the one unit per 50 lineal feet of shoreline standard found in MCC 34.6555 would not be permissible under *Policy 6A – Urban and Rural Reserves*. County staff notes that the SPA process has not been applied in the Multnomah Channel Area.

#### **§ 34.5000- PURPOSES**

*The general purposes of the Special Plan Area Sub-districts are to implement various provisions of the Comprehensive Plan, the Statewide Planning Goals and the land use control elements of Special Plan Area plans and of plans for neighborhoods and sub-community vitalization; to aid in realizing opportunities to achieve community, social and economic stability and vigor; to institute desired patterns and improvement standards for land uses according to adopted specific-place plans; to facilitate public-private sector cooperation in the development of such areas; to establish more flexible and diversified standards and procedures; and to provide means to establish such interim land use controls as are deemed necessary, pending the preparation of local area comprehensive plan revisions or development strategies. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)*

#### **§ 34.5010 STANDARDS TO ESTABLISH AN SPA SUBDISTRICT**

*(A) An amendment establishing an SPA sub district shall include the following:*

*(1) The designation of the sub district as SPA-1, SPA-2, SPA-3, etc., in the text and on the appropriate Sectional Zoning Map; (2) A statement of the purposes of the sub-district; (3) Definitions of terms, as appropriate; (4) A statement of the findings and policies on which the sub district is based, including reference to the related Special Area Plan or Comprehensive Plan revision which the sub district is designed to implement or to the special problems or circumstances which the sub district is designed to address; (5) A description of the relationships between the provisions of the SPA sub district and those of the underlying district; (6) A listing of the SPA sub district uses authorized as Permitted Uses, Uses Under Prescribed Conditions, or Conditional Uses, as appropriate; (7) A description of any approval procedure or criteria required to satisfy the sub district provisions; (8) Any development standards or dimensional requirements for authorized uses in the sub district; (9) A description of the nature of and approval procedures for any exceptions from sub district requirements; (10) A statement of the methods of appeal from a decision made under the provisions of the sub district; and (11) Any provisions for the expiration of the SPA sub district. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)*

**Comment:** Based on limited research to date, no SPA sub district has been established in the SIMC planning area and there has been only one application (Rocky Pointe Marina) to establish such a sub

district, which was not approved. Moreover, it would be difficult to establish such a sub district in the SIMC planning area, given its Rural Reserve designation. For these reasons, the project team suggests that the Subcommittee consider whether to remove MCC 34.5000-5010 and rely instead on the CU/CS review processes to address potential impacts from redevelopment of existing marinas and floating home moorages.

### **WILLAMETTE RIVER GREENWAY (MCC 34.5800)**

The WRG overlay provides a powerful tool to ensure that intensification of existing marina and floating home moorages address environmental impacts and fully comply with applicable comprehensive plan policies. Traditionally, the County has interpreted marinas and floating home moorages to be “water-dependent uses”; otherwise, parking and related structures would not be allowable within 150 feet of the ordinary low water line per MCC 34.5885(Q). Redevelopment of an existing, permitted marina or floating home moorage would be considered an “intensification” of an existing community service use and therefore would be subject review by the Hearings Officer.

### **§ 34.5800- PURPOSES**

*The purposes of the Willamette River Greenway sub district are to protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River; to implement the County's responsibilities under ORS 390.310 to 390.368; to establish Greenway Compatibility Review Areas; and to establish criteria, standards and procedures for the intensification of uses, change of uses, or the development of lands within the Greenway. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)*

### **§ 34.5805 AREA AFFECTED**

*MCC 34.5800 through 34.5865 shall apply to those lands designated WRG on the Multnomah County Zoning Map. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)*

### **§ 34.5810 USES - GREENWAY PERMIT REQUIRED**

*All uses permitted under the provisions of the underlying district are permitted on lands designated WRG; provided, however, that any development, change of use or intensification of use, except as provided in MCC 33.5820, shall be subject to a Greenway Permit issued under the provisions of MCC 34.5830. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)*

### **§ 34.5815 DEFINITIONS**

*For the purposes of this district, the following terms and their derivations shall have the following meanings. Definitions (A) through (E) are derived from paragraph a. of the Order Adopting Preliminary Willamette River Greenway Plan of the Oregon Land Conservation and Development Commission, dated December 6, 1975.*

*(A) **Change of use** - means making a different use of the land or water than that which existed on December 6, 1975. It includes a change which requires construction, alterations of the land, water or other areas outside of existing buildings or structures and which substantially alters or*

affects the land or water. It does not include a change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated. Change of use shall not include the completion of a structure for which a valid permit has been issued as of December 6, 1975 and under which permit substantial construction has been undertaken by July 1, 1976. The sale of property is not in itself considered to be a change of use. An existing open storage area shall be considered to be the same as a building. Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements shall not be considered a change of use for purposes of this order.

(E) **Intensification** - means any additions which increase or expand the area or amount of an existing use, or the level of activity. Remodeling of the exterior of a structure not excluded below is intensification when it will substantially alter the appearance of the structure.

(F) **Water-dependent use** – means a use which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for waterborne transportation or recreation. Water-dependent use also includes development, which by its nature, can be built only on, in, or over a water body (including a river). Bridges supported by piers or pillars are water-dependent uses. (Ord. 1038, Amended, 05/13/2004; Ord. 997, Repealed and Re-placed, 10/31/2002; 953 §2, Reorg&Renum, 11/30/2000)

#### **§ 34.5840 DECISION BY HEARINGS OFFICER**

(A) A decision on a Greenway Permit application for a Conditional Use as specified either in the underlying district or in MCC 34.6300 through 34.6765, or for a Community Service Use as specified in MCC 34.6000 through 34.6230, shall be made by the Hearings Officer in conjunction with the decision on the use proposal associated therewith.

(A) A decision on a Greenway Permit application for a Conditional Use as specified either in the underlying district or in MCC 34.6300 through 34.6765, or for a Community Service Use as specified in MCC 34.6000 through 34.6230, shall be made by the Hearings Officer in conjunction with the decision on the use proposal associated therewith. (B) Action by the Hearings Officer on a Greenway Permit application shall be pursuant to provisions for a Type III Permit as described in MCC Chapter 37.

(C) The findings and conclusions made by the Hearings Officer, and the conditions or modifications of approval, if any, shall specifically address the relationships between the proposal and the elements of the Greenway Design Plan. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 991, Amended, 09/26/2002; 953 §2, Reorg&Renum, 11/30/2000)

#### **§ 34.5855 GREENWAY DESIGN PLAN**

The elements of the Greenway Design Plan are:

(A) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and the river.

*(B) 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 possible urbanized areas.*

*(C) 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.*

*(D) Agricultural lands shall be preserved and maintained for farm use.*

*(E) 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.*

*(F) 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. (G) Significant fish and wildlife habitats shall be protected.*

*(H) Significant natural and scenic areas and viewpoints and vistas shall be preserved.*

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

*(J) 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.*

*(K) Extraction of known aggregate deposits may be permitted, pursuant to the provisions of MCC 34.6300 through 34.6535, when economically feasible and when conducted in a manner designed to minimize adverse effects.*

*(L) 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.*

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

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

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

*(P) The quality of the air, water and land re-sources in and adjacent to the Greenway shall be preserved in development, change of use, or intensification of use of land designated WRG.*

*(Q) A building setback line of 150 feet from the ordinary low waterline of the Willamette River shall be provided in all rural and natural re-source 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.*

*(R) 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.*

*(S) The applicable policies of the Comprehensive Plan are satisfied. (Ord. 997, Repealed and Replaced, 10/31/2002; 953 §2, Re-org&Renum, 11/30/2000)*

**Comment:** At the first subcommittee meeting, considerable discussion was devoted to potential impacts of marinas and floating home moorages on salmon habitat and water quality. The WRG design process provides tools to address these impacts in two ways: first, through the direct application of Criteria H-P above; and second through coordination with the Department of State Lands which is required to address ESA and CWA requirements in its in-water lease review process.

#### **WATERFRONT USES (MCC 34.6750)**

##### **§ 34.6750- HOUSEBOATS AND HOUSEBOAT MOORAGE**

*The location of a houseboat or the location or alteration of an existing houseboat moorage shall be subject to approval of the approval authority:*

*(A) Houseboats shall mean any floating structure designed as a dwelling for occupancy by one family and having only one cooking facility.*

*(B) Houseboat moorage shall mean the provision of facilities for two or more houseboats.*

*(C) Location Requirements: Houseboats shall be permitted only as designated by the Comprehensive Plan.*

*(D) Criteria for Approval: In approving an application pursuant to this subsection, the approval authority shall find that: (1) The proposed development is in keeping with the overall land use pattern in the surrounding area; (2) The development will not adversely impact, or be adversely affected by normal fluvial processes; (3) All other applicable governmental regulations have, or can be satisfied; and (4) The proposed development will not generate the untimely extension or expansion of public facilities and services including, but not limited to, schools, roads, police, fire, water and sewer. (Ord. 997, Repealed and Replaced, 10/31/2002; 953 §2, Re-org&Renum, 11/30/2000)*

##### **§ 34.6755 DENSITY**

*The maximum density of houseboats shall not exceed one for each 50 feet of waterfront frontage. The Hearings Officer in approving a houseboat moorage may reduce the density below the maximum allowed upon finding that:*

*(A) Development at the maximum density would place an undue burden on school, fire protection, water, police, road, basic utility or any other applicable service.*

*(B) Development at the maximum density would endanger an ecologically fragile natural resource or scenic area. (Ord. 997, Repealed and Replaced, 10/31/2002; 953 §2, Re-org&Renum, 11/30/2000)*

#### **§ 34.6760 PARKING**

*(A) Two automobile spaces shall be provided for each houseboat.*

*(B) The parking area and all ingress and egress thereto shall be constructed two feet above the elevation of the 100 year flood boundary, and under the provisions of MCC 34.4100 through 34.4220.*

*(Ord. 997, Repealed and Replaced, 10/31/2002; 953 §2, Re-org&Renum, 11/30/2000)*

#### **§ 34.6765 OTHER REQUIREMENTS**

*(A) All ramps, walkways and moorage spaces shall be designed, constructed and maintained to provide maximum safety in all weather conditions.*

*(B) Lighting adequate to provide for the safety of residents and visitors shall be provided throughout a houseboat moorage.*

**Comment:** MCC 34.6750-6767 requirements are in addition to the community service criteria and design review standards that apply to redevelopment of a marina.

### **COMMUNITY SERVICE USES (MCC 34.6000)**

#### **§ 34.6000- PURPOSE**

*MCC 34.6010 through 34.6230 provides for the review and approval of the location and development of special uses which, by reason of their public convenience, necessity, unusual character or effect on the neighborhood, may be appropriate as specified in each district. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)*

#### **§ 34.6005 GENERAL PROVISIONS**

*(A) Community Service approval shall be for the specific use or uses approved together with the limitations or conditions as determined by the approval authority.*

*(B) Uses authorized pursuant to this section shall be subject to Design Review approval under MCC 34.7000 through 34.7065.*

*(C) A Community Service approval shall not be construed as an amendment of the Zoning Map, although the same may be depicted thereon by appropriate color designation, symbol or short title identification. (Ord. 997, Repealed and Replaced, 10/31/2002; 953 §2, Re-org&Renum, 11/30/2000)*

### **§ 34.6015 USES**

(A) Except as otherwise limited in the EFU district, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority.

(B) Allowed Community Service Uses in the EFU district are limited to those uses listed in the district.

(1) Boat moorage, marina or boathouse moorage.

### **§ 34.6005 GENERAL PROVISIONS**

(A) Community Service approval shall be for the specific use or uses approved together with the limitations or conditions as determined by the approval authority.

(B) Uses authorized pursuant to this section shall be subject to Design Review approval under MCC 34.7000 through 34.7065.

(C) A Community Service approval shall not be construed as an amendment of the Zoning Map, although the same may be depicted thereon by appropriate color designation, symbol or short title identification.

(Ord. 997, Repealed and Replaced, 10/31/2002; 953 §2, Reorg&Renum, 11/30/2000)

### **§ 34.6010 APPROVAL CRITERIA**

In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria, \* \* \*

(A) Is consistent with the character of the area;

(B) Will not adversely affect natural resources;

(C) The use will not: (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; nor (2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(D) Will not require public services other than those existing or programmed for the area;

(E) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;

(F) Will not create hazardous conditions;

(G) Will satisfy the applicable policies of the Comprehensive Plan;

(H) Will satisfy such other applicable approval criteria as are stated in this Section. (Ord. 1186, Amended, 10/13/2011; Ord. 997, Repealed and Re-placed, 10/31/2002; Ord. 958, Amended, 02/15/2001; Ord. 953

### **§ 34.6015 USES**

*(A) Except as otherwise limited in the EFU district, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority.*

*Allowed Community Service Uses in the EFU district are limited to those uses listed in the district.*

*(1) Boat moorage, marina or boathouse moorage. \* \* \**

### **DESIGN REVIEW (MCC 34.7000)**

The design review process ensures that all County policies and standards are met. This process applies to all community service uses – including marinas and floating home moorages. The design review standards could be made more specific to address some of the issues raised in Section 2 of this report.

### **§ 34.7000- PURPOSES**

*MCC 34.7000 through 34.7065 provides for the review and administrative approval of the design of certain developments and improvements in order to promote functional, safe, innovative and attractive site development compatible with the natural and man-made environment. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)*

### **§ 34.7005 ELEMENTS OF DESIGN REVIEW PLAN**

*The elements of a Design Review Plan are: The lay-out and design of all existing and proposed improvements, including but not limited to, buildings, structures, parking and circulation areas, outdoor storage areas, landscape areas, service and delivery areas, outdoor recreation areas, retaining walls, signs and graphics, cut and fill actions, access ways, pedestrian walkways, buffering and screening measures. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)*

### **§ 34.7010 DESIGN REVIEW PLAN APPROVAL REQUIRED**

*No building, grading, parking, land use, sign or other required permit shall be issued for a use subject to this section, nor shall such a use be commenced, enlarged, altered or changed until a final design review plan is approved by the Planning Director, under this ordinance. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)*

### **§ 34.7020 APPLICATION OF REGULATIONS**

*(A) Except those exempted by MCC 34.7015, the provisions of MCC 34.7000 through 34.7060 shall apply to all conditional and community service uses, and to specified uses, in any district.*

*(C) Siting and design of all pickup and delivery facilities shall insure maximum convenience with minimum adverse visual impacts. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)*

### **§ 34.7050 DESIGN REVIEW CRITERIA**

*(A) Approval of a final design review plan shall be based on the following criteria:*

*(1) Relation of Design Review Plan Elements to Environment.*

- (a) The elements of the design review plan shall relate harmoniously to the natural environment and existing buildings and structures having a visual relationship with the site.*
- (b) The elements of the design review plan should promote energy conservation and provide protection from ad-verse climatic conditions, noise, and air pollution.*
- (c) Each element of the design review plan shall effectively, efficiently, and attractively serve its function. The elements shall be on a human scale, inter-related, and shall provide spatial variety and order.*
- (2) Safety and Privacy – The design review plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transitions from public to private spaces.*
- (3) Special Needs of Handicapped – Where appropriate, the design review plan shall provide for the special needs of handicapped persons, such as ramps for wheel-chairs and Braille signs.*
- (4) Preservation of Natural Landscape – The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve their functions. Preserved trees and shrubs shall be protected during construction.*
- (5) Pedestrian and Vehicular circulation and Parking – The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures, shall be designed to maximize safety and convenience and shall be harmonious with pro-posed and neighboring buildings and structures.*
- (6) Drainage – Surface drainage systems shall be designed so as not to adversely affect neighboring properties or streets.*
- (7) Buffering and Screening – Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking, and similar accessory areas and structures shall be designed, located, buffered or screened to minimize adverse impacts on the site and neighboring properties.*
- (8) Utilities – All utility installations above ground shall be located so as to minimize adverse impacts on the site and neighboring properties.*
- (9) Signs and Graphics – The location, texture, lighting, movement, and materials of all exterior signs, graphics or other informational or directional features shall be compatible with the other elements of the design review plan and surrounding properties.*
- (B) Guidelines designed to assist applicants in developing design review plans may be adopted by the Planning Commission. (Ord. 997, Repealed and Replaced, 10/31/2002; 953 §2, Re- org&Renum, 11/30/2000)*

**Comment:** Design review standards could be made more specific and objective to address impacts from marina redevelopment and to streamline the review process. See discussion in Section 7 of this report.

## Section 6: Relevant State Agency Plans, Rules and Publications Related to Multnomah Channel

Three state agencies are primarily responsible for regulating marinas and floating homes in Multnomah Channel:

- The Department of State Lands (DSL);
- The Oregon State Marine Board (OSMB); and
- The Oregon Department of Environmental Quality (DEQ).

### Department of State Lands (DSL)

The Oregon Land Board and its administrative arm, the Oregon Department of State Lands (DSL), regulates the placement of structures (marinas, moorages, docks, floats, houseboats, boat houses, recreational cabins, etc.) below the “ordinary high water line” in waters of the state – including the Multnomah Channel. Under Oregon’s land use system, local approval or a determination of land use consistency is required before DSL may enter into leases for commercial uses – or register non-commercial uses – below the ordinary high water of the Multnomah Channel.

DSL’s constitutional authority for managing public land and water comes primarily from [Article VIII, Section 5](#) of the Oregon Constitution, which provides:

*"The board shall manage lands under its jurisdiction with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management."*

According to the DSL website (<http://www.oregon.gov/dsl/LW/Pages/waterway.aspx>) the Land Board and DSL hold these lands in trust for the public (under the "Public Trust Doctrine"). DSL works to clarify title and manage uses of these lands in the public’s best interests to ensure that any uses (for example, marinas, docks, sand and gravel mining, and log rafts) are authorized and pay their fair share as compensation to the public for the use of public land.

ORS [Chapter 274](#) Submerged and Submersible Lands provides more specific guidance regarding the leasing and registration of structures in Multnomah Channel. More detailed management guidance is contained in **OAR Chapter 141, Division 082 Rules Governing the Management of, and Issuing Leases, Licenses and Registration for Structures on, and Use of, State-Owned Submerged and Submersible Land.**

#### **DSL Responsibilities: 141-082-0260 General Provisions**

Division 082 sets forth the purposes of and scope of the administrative rule in regulating structures below the ordinary high water line as follows:

*(1) Pursuant to Oregon law as defined in ORS 274, all tidally influenced and title navigable waterways (referred to as state-owned submerged and/or submersible land) have been placed*

*by the Oregon State Legislature under the jurisdiction of the State Land Board and the Department, as the administrative arm of the State Land Board.*

*(2) The State Land Board, through the Department, has a constitutional responsibility to manage "the lands under its jurisdiction with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management" pursuant to Article 8, Section 5(2) of the Oregon Constitution.*

*(3) State-owned submerged and/or submersible land is managed to ensure the collective rights of the public, including riparian owners, to fully use and enjoy this resource for commerce, navigation, fishing, recreation and other public trust values. These rights are collectively referred to as "public trust rights."*

*(4) No person is allowed to place a structure on, or make use of state-owned submerged and/or submersible land, regardless of the length of time the structure may have existed on, or the use may have occurred on the land, without the required authorization described in these rules, unless the structure or use is exempt from such authorization by law or these rules. Ownership of state-owned submerged and/or submersible land cannot be obtained by adverse possession regardless of the length of time the structure or use has been in existence.*

*(5) All uses of state-owned submerged and/or submersible land must conform to local (including local comprehensive land use planning and zoning ordinance requirements), state and federal laws.*

*(6) **The Department shall not authorize a proposed use or structure if it: (a) Is inconsistent with local, state, or federal laws; (b) Is not in compliance with these rules; (c) Would result in an unreasonable interference with the public trust rights of commerce, navigation, fishing and recreation; (d) Would have unacceptable impacts on public health, safety or welfare, or result in the loss of, or damage to natural, historical, cultural or archaeological resources; (e) Is prohibited by a State Land Board or Department-adopted area closure, use restriction, or waterway management plan (such as the Lower Willamette River Management Plan; a Total Maximum Daily Load Plan; or the Oregon Territorial Sea Plan); (f) Is inconsistent with any endangered species management plan adopted by the Department under the Oregon Endangered Species Act (ORS 496.171 to 496.192); or (g) It extends from the bank of a waterway for a distance that exceeds 25 percent of the width of the waterway, unless authorized by the Director. \* \* \****

*(7) No applicant for, or person holding an authorization from the Department shall request from any government agency a change in the zoning for, or approved uses of a parcel of state-owned submerged and/or submersible land without first applying to, and receiving written approval from the Department to request such a change.*

*(8) When a use or structure subject to written authorization from the Department becomes exempt from written authorization, compensation, or both, by a change in the law or in these*

*rules the holder may terminate the written authorization or allow the written authorization to expire by its terms. If the written authorization is terminated, the holder is not entitled to receive any reimbursement from the Department for any compensation or other fees paid by the holder to the Department under the written authorization prior to expiration or termination.*

**Comment:** During the 2013 SIMC Scoping process and at the Marinas and Floating Homes CAC Subcommittee meeting on December 17, 2013, there was considerable discussion of the Clean Water Act and Endangered Species Act, and how these federal laws should be considered in the review of marina and floating home moorage expansion and redevelopment. (See discussion of new issues in Section 1 of this report.)

DSL has primary responsibility for reviewing development proposals in navigable waterways, and, as noted below, has specific responsibility for carrying out applicable federal law, and implementing the following state plans that help to carry out the CWA and the ESA:

- *Lower Willamette River Management Plan;*
- Any Total Maximum Daily Load Plan;
- The Oregon Territorial Sea Plan);
- Any Endangered Species Management Plan adopted by the Department under the Oregon Endangered Species Act (ORS 496.171 to 496.192).

**Comment:** Multnomah County may not have the resources to effectively implement the provisions of the CWA and the ESA through the Community Service or Special Area Plan review processes. Perhaps this review function should remain with DSL and the County should continue to focus on impacts to neighboring properties, land use, transportation and the Willamette River Greenway.

#### **DSL Definitions Related to Marinas and Floating Homes**

Here are a few useful definitions from **OAR 141-082-0255 Definitions** that could be included in the updated SIMC Plan and implementing zoning provisions.

*(12) "Boat House" means a covered or enclosed structure used to store, shelter, or protect a boat or boats and boating equipment. A structure containing a dwelling does not qualify as a boat house.*

*(13) "Boat Lift" is a device that is used to lift a boat from the water for out-of-water moorage or storage; movement to another location; or to enable maintenance to be conducted on the watercraft.*

*(14) "Boat Ramp" is a specific area that has been improved through the placement of a concrete pad or strips, steel mats, rails, gravel or other similar durable material that is used for the launching of boats into a waterway.*

*(15) "Commercial Marina" is a marina, the operation of which results in, or is associated with any monetary consideration or gain.*

21) *“Dock/Float” means an individual, unenclosed, structure which may either be secured to the adjacent or underlying land or that floats that is used for mooring boats and for similar recreational uses such as sunbathing or as a swimming platform. A structure does not lose its designation as a dock/float if it has an unenclosed recreation area, or includes a second level that is used primarily to protect a boat, but which may also be used for a recreational purpose such as a viewing platform or sunbathing deck.*

(22) *“Dolphin” is a cluster of piles or piling which is bound together.*

(26) *“Floating Home” means a moored floating structure that is used as a dwelling.*

(27) *“Floating Recreational Cabin” is a moored floating structure, only accessible by boat, used wholly or in part as a dwelling, not physically connected to any upland utility services (for example, water, sewer, or electricity), and used only periodically or seasonally.*

(28) *“Gangway” means a walkway or access ramp which connects, and is used exclusively for the purpose of traversing from the upland to the first structure or use subject to an authorization by the Department such as a dock/float, marina, floating home, or boat house.*

(34) *“Incidental Services” include, but are not limited to restrooms, showers, minor boat and motor repair facilities; mooring buoys; refueling facilities; boat hoists/lifts; boat launch ramp; small office for marina management; club house and/or meeting room; vending machines; small retail area for marine, fishing and other outdoor supplies and equipment; ice, packaged beverages and foods; limited service restaurants; and temporary restaurants.*

(36) *“Lease” for the purposes of these rules, is a valid, enforceable contract executed by the Department and signed by the lessee allowing the use of a specific area of state-owned submerged and/or submersible land for a specific use under the terms and conditions of the lease and these rules.*

(39) *“Line of Ordinary High Water” as defined in ORS 274.005, means the line on the bank or shore to which the high water ordinarily rises annually in season.*

(40) *“Line of Ordinary Low Water” as defined in ORS 274.005, means the line on the bank or shore to which the low water ordinarily recedes annually in season.*

(44) *“Marina” means a small harbor, boat basin, or moorage facility providing boat berthing, docking and mooring, and incidental services for recreational, commercial and/or charter fishing boats.*

(46) *“Mooring Buoy” means a floating device anchored to the bed of a waterway to which a boat is fastened through the use of lines or ropes for the purpose of mooring the boat in a stationary position in the water.*

(49) *“Non-Marine Uses” means structures or uses, typically commercial or residential, which do not need to be located in or adjacent to water areas. Such structures and uses include, but are not limited to: apartments, hotels, motels, residences, restaurants, offices, retail stores, manufacturing plants, and warehouses.*

(50) *“Non-Commercial” means a use which does not result in and/or is not associated with any monetary consideration or gain. For example, a use which includes the renting, leasing, or sale of space would not qualify as “non-commercial.”*

(53) *“Ownership-Oriented Facility” means non-commercial facilities where the access and privilege to use is limited to a membership group of persons who pay dues or fees of some type to maintain membership and to operate the facility.*

(61) *“Public Facility License” is a form of authorization issued by the Department for structures owned, operated, and maintained, or uses made, by a public agency such as transient use docks/floats, boat ramps, boat landings and/or viewing structures where no or minimal entry or use fees are charged; and navigation aids.*

(62) *“Public Trust Use(s)” means those uses embodied in the Public Trust Doctrine under federal and state law including, but not limited to navigation, recreation, commerce and fisheries, and other uses that support, protect, and enhance those uses. Examples of Public Trust Uses include, but are not limited to, short term moorage, camping, bank fishing, picnicking, and boating.*

(66) *“Residential Use” means an activity conducted on, in, or over state-owned submerged and/or submersible land devoted to, or available for single or multiple dwelling units, single-family homes, floating homes, apartments or condominiums.*

(70) *“State Land Board” means the constitutionally created body consisting of the Governor, Secretary of State, and State Treasurer that is responsible for managing the assets of the Common School Fund as well as for additional functions placed under its jurisdiction by law. The Department is the administrative arm of the State Land Board.*

(71) *“Structure” means anything placed, constructed, or erected on, in, under or over state-owned submerged and/or submersible land that is associated with a use that requires a waterway use authorization. A “structure” includes a ship, boat, or vessel occupying state-owned submerged and/or submersible land.*

(73) *“Submerged Land” means land lying below the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.*

(74) *“Submersible Land” means land lying between the line of ordinary high water and the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.*

*(77) “Transient Use” means any commercial use of state-owned submerged and/or submersible land which is of a short or intermittent duration, and not more than fourteen (14) consecutive days in any one (1) location or area; or any non-commercial use of state-owned submerged and/or submersible land which occurs for less-than or equal-to thirty (30) calendar days during any contiguous 12-month time period, within a distance of five miles.*

*(80) “Voluntary Habitat Restoration Work” means the same as set forth in ORS 274.043(4) (d). Voluntary habitat restoration work does not include: (a) Activities undertaken to satisfy any actual or potential legal obligation; (b) Activities for which the person undertaking the work receives compensation of any kind to do the work; or (c) Work completed by an entity to satisfy an environmental mitigation obligation or to generate, sell or obtain credit as an offset against actual or potential natural resource damages liability.*

**Comment:** SIMC Policy 12 calls for uniform set of definitions related to marinas and floating homes for use in the SIMC Plan. Since DSL has primary responsibility for regulating and leasing land within the Multnomah Channel, the project team suggests incorporating some DSL definitions in to the SIMC Plan. Notably, DSL considers commercial and residential uses (including floating homes) to be a “non-marine use” – because these uses do not “need to be located in or adjacent to water areas.” However, the County has historically interpreted floating home moorages to be a “water-dependent use.

## Relevant OSMB plans and publications

The Oregon State Marine Board (OSMB) is responsible for licensing and issuing plates for floating homes and boathouses. OSMB also regulates boater safety and operations (*e.g.*, speed and noise), and the spread of aquatic invasive species based on ORS 830 Small Watercraft.

### ORS 830 Small Watercraft

Oregon Revised Statutes (ORS) Chapter 830 sets forth OSMB’s responsibilities for regulating boating operations and safety. ORS 830.850-870 specially address the licensing of Floating Homes and Boat Houses.

- Boater Safety (ORS 830.082-172)
- Boating Operations – Navigation Rules, Swim Areas, Surf Boarding, etc. (ORS 830.300-394)
- Noise (ORS 830.370)
- Floating Homes & Boat Houses Title & Licensing (ORS 830.850-870)
- Invasive Aquatic Species (ORS 830.850-870)
- Submersible Polystyrene (ORS 830.950-955)
- Seaplanes (ORS 835.200-210)

**Comment:** Policies 6-9 of the 1997 SIMC Plan call for the County to “recommend” regulatory changes to the OSMB related to channel safety, boating licensing, law enforcement and noise impacts. These policies could be combined into a single coordination policy.

## Section 7: Proposed Multnomah Channel Marinas and Moorages Policy Framework

### Preliminary Recommendations to Resolve Issues Identified in Section 1

As noted in Section 1 of this report, the Subcommittee generally agreed that attention should be focused on “key issues”. The following *key issues* are identified (or clarified and made more specific) below and recommended policy alternatives and solutions are provided below:

#### *A. Need to define “rural character” specifically for the Multnomah Channel – which has a different character than Sauvie Island itself.*

**Recommendation:** The Vision Statement above defines rural character as this term applies to the Multnomah Channel Area. The project team recommends that the Subcommittee refine this vision statement and forward it to the full CAC for review.

#### *B. Need to clarify whether Policy 6A Urban and Rural Reserves limits the ability of marina owners to redevelop as “community service” uses in the MUA-20 Zone.*

**Background:** When the 1997 SIMC Plan was adopted, there were three ways to allow for the establishment and modification of marinas and floating home moorages:

1. **Through the Policy 10 and WRG process.** This “reconciliation” process allowed individual marinas to provide evidence and confirm the location and intensity of marina and floating home moorage uses with a 1997 baseline. This process has been used for many marinas over the last 16 years – most recently with Larson’s Marina. After a marina has gone through the Policy 10 reconciliation process, a Willamette River Greenway (WRG) permit is still required.
2. **Through the CU/CS and WRG review processes.** This process has been used to establish and modify existing marinas. For example, in 1993, the County approved additional floating homes in the Rocky Pointe Marina through this process.
3. **Through the Special Area Plan process.** The SAP process allows the county to work with an individual property owner to prepare a master development plan that addresses natural resource, recreational, public facility, transportation and neighborhood impact issues. In 2010, Rocky Pointe Marina unsuccessfully applied for special area plan approval to increase density beyond the one floating home per 50 feet of shoreline standard.

All of these processes require DSL approval of an in-water lease. To grant a lease, DSL must demonstrate that federal ESA and CLA laws (as implemented through Oregon plans) are met.<sup>5</sup>

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<sup>5</sup> As noted in DSL rules:

*(6) The Department shall not authorize a proposed use or structure if it: (a) Is inconsistent with local, state, or federal laws; (b) Is not in compliance with these rules; (c) Would result in an unreasonable interference with the public trust rights of commerce, navigation, fishing and recreation; (d) Would have unacceptable impacts on public health, safety or welfare, or result in the loss of, or damage to natural, historical, cultural or archaeological resources; (e) Is prohibited by a State Land Board or Department-adopted area closure, use restriction, or waterway management plan (such as the Lower Willamette River Management Plan; a Total Maximum Daily Load Plan; or the Oregon Territorial Sea Plan); (f) Is inconsistent with any endangered species management plan adopted by the*

Things changed after 2000.

- In 2000, the Land Conservation and Development Commission amended its rules related to goal exceptions to address the Goal 14 *Urbanization* requirement that urban level densities occur within urban growth boundaries.<sup>6</sup> This rule specifies that residential development shall not occur at densities above one unit per two acres outside UGBs.

When Rocky Pointe Marina applied to expand its floating home moorage space in 2010, the County interpreted this rule to apply to floating homes in the Multnomah Channel.

- In 2012, Multnomah County assigned a Rural Reserve designation to the Island. This designation is implemented by Policy 6A – which limits changes to zoning that allow higher densities. Policy 6A *may* prohibit Goal 14 exceptions – which are plan amendments that increase rural densities to more than one unit per two acres.

**Policy Issue:** As the above discussion demonstrates, redevelopment of marinas in Multnomah Channels MUA-20 zone presents serious legal questions with respect to redevelopment of existing marinas as floating home moorages – even if the footprint of the marina does not get bigger. With these questions in mind, it would be helpful if the Subcommittee could make a recommendation to the CAC regarding redevelopment of existing marinas to include additional floating home moorages. That is to say, if legal issues can be satisfactorily addressed, should the County allow redevelopment of existing marinas that substitute floating homes for boat slips?

If the Subcommittee has a preference for allowing such redevelopment, land use applications would still need to meet Policy 10 and applicable zoning ordinance provisions (MCC 34.6000 Community Service Uses, MCC 34.5000 Willamette River Greenway, MCC 34.6750 Waterfront Development, and MCC 34.7000 Design Review) – as well as meeting Division of State Lands leasing requirements (which, in turn, must address meet state and federal ESA and CWA requirements).

What is less clear is whether a Goal 14 exception is always required and, if so, whether the exception is prohibited by Policy 6A *Urban and Rural Reserves*. If the Subcommittee recommends that redevelopment of existing marinas be allowed, then County staff will continue to research the legal questions presented above and get back to the full CAC with the results of this research.

### ***C. Need standardized definitions for the terms related to marinas used in the SIMC Plan.***

**Recommendation:** SIMC Policy 12 calls for standardization of definitions. As a complement to existing definitions found in the SIMC Plan and zoning code, the following DSL and OSMB definitions are recommended for the Subcommittee’s consideration:

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*Department under the Oregon Endangered Species Act (ORS 496.171 to 496.192); or (g) It extends from the bank of a waterway for a distance that exceeds 25 percent of the width of the waterway, unless authorized by the Director.*

<sup>6</sup> OAR 660-0040 *Application of Goal 14 to Rural Lands* was adopted by the Land Conservation and Development Commission (LCDC) in 2000. This section of the rule implements the Oregon Supreme Court’s 1986 ruling in *1000 Friends of Oregon v. LCDC*, 301 Or 447 (Curry County) which determined that one-acre lots in Curry County violated Goal 14’s requirement that urban-level development occur within urban growth boundaries.

### County Code Definitions Related to Floating Homes and Marinas:

- **Dwelling Unit** – A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- **Habitable dwelling** – An existing dwelling that: (a) Has intact exterior walls and roof structure; (b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system; (c) Has interior wiring for interior lights; (d) Has a heating system; and (e) Was lawfully established.
- **Lawfully established dwelling** – A dwelling that was constructed in compliance with the laws in effect at the time of establishment. The laws in effect shall include zoning, land division and building code requirements. Compliance with Building Code requirements shall mean that all permits necessary to qualify the structure as a dwelling unit were obtained and all qualifying permitted work completed.
- **Structure** – That which is built or constructed. An edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.
- ~~**Houseboat** shall mean any floating structure designed as a dwelling for occupancy by one family and having only one cooking facility. [Suggest deleting this definition and substituting DSL definition below.]~~
- ~~**Houseboat moorage** shall mean the provision of facilities for two or more houseboats.~~

### Suggested Floating Home Moorage Definition

- **Floating Home Moorage** shall mean a moorage facility for one or more floating homes conducted on, in, or over state-owned submerged and/or submersible land devoted to, or available for floating homes, and approved for floating home use by the Department of State Lands.

### Complementary DSL Definitions

- **“Boat House”** means a covered or enclosed structure used to store, shelter, or protect a boat or boats and boating equipment. A structure containing a dwelling does not qualify as a boat house.
- **“Boat Lift”** is a device that is used to lift a boat from the water for out-of-water moorage or storage; movement to another location; or to enable maintenance to be conducted on the watercraft.
- **“Boat Ramp”** is a specific area that has been improved through the placement of a concrete pad or strips, steel mats, rails, gravel or other similar durable material that is used for the launching of boats into a waterway.
- **“Commercial Marina”** is a marina, the operation of which results in, or is associated with any monetary consideration or gain.

- **“Dock/Float”** means an individual, unenclosed, structure which may either be secured to the adjacent or underlying land or that floats that is used for mooring boats and for similar recreational uses such as sunbathing or as a swimming platform. A structure does not lose its designation as a dock/float if it has an unenclosed recreation area, or includes a second level that is used primarily to protect a boat, but which may also be used for a recreational purpose such as a viewing platform or sunbathing deck.
- **“Dolphin”** is a cluster of piles or piling which is bound together.
- **“Floating Home”** means a moored floating structure that is used as a dwelling. [NOTE: Suggest replacing MCC definition with DSL definition.]
- **“Gangway”** means a walkway or access ramp which connects, and is used exclusively for the purpose of traversing from the upland to the first structure or use subject to an authorization by the Department such as a dock/float, marina, floating home, or boat house.
- **“Incidental Services”** include, but are not limited to restrooms, showers, minor boat and motor repair facilities; mooring buoys; refueling facilities; boat hoists/lifts; boat launch ramp; small office for marina management; club house and/or meeting room; vending machines; small retail area for marine, fishing and other outdoor supplies and equipment; ice, packaged beverages and foods; limited service restaurants; and temporary restaurants.
- **“Lease”** for the purposes of these rules, is a valid, enforceable contract executed by the Department and signed by the lessee allowing the use of a specific area of state-owned submerged and/or submersible land for a specific use under the terms and conditions of the lease and these rules.
- **“Line of Ordinary High Water”** as defined in ORS 274.005, means the line on the bank or shore to which the high water ordinarily rises annually in season.
- **“Line of Ordinary Low Water”** as defined in ORS 274.005, means the line on the bank or shore to which the low water ordinarily recedes annually in season.
- **“Marina”** means a small harbor, boat basin, or moorage facility providing boat berthing, docking and mooring, and incidental services for recreational, commercial and/or charter fishing boats.
- **“Mooring Buoy”** means a floating device anchored to the bed of a waterway to which a boat is fastened through the use of lines or ropes for the purpose of mooring the boat in a stationary position in the water.
- **“Non-Marine Uses”** means structures or uses, typically commercial or residential, which do not need to be located in or adjacent to water areas. Such structures and uses include, but are not limited to: apartments, hotels, motels, residences, restaurants, offices, retail stores, manufacturing plants, and warehouses. [NOTE: Apparent contradiction with the idea that floating home moorages are water-dependent uses.]

- **“Public Facility License”** is a form of authorization issued by the Department for structures owned, operated, and maintained, or uses made, by a public agency such as transient use docks/floats, boat ramps, boat landings and/or viewing structures where no or minimal entry or use fees are charged; and navigation aids.
- **“Public Trust Use(s)”** means those uses embodied in the Public Trust Doctrine under federal and state law including, but not limited to navigation, recreation, commerce and fisheries, and other uses that support, protect, and enhance those uses. Examples of Public Trust Uses include, but are not limited to, short term moorage, camping, bank fishing, picnicking, and boating.
- **“Residential Use”** means an activity conducted on, in, or over state-owned submerged and/or submersible land devoted to, or available for single or multiple dwelling units, single-family homes, floating homes, apartments or condominiums.
- **“State Land Board”** means the constitutionally created body consisting of the Governor, Secretary of State, and State Treasurer that is responsible for managing the assets of the Common School Fund as well as for additional functions placed under its jurisdiction by law. The Department of State Lands is the administrative arm of the State Land Board.
- **“Structure”** means anything placed, constructed, or erected on, in, under or over state-owned submerged and/or submersible land that is associated with a use that requires a waterway use authorization. A “structure” includes a ship, boat, or vessel occupying state-owned submerged and/or submersible land.
- **“Submerged Land”** means land lying below the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.
- **“Submersible Land”** means land lying between the line of ordinary high water and the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.
- **“Transient Use”** means any commercial use of state-owned submerged and/or submersible land which is of a short or intermittent duration, and not more than fourteen (14) consecutive days in any one (1) location or area; or any non-commercial use of state-owned submerged and/or submersible land which occurs for less-than or equal-to thirty (30) calendar days during any contiguous 12-month time period, within a distance of five miles.
- **“Voluntary Habitat Restoration Work”** means the same as set forth in ORS 274.043(4) (d). Voluntary habitat restoration work does not include: (a) Activities undertaken to satisfy any actual or potential legal obligation; (b) Activities for which the person undertaking the work receives compensation of any kind to do the work; or (c) Work completed by an entity to satisfy an environmental mitigation obligation or to generate, sell or obtain credit as an offset against actual or potential natural resource damages liability.

### Complementary OSMB Definitions:

The following definitions are excerpted from the *Oregon Boaters Guide*:

- **Slip** A space to moor or store a boat.
- **Open (Wet) Slip** A slip that is not covered, and therefore unprotected from the elements (wind, rain, etc.).
- **Covered Slip** A slip which is covered, e.g. by a wooden structure, to protect boats from the elements.
- **Dry Storage** A space where the boat is out of the water; includes dry moorage as well as dry storage spaces.
- **Transient Dock** A float where boats can moor for a short period of time; usually broadside moorage.

*D. Need to coordinate with ODOT Rail and railroad companies regarding long oil trains that block normal and emergency road access to marinas; a related need to have an emergency plan to address spills – especially in cases where a spill is combined with road blockage.*

**Recommendation:** The project team suggests forwarding the concern to the Multnomah County Office of Emergency Management for consideration for the Emergency Management Plan update.

*E. Should Policy 10 process be completed in order to establish a baseline for future land use applications along the Multnomah Channel?*

**Recommendation:** Policy 10 was adopted by the County Board in 1997 as a means of recognizing existing (but not necessarily permitted) floating home moorages. As noted in comments about Policy 10 in Section 5 of this report, some – but not all – eligible marinas and floating home moorages have taken advantage of this measure over the last 15 years. Marinas that have gone through the Policy 10 process are deemed permitted (as opposed to non-conforming) uses.

Completion of the Policy 10 process would establish a baseline for future applications to redevelop existing marinas within the marina's permitted footprint through the CU/CSU/WRG/DR (conditional use/community service use/Willamette River Greenway/Design Review) public hearing process. Individual marinas would also have the option of applying separately for recognition of existing marina uses and footprints under Policy 10. The subcommittee should formulate potential policy directions.

*Once permit status has been determined through Policy 10, there is a need to streamline and clarify the permitting process for redevelopment of marinas within their existing footprints for floating home moorages.*

- 1. Need to clarify whether additional floating homes are permitted consistent with rules related to Goal 14 exceptions and Policy 6A Urban and Rural Reserves.*
- 2. Need to ensure that floating homes meet building code (plumbing, electrical and structural permits) and fire and life safety code standards.*
- 3. Need to ensure that redevelopment of existing marinas is consistent with the Endangered Species Act and Clean Water Act.*
- 4. Need to determine which agency (agencies) is primarily responsible for implementing the Clean Water Act and Endangered Species act along the channel. Multnomah County, the City of Portland (under contract with Multnomah County), the Oregon Department of State Lands and the Oregon Department of Environmental Quality all have some responsibility.*
- 5. Need to clarify how the County's Willamette River Greenway provisions apply, in practice, to redevelopment proposals for existing marinas, and to define the terms "water-dependent" and "water-related" as they apply to proposed WRG developments.*

**Recommendation:** This issue was raised repeatedly in the Scoping process last year and by CAC and Subcommittee members. The project team suggests the following process:

If the Subcommittee reaches consensus that existing marinas should be allowed to redevelop as floating home moorages, then staff will research Issues F1-F5 and get back to the full CAC with a recommendation on how to proceed.

- F. Need to address the issue of live-aboard boats being used as permanent residences. There are indications that many marinas have live-aboards that are being used as permanent residences. Overall residential density is an important consideration when considering allowed uses in zoning districts especially in areas outside of the Urban Growth boundary that have been designated as a Rural Reserve area. Additionally, problems associated with live-aboard boats are identified, especially electrical hazards and lack of sanitary systems. Corollary needs include: (A) Need to monitor and enforce DEQ and County water quality regulations within the channel. (B) Need to give Portland BDS the authority to apply and enforce sanitary and electrical standards to live-aboards. (C) Need to limit the time period for occupancy of live-boards that function as dwelling units.*

**Recommendation:** The Subcommittee expressed desire to allow live-aboards generally and keep the focus on health and safety issues. So, it may be appropriate to consider the overall number of

residences at moorages inclusive of live-aboards while considering Policy 10 (as discussed in E above) and as part of any consideration of redevelopment within existing footprints (as discussed in F above). Additionally, the Subcommittee seemed to have reached consensus that live-aboards presented substantial problems with respect to water quality (waste disposal), electric shock hazards, and visual appearance. The project team suggests that all live-aboard boats be required to meet building and fire and life safety requirements applicable to floating homes in the Multnomah Channel.

#### [Summary of Progress Made at January 21, 2014 Subcommittee Meeting](#)

The Marinas and Floating Homes made substantial progress in resolving many of the issues raised in Section 1. Notably, the Subcommittee seems to have agreed on the following policy issues:

1. DSL definitions related to marinas and floating homes should be incorporated into the SIMC Plan and implementing land use regulations.
2. No new marinas or moorages should be approved outside the footprint of existing DSL lease areas.
3. New floating homes permitted through the Policy 10 or the CSU review process must meet building, fire and life safety codes applicable to other dwellings in Multnomah County.
4. Floating home moorages must meet DEQ sewage disposal requirements administered by the Portland Bureau of Environmental Services.
5. The Special Area Plan process is no longer valid as a tool to increase densities (beyond the 50' lineal shoreline standard) for floating homes because of the Rural Reserve designation.
6. All marina redevelopment / reconfiguration proposals must meet state and federal water quality and Endangered Species Act requirements – probably through DSL lease review (rather than the county's land use review) process.
7. Floating home moorages must meet Willamette River Greenway and design review standards.
8. Live-aboards should meet international boating standards for sanitation and safety.

On the other hand, there are several issues that will require further discussion by the Subcommittee; a third Subcommittee is being scheduled specifically to address the three unresolved issues outlined below.

The project team recommends that the CAC avoid taking a position until the Subcommittee has had time to offer its recommendations on the following unresolved issues:

1. **Is a Goal 14 Exception required to allow redevelopment / reconfiguration of existing marinas to allow floating homes at “urban densities” outside of urban growth boundaries? And if so, does the Rural Reserve designation preclude application for a Goal 14 exception in the first place?** This issue is complicated; the following timeline underscores some of this complexity:
  - a. **1981:** Multnomah County comprehensive plan and zoning regulations are acknowledged as complying with most of the Statewide Planning Goals. The County took a Goal 2 “built and committed” exception to exempt land within the MUA-20 zone from compliance with some Goal 3: Agricultural Land requirements. The MUA-20 zone establishes a 20-acre minimum lot size but allows existing lots of record to have a house. The MUA-20 zone allows floating home moorages through the community service use (CSU) review process.

- b. **1996:** The Oregon Supreme Court (*1000 Friends v. Curry County*) found that rural residential densities of one unit per acre were urban in character and therefore violated Goal 14 (Urbanization) requirements to confine urban density residential development to land within urban growth boundaries (UGBs).
- c. **1997:** Multnomah County amended Policy 26 of the Multnomah County Comprehensive Plan to expand the listing of sites where floating home moorages may be approved over the Multnomah Channel. This policy was also revised in 1997 to ensure consistency with Policy 10 of the SIMC Plan. Section 2.C. of this policy require that applications to locate or expand floating home moorages meet the following criteria reads:
  1. *The mean low water line exceeds five feet;*
  2. *The moorage area should be protected from siltation problems which might require costly dredging to achieve the proper water depth;*
  3. *The moorage is adequately protected from the adverse effects of wind, wave action, icy conditions, and other hazards;*
  4. *Adequate land area exists to accommodate parking and any accessory building requirements;*
  5. *The proper maintenance and operation of dikes, as determined by the army corps of engineers is not adversely affected by the moorage;*
  6. *The upland area adjacent to the moorage does not have unique recreational, ecological or wildlife habitat value;*
  7. *The upland area adjacent to the moorage is not zoned for exclusive agricultural use; and*
  8. *The procedures for which Multnomah County will determine the status of existing moorage/marina uses in the Multnomah Channel as given in Policy 10 of the "Sauvie Island/Multnomah Channel Rural Area Plan," adopted October 30, 1997, by Ordinance No. 887.*
- d. **1997:** Multnomah County adopts zoning regulations for the SIMC Planning Area – including MCC 34.6750 Floating Home Moorages. In addition to requiring compliance with Policy 26 and conformance with community service use (CSU) criteria, this ordinance includes the following standards:
 

*The maximum density of houseboats shall not exceed one for each 50 feet of waterfront frontage. The Hearings Officer in approving a houseboat moorage may reduce the density below the maximum allowed upon finding that: (A) Development at the maximum density would place an undue burden on school, fire protection, water, police, road, basic utility or any other applicable service. (B) Development at the maximum density would endanger an ecologically fragile natural resource or scenic area.*
- c. **2000:** The Land Conservation and Development Commission (LCDC) amended its rules (OAR Chapter 660, Division 004) to prohibit rural residential lot sizes smaller than two acres. However, the rule is silent regarding floating homes that are not located on “land.” Moreover, the Multnomah Channel (a navigable waterway) does not have “lots”.
- d. **2001:** The Rocky Point Marina began the application process to increase the number of floating homes and expand the moorage.

- e. **2010:** DLCD staff provides a letter to the County stating that it could interpret its ordinances to apply to density floating home moorages.
  - f. **2010:** Later that year, Multnomah County approved a Goal 14 exception to allow expansion and reconfiguration of the Rocky Point Marina – which resulted in one floating home per 50 feet of shoreline (consistent with MCC 34.6750).
  - g. **2012:** Multnomah County adopted a Rural Reserve designation to the entire SIMC Planning Area – including MUA-20 land on either side of the Multnomah Channel. County Policy 6-A prohibits changes to the zoning (e.g., approval of a Special Area Plan district) that would increase densities in Rural Reserve areas. However, the Rural Reserve designation did not change existing zoning standards, such as MCC 34.6750 which allows one floating home per 50 feet of shoreline.
  - h. **2013:** The SIMC Plan update process begins. It soon becomes clear that redevelopment of marinas as floating home moorages is a major issue – and may be precluded by Policy 6-A.
  - i. **2014:** Fred’s Marina submitted a request for a planning director’s interpretation regarding (1) whether a Goal 14 exception is required to proceed with a proposal to redevelop an existing marina to allow floating homes; and (2) whether the Rural Reserve designation prohibits a Goal 14 exception. This interpretation request is now before the County planning director.
2. **If redevelopment / reconfiguration of an existing marina is allowed within the existing marina footprint, how should the footprint be determined?** Options include basing the footprint on:
- a. The approved DSL lease area? This option is preferred by most marina owners and is easy to measure.
  - b. The lineal feet of dock within the DSL approved lease area? This option is also easy to measure based on approved DSL leases.
  - c. The approved shaded area within the DSL approved lease area? This option was suggested because impacts to fish habitat are in part a function of shaded area. However, the existing shaded area may be different from the approved potential shaded area; for example, if DSL has approved slips for boat houses (as opposed to floating homes), the approved shaded area could be much greater than the existing shaded area.
3. **How should limited road access and rail crossings be considered?** The marinas along Highway 30 have only one access – and this access crosses a railroad that is busier than it used to be. Marina owners have helped pay for the railroad crossings to increase safety. Policy options include (a) connecting Marina Way under the bridge so there are two ways in and out of Marina; (b) limiting new floating home moorages because of access limitations; (c) seeking through state and federal partners to limit train stoppages that block access to marinas served by Marina Way on both sides of the bridge.

### Alternative Issue Resolution Recommendations

To be determined by the Marinas and Floating Home Moorages Subcommittee at its final subcommittee meeting.

### Proposed Multnomah Channel Marinas & Moorages Policies and Implementation Strategies

Recommended policies and implementation strategies will include a combination of existing and modified SIMC policies, and proposed new policies.

- Draft policy and implementation strategy recommendations will be based on input on “key issues” from the Marinas and Floating Home Moorages Subcommittee at its January 21, 2014.
- The draft policies and implementation strategies will be provided to Subcommittee members for review and comment prior to providing a final draft for full CAC review on February 11, 2014.

## Section 8: Subcommittee Meeting Process

### Agendas

Public  
Meeting Program



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### Sauvie Island/Multnomah Channel Rural Area Plan and Transportation System Plan Updates Marinas and Moorages Subcommittee

Subcommittee Agenda  
Tuesday, December 17, 2013  
3:00 – 5:00 p.m.  
Multnomah Building – 501 SE Hawthorne Blvd., Portland 97214  
1<sup>st</sup> Floor Board Room (Room 112)

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3:00-3:10 p.m.	<b>Introduction</b> <ul style="list-style-type: none"><li>• Welcome</li><li>• Introductions -(team, subcommittee, invitees, members of public)</li><li>• Packet materials</li></ul>
3:10-3:20 p.m.	<b>Relationship of the subcommittee to the Full CAC and other decision makers</b>
3:20-3:30 p.m.	<b>The Subcommittee's Charge</b> <ul style="list-style-type: none"><li>• Problem-solving technical committee</li><li>• Identify issues and suggest policy solutions to these issues</li><li>• Identify points where consensus is not reached and why</li><li>• Assist in presentation of subcommittee recommendations to the full CAC</li></ul>
3:30-3:50 p.m.	<b>Existing Facilities &amp; Master Plans Public</b> <ul style="list-style-type: none"><li>• Overview of existing plans and policies.</li><li>• Relationship to applicable State regulations</li></ul>

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## Sauvie Island/Multnomah Channel Rural Area Plan and Transportation System Plan Updates Marinas and Moorages Subcommittee #2

### Subcommittee Agenda

Tuesday, January 21, 2014

3:00 – 5:00 p.m.

501 SE Hawthorne Blvd., Portland, Room 112

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3:00-3:15 p.m.

#### Introduction

- Welcome
  - Introductions -(team, subcommittee, invitees, members of public)
  - Packet materials
- 

3:15-4:15 p.m.

#### Policy Discussion

- Review of background document
  - Reach consensus on potential new policies
- 

4:15-4:50 p.m.

#### Next Steps

- Edit and refine policies and background document information
  - Assist in presentation of subcommittee recommendations to the full CAC
- 

4:50-5:00 p.m.

#### Adjourn

- Next Meeting- CAC #4- Marinas and Moorages (February 11<sup>th</sup> 6:00- 8:30 PM) Sauvie Island Grange Hall.
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## Sauvie Island/Multnomah Channel Rural Area Plan and Transportation System Plan Updates Marinas and Moorages

Community Advisory Committee Agenda  
Tuesday, February 11, 2014  
6:00 – 8:30 p.m.  
Sauvies Island Grange #840 (14443 NW Charlton Road)

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6:00-6:15 p.m.	<b>Introduction</b> (Welcome and Introductions)
6:30-7:00 p.m.	<b>Background Document Overview</b> <ul style="list-style-type: none"><li>• Background Report Review</li><li>• Subcommittee Recommendations on Key Issues</li></ul>
7:00 8:00	<b>Overview of Unresolved Issues</b> (Memo to be provided) <ul style="list-style-type: none"><li>• Shading effects on fish habitat (HIOAA presentation)</li><li>• How to determine “existing footprint” (DSL lease area, lineal feet of dock, existing shade)</li><li>• Goal 14 Exception &amp; Rural Reserves (is an exception necessary to allow floating homes at “urban densities)</li><li>• Policy 10 Validation Process (how is it working?)</li><li>• Access &amp; Trails</li></ul>
8:00-8:15 p.m.	<b>Public Comments</b>
8:15-8:30	<b>Wrap Up</b> <ul style="list-style-type: none"><li>• Third Marinas &amp; Floating Home Subcommittee Meeting to Address Key Unresolved Issues</li><li>• Overall CAC &amp; Subcommittee Meeting Schedule</li></ul>

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## Sauvie Island/Multnomah Channel Rural Area Plan and Transportation System Plan Updates Marinas and Moorages Subcommittee #3

Subcommittee Agenda  
Tuesday, March 25, 2014  
3:00 – 5:00 p.m.  
501 SE Hawthorne Blvd., Portland, Room 112

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3:00-3:10 p.m.

### Introduction

- Welcome
  - Introductions -(team, subcommittee, invitees, members of public)
- 

3:10-4:45 p.m.

### Policy Discussion

- Reach consensus on policy direction
  - Public Comment
- 

4:45-5:00 p.m.

### Next Steps

- Edit and refine policies and background document information
  - Assist in presentation of subcommittee recommendations to the full CAC
- 

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## Meeting Summaries

Department of Community Services  
Land Use and Transportation Planning Program  
www.multco.us/landuse



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### MEETING SUMMARY: Marinas and Moorages Subcommittee Meeting

#### #1:

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**Project:** Sauvie Island/Multnomah Channel Rural Area/Transportation System Plan Update

**Date:** 12/17/2013

**Time:** 3:00 p.m. - 5:00 p.m.

**Location:** Multnomah Building, Room 112; 501 SE Hawthorne Blvd., Portland, Oregon

**Present:** Subcommittee members, Multnomah County staff, Winterbrook Planning, General Public

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A meeting was held at the Multnomah Building at 3:00 PM on Tuesday, December 17th to discuss Marinas and Moorages. The following is a brief meeting summary that highlights the major items discussed and any agreed upon action items that were identified during the meeting.

#### Introduction:

The meeting began with Kevin Cook, County Staff, introducing the meeting and its intention. The primary theme of the meeting was Marinas and Moorages. Kevin discussed the background document including a brief synopsis of existing policy and key marina and floating home issues raised during the scoping phase of the project.

The following issues, topics, and concerns were raised:

- Natural hazard references (page 4 of issues document noted as example) should be extended to include human induced hazards. Examples provided included train derailment and simply parking of trains which can block ingress / egress.
- Clarification requested on 1<sup>st</sup> bullet, p. 4 of issues paper – Marinas are urban character, not rural. It was noted that 1<sup>st</sup> bullet and 3<sup>rd</sup> bullet on p. 4 (concern for maintaining rural character) and (strong desire for better accommodations for bicycle and pedestrians) are not applicable to moorage / marina setting.
- Channel development has a sense of community which is difficult to tell as viewed from the road.
- Comment was made that Policy 26/10 probably not well thought out and crafted towards the end of the process.
- Staff explained current state of records complicates effort to quickly or easily detail level of development approved and existing on the channel. Members of the committee expressed interest in assisting staff.
- A need was voiced for clarity if and how the Rural Reserve designation impacts the ability for operations to add density.
- County staff discussed existing policy on live aboard boats which are only referenced in passing within the plan. It was indicated that there was a need to distinguish between floating homes and live aboard boats and better definitions of each are needed. Concern was raised that live aboard boats can be dangerous when grounded through the water – poses a risk of shock to swimmers and kayakers. Policy should be

developed to reduce this risk. There seemed to be general consensus among the subcommittee for policies to help the community move away from live aboard development.

- Transient live aboard boats moored in channel is problematic. County Sheriff doesn't have authority to conduct a census of what is in the channel but is working with Department of State lands on the issue since this is an issue of statewide applicability.
- Need for standardization regarding max allowable time a live aboard can be occupied and what type of facilities should be required for live-aboards that are to be utilized for a period of time.
- Concept was discussed of just allowing increase in residential density inside existing footprints. There seemed to be general support for this type of approach if not prohibited by the Reserves program.
- Lack of reference in current policies to the Endangered Species Act was viewed as problematic. It was noted that waterways and riparian habitat contributes to water quality and housing was not a water-dependant use.
- Converting space to some other use in-water can have upland impacts which should be considered. The example was provided of removing in-water boat slips to provide for floating housing which could have upland impacts if boats which previously were stored in-water are now dry stacked on land.
- It was noted that although the county does not define what is water dependent vs. water related that other agencies may.
- Illegal dumping of sewage was a point of concern to many on the subcommittee. It can be difficult to identify source location or to enforce due to no clear regulations in place. A representative from DEQ indicated that TMDL (Total Daily Maximum Loads) is a state criteria and the county has to have a plan to deal with effluent.
- It was noted that density drives many other issues related to potential impacts.
- A request was made to standardize review process and clarify definitions to improve permitting process and minimize need for owners to pay attorney fees.
- A request was made for the county to amend policy to require a fewer number of parking spaces. Current code requires too many parking spaces.
- Invasive species and bank erosion are also concerns.
- Composting toilets may be helpful to address live aboard sewage disposal?
- Multnomah Channel is also an airport (although not specifically noted, staff believes this reference was in response to sea planes?)
- The committee seemed to agree that Portland's title 28 building regulations should be adopted by the county.
- DSL could provide the county with maps of existing lease areas to aid updating existing conditions information.

## MEETING SUMMARY: Marinas and Moorages Subcommittee Meeting #2:

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**Project:** Sauvie Island/Multnomah Channel Rural Area/Transportation System Plan Update

**Date:** 1/21/2014

**Time:** 3:00 p.m. - 5:00 p.m.

**Location:** Multnomah Building, Room 112; 501 SE Hawthorne Blvd., Portland, Oregon

**Present:** Subcommittee members, Multnomah County staff, Winterbrook Planning, General Public

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A meeting was held at the Multnomah Building at 3:00 PM on Tuesday, January 21<sup>st</sup> to discuss Marinas and Moorages. The following is a brief meeting summary that highlights the major items discussed and agreed upon action items that were identified during the meeting.

### Introduction:

The meeting began with Facilitator, Doug Zenn introducing the meeting and its intention. The goal of the meeting was to review the Background Document (Appendix 4) and to identify and reach consensus on policy and implementing strategies. Greg Winterowd with Winterbrook Planning provided a brief history of the regulatory framework surrounding marinas and floating homes. This historical background helped the committee understand the complexities surrounding current policy alternatives for the new plan update.

The following issues, topics, and concerns were raised:

- The main policy question is: Does the group believe that marinas should be able to redevelop within their existing footprint if they can address environmental concerns?
- Comment that fish and riparian issues (which are related to shading) should be considered BEFORE we begin to consider increasing the number of floating home in the channel.
- There is no definition of “footprint” to help committee answer policy question. Concept of footprint generally thought of as suggested alternatives include (a) existing floating infrastructure but the idea that it could also mean the entire DSL lease area was also mentioned; (b) lineal feet of dock space; (c) existing permitted shading area.
- DEQ will provide more information concerning their existing water quality programs; continue to the DEQ is concerned with onsite sanitation systems and potential sources of bacteria. The County has a program in place with City of Portland BDS for installation and inspection of onsite sanitation system.
- What is the existing septic capacity? How does expanding the septic fields at the edge of the river and creating new “treatment plants” – which may be necessary for additional floating homes – affect the rural character of the channel/area?
- The draft vision statement that was included in the background report didn’t capture the immense amount of boating and fishing (recreation) that happens along the channel. The channel isn’t as “quiet and quaint” as the vision statement suggests. Boats exceed speed limits and often create a noisy, unpleasant environment for floating home residents. Marine board set speed limits and speed zones. This area is the #1 source of complaints.

- Committee member noted that there are three active boatyards that are along the channel.
- Special Plan Area that was mentioned in the 1997 RAP but was not fully implemented. This process was not intended to be used to increase density. The SPA is a more “urban concept” and may no longer be appropriate in a Rural Reserve Area.
- Subcommittee member commented that what is decided in the subcommittee should be consistent with the overall rural character vision. Allowing conversion of slips to floating homes will change the channel and its natural environments, or allowing stacked boat storage could be inconsistent with rural character. Where will the boats go?
- Committee would like clarification on how/if marinas/moorages can be approved. Is a Goal 14 exception – to allow urban densities outside of UGBs required? Or can marina owners rely on the community service use approach which allows up to 1 floating home per 50 feet of frontage.
- The water/channel is public trust. There is a difference between water related and water dependent uses. Floating homes may not be water dependent uses.
- Subcommittee stated that they need an advocate to address intensified rail traffic – especially after recent oil train incidents. There is an identified need to coordinate with State and Local emergency service agencies—how do they address this issue?
- All channel/marina residents have to pay for railroad crossings yet they have no say or use with them.
- Concerns surrounding emergencies (train derailments, etc)—Committee should draft a letter to Multnomah County Emergency management. Multco Emergency management is updating their Emergency Management plan for the county and the results from SIMC planning process will be incorporated into their plan.
- Subcommittee member suggests contacting Oregon Emergency Management for help?
- Some subcommittee members want to be able to swap boat slips (which can allow covered boat slips) for floating homes.
- Policy 10 in 1997 plan was a self-implementing policy that was expected to expire but no date was set. This policy still has not expired. Policy 10 set baseline inventory for all marinas (number of approved slips and floating homes, etc). Many marina owners have not completed the Policy 10 process. Should County set a date for Policy?
- Subcommittee strongly opposes getting rid of live-aboards. Currently, there are 4 approved liveaboards yet many more people reside in live-aboards along the channel. Subcommittee suggests that allow liveaboards, but ensure they are complying with international boating sanitation and safety standards. Jan H was assigned to providing a list of such standards to the next subcommittee meeting.
- Committee agrees that another subcommittee meeting is needed to reach consensus on policy options.

#### **Action Items:**

- Contact NOAA fisheries for clarification on shading issue.
- Review definitions of “footprint” to clarify and assist committee in making policy recommendations. Should the footprint be based on the DLS leased area, the area that is currently shaded (or could potentially be shaded under existing DSL permits), or possibility lineal feet of dock space.
- Subcommittee should draft a letter to Multnomah County Emergency management regarding a coordinated approach to train safety.
- Change background document to reflect vision statement changes, live-aboard changes.
- Schedule third subcommittee meeting.

**Next CAC meeting: February 11, 2014- Grange Hall # 840 6:00- 8:30 PM**

*\*Meeting audio available upon request\**

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## MEETING SUMMARY: Marinas and Floating Homes— Community Advisory Committee meeting #4

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Project: Sauvie Island/Multnomah Channel Rural Area Plan Update

Date: 2/11/2014

Time: 6:00-8:30

Location: The Grange Hall #840

Present: CAC members, Multnomah County staff, Winterbrook Planning, General Public

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A Community Advisory Committee (CAC) meeting was held at the Grange Hall at 6:00 PM on Tuesday, February 11<sup>th</sup> to discuss Marinas and Floating Homes. The following is a brief meeting summary that highlights the major items discussed and agreed upon action items that were identified during the meeting.

### Introduction:

The meeting began with Facilitator, Doug Zenn introducing the meeting and its intention. The goal of the meeting was to review the Background Document (Appendix 4) and to identify and reach consensus on policy and implementing strategies. Guest speaker, Jeff Fisher, from NOAAH fisheries was able to attend to inform the committee on shading issues and recommended best practices to preserve and enhance the wildlife throughout the channel.

The following issues, topics, and concerns were raised:

- Jeff Fisher, NOAAH, discussed shading and the effects on species. Structures over water create shade that affects productivity of wildlife and habitat. Data is strong that proves that in shaded areas, predators eat 5 times more salmon than if there weren't shading.
- Fish can sense the differential in light. Fish get scared which causes them to swim slower with delay and frustration. When they concentrate and slow down, they become more likely to be affected by the predators.
- Plant production, which is a major source of food for habitants in the water, increases with more light.
- Native and non-native predators light preferences- predators prefer dark light
- When there is a block of homes, it creates a large shade footprint that stretches 100 ft. The fish need to move around the shade, forcing them into deeper waters.
- Conservation and measurement practices include:
  - 50% functional light penetration.
  - Allow floating structures to moor into deeper water with longer docks to allow smaller fish access to the shoreline.
  - Promote location of houseboats/moorages away from the shoreline (depending on the location).
  - Definition of "shallow" varies, but is typically less than 20 ft.
  - The affects of North and South facing buildings also affect fish habitat.
  - County may also limit the size and height of floating structures.

- Concept of “light corridors” was discussed. Allowing for a clustered development with spacing between development to allow light penetration for fish and wildlife.
- There was consensus with the committee for the County to prohibit new marinas on the channel. The committee wants to redevelop within their existing footprint.
- The committee would like clarification on whether redevelopment of existing marinas needs a Goal 14 (Statewide Planning Goal: Urbanization) exception and whether Rural Reserve designation prevents goal exceptions and changing zoning/density.
- Willamette River Greenway overlay zone that is along the channel allows development as long as standards are followed.
- The committee would like to know if there is any possibility of getting an overlay zone to allow them to redevelop. Something similar to the Special Plan Area that was adopted in the SIMC 1997 Rural Area Plan. Something like a “marinas” zone would allow them to function with the jobs and continue to provide services.
- Committee would like a set of standards/code to clarify what they can/cannot do. Committee doesn’t understand how businesses are supposed to operate without benchmark standards.
- The committee is concerned that there is missing information and recommends an inventory of floating structures along the channel. Committee also feels that this process is not moving towards a definitive answer to their redevelopment questions.
- Committee is frustrated that in order to get answers, marina owners are forced to pay for private lawyers and take cases to the court.
- Policy 10 (in the 1997 Rural Area Plan) was adopted to identify a baseline inventory of what was on the island and to legally establish the marinas. In the last 15 years, many marina owners have not completed this process. County asked committee if the policy should be adopted in the new plan or if the policy should expire.
- Committee suggests that marina owners may have not completed the process due to the cost/not being able to afford it.
- Committee agrees that if the marina has gone through the policy 10 process, they shouldn’t have to go through it again.
- If policy 10 is deleted, marina owners will have to prove that they have been established pre-zoning laws.
- Committee suggests creating minimum standards for pump out stations along the channel.

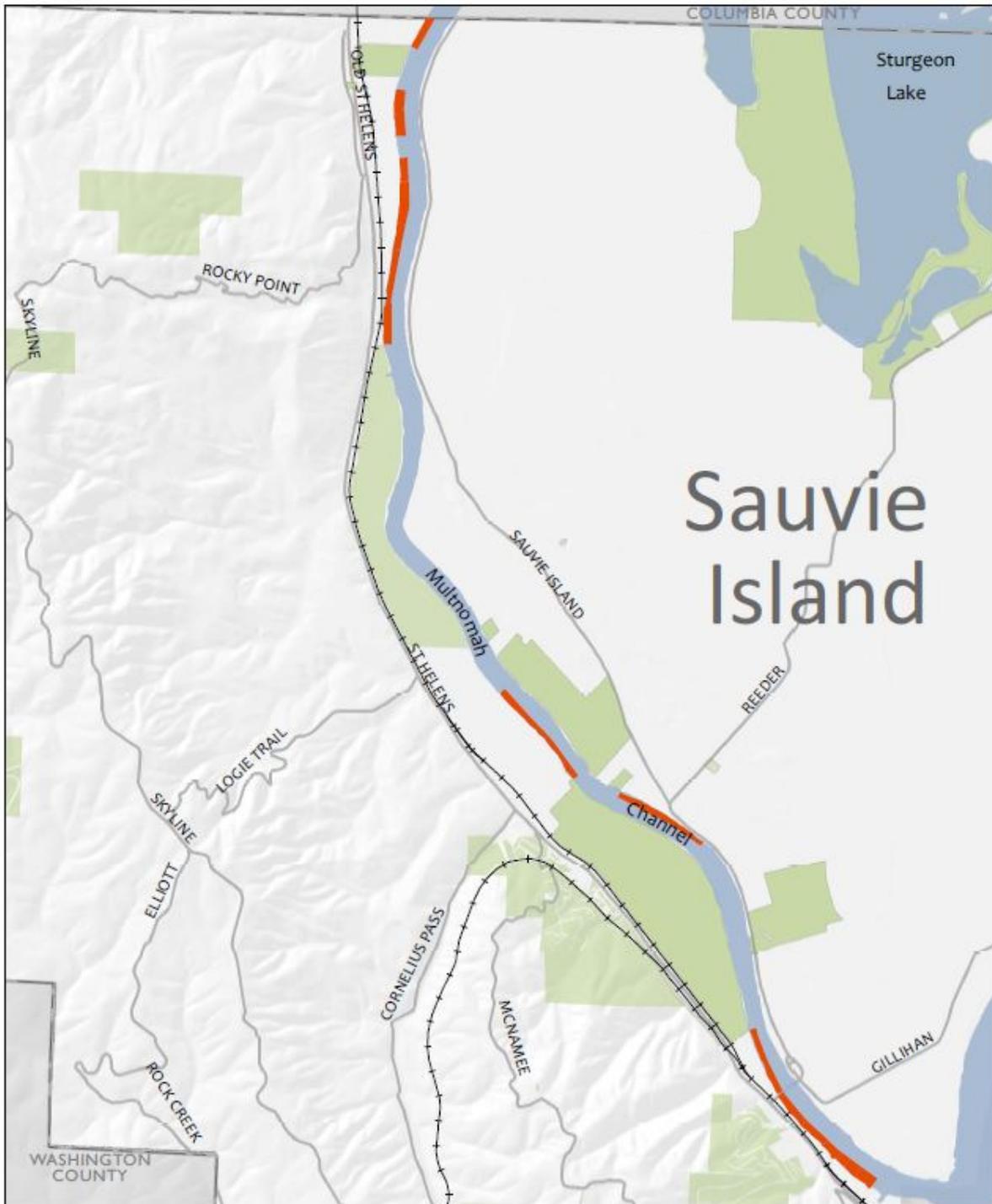
**Action Items:**

- County should develop a policy that addresses shading issues relating to the channel.
- County should continue pursuing clarification on whether redevelopment is legal.
- County should gather data and inventory what floating structures currently exist on the island.
- County should explore adopting codes and building standards for floating structures.

*\*Meeting audio available upon request\**

## Documents & Materials Considered

### Exhibit 1: SIMC moorage boundaries

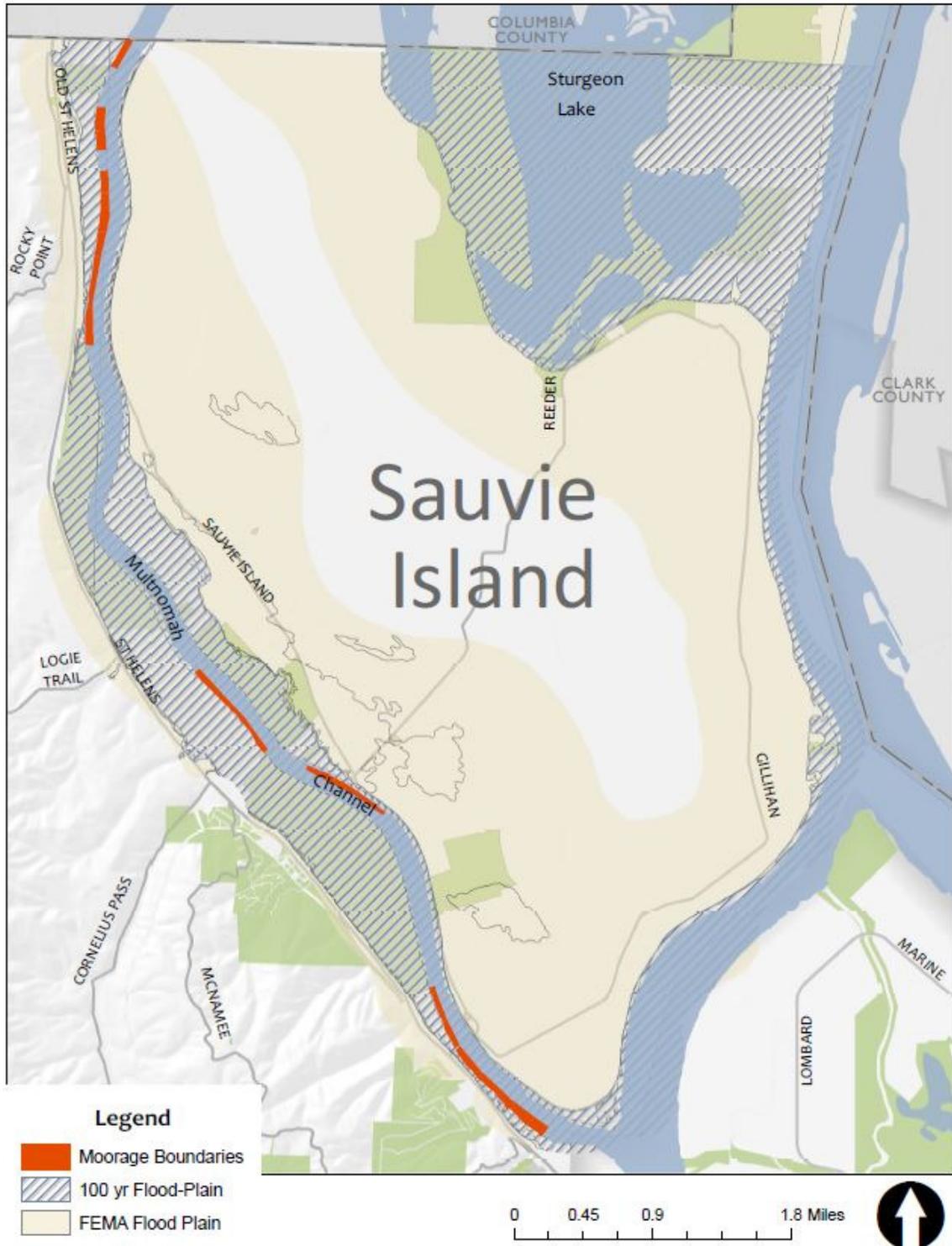


**Multnomah Channel Moorage Boundaries**

0 0.425 0.85 1.7 Miles



## Exhibit 2: SIMC Floodplain







## Exhibit 4: Multnomah Channel Rural Reserves Discussion

### 29B Area 9: Multnomah Channel

## Area 9: Multnomah Channel

### Rural Analysis

The Multnomah Channel area is a narrow strip of land that runs along the east toe of the Tualatin Mountains. It extends from the Portland metro UGB to the Columbia County line at the north extent of the Study Area, a distance of slightly over 8 road miles. The width of the strip between Highway 30 and the river varies between roughly 100 feet up to 1/3 of a mile at one point. This strip is considered as a separate area because the topography differs from the Tualatin Mtn. hillsides that begin at the west edge of the highway, and it is separated by Multnomah Channel from Sauvie Island on the east.

Rural resource land mapping for this area includes “foundation” land, although the area is not specifically discussed in the ODA study. The area is also mapped as “wildland” forest in the ODF study, and Natural Landscape Features unit #21 Forest Park Connections.

**CAC Assessment:** *Low suitability for rural reserve*

**Staff Assessment:** Low suitability for rural reserve

#### Farm and Forest Factors Evaluation

Rural Reserve Factors - Farm/Forest -0060(2)		Factor Ranking	Discussion/Rationale
<b>2. Land intended to provide long-term protection to the agricultural or forest industry, or both.</b>			
2a.	Is situated in an area that is otherwise subject to urbanization due to proximity to a UGB.	Low/High	Low for areas north of the Sauvie Island bridge, and high between the bridge and Portland. Areas rated low contain primarily floodplain, much of which is in public ownership, between Hwy 30 and the channel. The area south of the bridge is under study as a candidate urban reserve.
2b.	Is capable of sustaining long-term agriculture or forestry	Low	Little if any farm or forest management exists in this area.
2c.	Has suitable soils and water	Low	This rates low on these two capability elements because there is no protection from flooding and no drainage system resulting in too much water. The area supports significant wetland soil areas that are poor for agriculture and commercial forest species as a result.
<b>2d. Is suitable to sustain long-term agricultural or forestry operations, taking into account:</b>			
(A)	2d. Contains a large block of farm or forest land and cluster of farm operations or woodlots	Low	No blocks of farm or forest operations are found in this area.
(B)	2d. The adjacent land use pattern, including non-farm/forest uses and	Low	Nonfarm/forest uses predominate along the channel, and the narrow width between channel and road would result in close un-buffered

**29B Area 9: Multnomah Channel**

	<b>buffers between resource and non-resource uses.</b>		proximity to farm/forest uses if those were present.
<b>2d.</b> <b>(C)</b>	<b>The land use pattern including parcelization, tenure and ownership</b>	Low	While the strip is made up of large parcels, especially in the central section, perhaps ¾ of the area is owned by public entities rather than by farm or forest managers.
<b>2d.</b> <b>(D)</b>	<b>Sufficiency of agricultural or forestry infrastructure</b>	Low	The area would need protection from flooding, however cost and inconsistency with assumed management objectives of public owners indicate this infrastructure is not likely to materialize.

<b>Rural Reserves Factor -0060(4) Foundation or Important agricultural land within 3 miles of a UGB qualifies for designation as rural reserve.</b>			
	<b>Foundation</b>	Yes	
	<b>Important</b>		
	<b>Within 3 miles of a UGB</b>	Portions	3 mile line crosses Hwy 30 north of Cornelius Pass Rd.

**Staff Summary and Conclusion – Suitability for rural reserve to protect farm and forest resources:**  
 This area is not farmed or in forest management, soil and water conditions are low without substantial infrastructure, and major ownership is assumed to have other management objectives.

**Landscape Features Factors Evaluation**

<b>Rural Reserve Factors - Landscape Features -0060(3)</b>	<b>Factor Ranking</b>	<b>Discussion/Rationale</b>	
<b>3. For land intended to protect important natural landscape features, consider areas on the Landscape Features Inventory and other pertinent information and consider whether the land:</b>			
<b>3a.</b>	<b>Is situated in an area that is otherwise subject to urbanization due to proximity to a UGB.</b>	Low/High	Low for areas north of the Sauvie Island bridge, and high between the bridge and Portland. Areas rated low contain primarily floodplain, much of which is in public ownership, between Hwy 30 and the channel. The area south of the bridge is under study as a candidate urban reserve and therefore ranks high.
<b>3b.</b>	<b>Subject to natural disasters or hazards such as flood, steep slopes, landslide</b>	High	The strip consists of unprotected floodplain.
<b>3c.</b>	<b>Has important fish, plant or wildlife habitat</b>	Medium	Areas north of Sauvie Island bridge appear to have high habitat values. However riparian areas south of the bridge have been impacted by moorage facilities, and there are limited wetland areas.
<b>3d.</b>	<b>Is necessary to protect water quality such as streams, wetlands and riparian areas</b>	Low/Medium	North of the bridge is low - significant wetland/riparian areas exist north of the bridge, however the area is not suitable for urban reserve. South of the bridge is medium - few wetland areas are mapped south of the bridge, and remaining riparian areas would receive additional protection

**29B Area 9: Multnomah Channel**

			should the area be urbanized.
3e.	<b>Provides a sense of place to the region</b>	Medium-Low	North of the bridge – extensive wetland areas are in public ownership and may be recognized in their own right, or as associated with the channel. South of the bridge – area does not have sense of place recognition.
3f.	<b>Can serve as a boundary or buffer to reduce conflicts between urban and rural uses or between urban and natural resource uses</b>	Low	The strip does not form an edge between urban areas and rural resources.
3g.	<b>Provides separation between cities</b>	Low	At roughly 8 miles apart, Portland and Scappoose are separated by distance rather than by this area.
3h.	<b>Provides easy access to recreational opportunities in rural areas such as parks and trails</b>	Low	Recreational opportunities in this area of the region are primarily located on Sauvie Island or in the Tualatin Mtns above and to the west.

**Staff Summary and Conclusion - Suitability for rural reserve to protect landscape features:**

Except for the area south of the Sauvie Island Bridge, the length of this strip of land is not considered potentially suitable for urban use and therefore is not in need of protection. Primarily habitat values are high north of Sauvie Island Bridge; however extensive wetlands, limited land area, lack of protection from flooding, and large areas in public ownership protect the area from urbanization. Habitat is impacted south of the bridge, and that area isn't recognized as a place-defining area in the region. Should the area be included within urban reserve, riparian habitat values are likely to be improved through the development process. The area is included within areas mapped as foundation land; therefore an alternative recommendation of "safe harbor" reserve designation could be explored further.

**Urban Analysis**

The Multnomah Channel area is a narrow strip of land that runs along the east toe of the Tualatin Mountains. It extends from the Portland metro UGB to the Columbia County line at the north extent of the Study Area, a distance of slightly over 8 road miles. The width of the strip between Highway 30 and the river varies between roughly 100 feet up to 1/3 of a mile wide at one point. The strip is considered as a separate area for urban and rural reserve because the topography differs from the Tualatin Mtn. hillsides that begin at the west edge of the highway, and it is separated by Multnomah Channel from Sauvie Island on the east.

The area was further divided by the CAC at the Sauvie Island bridge into the north portion that was not studied for urban reserve, and the area between the bridge and the City of Portland that was. The CAC found that the results of the initial urban suitability assessment for key services water, sewer that indicated low suitability for these services warranted no further study of the north area. The area south of the bridge was retained for further analysis due in part to lack of consensus by the CAC on service potential.

*CAC Assessment: Low suitability for urban reserve*  
**Staff Assessment:** Low suitability for urban reserve

Urban Reserve Factors -0050 (1) – (8)	Factor Ranking	Discussion/Rationale
<b>When identifying and selecting land for designation as urban reserves under this division, Metro shall base its decision on consideration of whether land proposed for designation as urban reserves, alone or in conjunction with land inside the UGB:</b>		
1.	<b>Can be developed at urban densities in a way that makes efficient use of existing and future public and private infrastructure investments</b>	<p>N. of Sauvie Island Bridge LOW</p> <p>Transportation – Unranked. Sewer – ranked along with part of NW Hills as difficult. Most similar to Sauvie Island – moderately efficient with capacity at Columbia Blvd. waste water plant. Water – ranked along with NW Hills as low suitability. Efficiency appears low due to limited land supply – extensive areas of public ownership.</p> <p>S. of Sauvie Island Bridge LOW</p> <p>Transportation – difficult to provide access to Hwy 30 due to rail crossings and expressway designation.  Sewer – ranked along with part of NW Hills as difficult. Assume most similar to Sauvie Island – moderately efficient with capacity at Columbia Blvd. waste water plant.  Water - ranked along with NW Hills as low suitability. Efficiency appears low due to limited land supply outside of floodplain and access difficulties.</p>
2.	<b>Includes sufficient development capacity to support a healthy economy</b>	<p>LOW</p> <ul style="list-style-type: none"> <li>• Position lends itself to industrial use due to it being bracketed by rail and river, however there is only a small land area outside of flood/right of way = approx. 7 acres.</li> <li>• Shape is a narrow strip along the river, with floating homes established along the entire frontage.</li> <li>• Transportation constraint re rail crossing/hwy 30 access.</li> </ul>
3.	<b>Can be efficiently and cost-effectively served with public schools and other urban-level public facilities and services by appropriate and financially capable service providers</b>	<p>LOW</p> <p>See key services efficiency information under 1. above</p> <p>No assessments for schools, stormwater, parks. Service provider for this area assumed to be Portland.</p>

**29B Area 9: Multnomah Channel**

4.	<b>Can be designed to be walkable and served with a well-connected system of streets, bikeways, recreation trails and public transit by appropriate service providers</b>	N. of Sauvie Island Bridge LOW	<ul style="list-style-type: none"> <li>• Small size and linear shape of this area does not lend itself to mixed uses and walkable, community.</li> <li>• Location and extent of public ownership divides the entire approximately 7 miles of the north strip into isolated small, linear pockets of land.</li> </ul>
		S. of Sauvie Island Bridge LOW	Small size (7 acres) and linear shape of this area does not lend itself to mixed uses and walkable, community.
5.	<b>Can be designed to preserve and enhance natural ecological systems;</b>	LOW	The north part of this area has high ecological values associated with wetness, a condition that would need to be corrected to provide opportunities for urban development.
		MEDIUM	Mult. Channel riparian area is impacted at this time and could be restored through urban development permit requirements - some impacts would be expected at river access area(s).
6.	<b>Includes sufficient land suitable for a range of needed housing types</b>	LOW	<ul style="list-style-type: none"> <li>• Most all of the north 7 miles is in unprotected floodplain.</li> <li>• Very limited amount of buildable land - approximately 7 acres south of the bridge.</li> <li>• Suitability for housing is a question due to relationship to rail lines.</li> </ul>
7.	<b>Can be developed in a way that preserves important natural landscape features included in urban reserves</b>	N. of Sauvie Island Bridge LOW	To the extent this area has landscape features recognition, urban development would apparently have unavoidable impacts from new structures.
		S. of Sauvie Island Bridge YES - MEDIUM	<ul style="list-style-type: none"> <li>• Area not an important natural landscape feature- no sense of place recognition.</li> <li>• Mult. Channel riparian area is impacted at this time and could be restored through development permit requirements - some impacts would be expected at river access area(s).</li> </ul>
8.	<b>Can be designed to avoid or minimize adverse effects on farm and forest practices, and adverse effects on important natural landscape features, on nearby land including land designated as rural reserves.</b>	YES, MEDIUM	Strategies to minimize adverse effects on adjacent resource uses appear limited, and the same for both north and south areas, e.g. avoidance of floodplain/riparian area would mitigate development impacts.

**Staff Summary and Conclusion:**

Both the north and south portions of this area rank low for urban reserve due to the limited land area and physical constraints of floodplain and heavy rail right-of-way. Extensive public ownership indicates value of the area is not primarily associated with development opportunity. Even if sewer and water services were efficient, these other limitations indicate low value and priority for urban reserve.

## Exhibit 5- Multnomah Channel Public Facility- Chris Foster



Kevin COOK <kevin.c.cook@multco.us>

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### Park & Public Facilities

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Christopher H. Foster <loster@europa.com>  
To: Kevin COOK <kevin.c.cook@multco.us>

Tue, Dec 10, 2013 at 2:33 PM

Hi Kevin-

Still think it belongs in Parks & Public Facilities. I might be overly cynical, but the floating home group might reasonably be expected to be looking to protect themselves rather than the public at large esp. considering the complexity of their unresolved issues at hand already. On another point, the waterway/ beach issue goes well beyond Columbia County. As navigatable rivers, everything on the Columbia & Willamette up to the ordinary high water line is public and open for fishing, picnicing & general recreation. All the beaches are lawfully accessible from the water. Over time, there may also be private lands opening up and giving new access to the beaches & water in Multnomah County. Maybe there should be some policy in place that goes beyond the inventory approach.

Chris

On 12/10/2013 10:47 AM, Kevin COOK wrote:

Hi Chris,

I understand your concerns and there are lots of overlaps among the subcommittees. We believe the issues will be well-covered by the natural resources and marinas subcommittees. The public beaches are included in the inventory – along with parking that serves the public beaches as part of the Sauvie Island Wildlife Area since that is where the public beaches are located. The publicly accessible to the public are in Columbia County except for about 1500 linear feet that extend into Multnomah County (parcel is owned by DSL but is adjacent to SIWA beaches in Columbia County). Our facilities inventory and map is in draft form and we expect to add more information regarding the other publicly owned properties.

**Kevin Cook**

Planner

Multnomah County Department of Community Services

Land Use and Transportation Program

1600 SE 190th Ave, Suite 116

Portland, OR 97233

P 503-988-3043 x26782

F 503-988-3389

[kevin.c.cook@multco.us](mailto:kevin.c.cook@multco.us)

On Thu, Dec 5, 2013 at 12:26 PM, Christopher H. Foster <loster@europa.com> wrote:

Hi Kevin-

Upon reviewing the various subcommittee titles and their scope - in particular the Park & Public Facilities background report inventory - I wondered if the publicly owned waterway ( i.e the Channel) ought to be included here. In essence, the waterway and any legally accessible beaches function in much in the same way as any of the public park in being utilized for recreation- both passive and active. Why not have policies here? Given the distribution of technical expertise among the committees, it also seems best suited to have that conversation with this subcommittee. OFWD and Metro ( a major owner of shoreline due to recent acquisitions)

are present here, whereas they are not both present at other subcommittees. I also noticed the Metro properties on the mainland side of the Channel are not in the inventory.

I think a broad public waterway policy discussion is not appropriate to the narrower interest of "Floating Homes and Marinas", nor does it logically fit under the broader umbrella of the "Natural Resources" committee any more than any individual park /public facility or entity would. Follow?

I'm Interested on any thoughts you may on capturing this.

Chris

## Exhibit 6A- Multnomah Channel Live-aboard Summary- Mark Doyle

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### Open House on January 6, 2014

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Mark Doyle <mdoyle@georgefox.edu>  
To: Kevin COOK <kevin.c.cook@multco.us>

Sun, Dec 22, 2013 at 11:00 PM

Kevin,  
Attached is a description of live-aboards on the Multnomah Channel addressing some of the issues discussed at the meeting. I am writing it as someone who almost lives aboard with honest intention to simply present the facts. I will send you more data as I find time to write it up.

I have spoken to many folks this week about the open house. I hope it will be informative.

Peace,

And have a Very Merry Christmas and New Year!

Mark

[Quoted text hidden]

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#### 2 attachments



BethSails.jpg  
968K

 Multnomah Channel Live-Aboard Summary.docx  
22K



## Exhibit 6B- Multnomah Channel Live-aboard Summary- Mark Doyle

### Live Aboard Concerns on the Multnomah Channel

My wife Beth and I had a dream in 1988 to sail across the ocean at retirement. While working toward that goal, we planned to live on our boat in the Multnomah Channel. We decided that a house with a workshop would be a better plan. We have had 9 boats on the Channel over the past 25 years. I am writing this to give you an idea of what life on the Multnomah Channel is like.

Because we have kept our boats at nearly all of the marinas in Multnomah County with live aboard and floating home resources, we personally know most of the population currently living on boats. This is a community that we consider family, and are represented by the Sauvie Island Yacht Club and Brothers of the Gilbert. I have begun to collect the data of how many residents are living on boats in the marinas.

This is the reason I offered to take folks for a sail along the Channel at the beginning of the scoping process. I did give several pictures of these boats to Maia, but I have more if you wish. The Multnomah Channel is far more complicated than the last meeting topics covered. I will write out my observations for you to use as a reference.

The live aboard community's assets and pitfalls are not being accurately described or represented in the meetings I have attended. One reason is that there is a great fear among this community that they will be forced to move and give up their life's accomplishments. In recently talking to folk regarding the planning process, I have heard multiple times that folks living on boats in the marinas are illegal and that Multnomah County should evict them. This is an uncomfortable situation, but I think that I am in a position to simply describe the unique features of the folks who live in boats, within the current live-aboard marinas as accurately as I can, from personal experience. This first letter will describe life at Big Island.

There are 16 live-aboard sailboats at our marina that are occupied full time. There is a small floating shop with a 10' x10' layout table for sewing sails, pattern making, a drill press and general tools for boat building and refitting. Many of the offshore live-aboard sailboats are the result of decades of work in preparation for long distance cruising. Some of the boats are older and have been handed down through generations, and are being refit with modern upgrades. Many of these folks are systematically building repairing, and preparing for their next ocean cruise.

There is a 72 year old fellow currently at our marina with his 46' Formosa that he has sailed around the world. This past summer we helped him rebuild his 80 foot cedar masts so he can once again share the ocean with his son. I think the comment on "sailboats without masts" was directed to someone other than a person who has a circumnavigation under his belt. Akin to a barn raising party for the Amish, large projects are taken on by the community's collective experience, and at this marina, the knowledge base is vast.

Some of the sailboats are extremely expensive in that they represent years of preparation to safely take them offshore, however, due to our temperate, rain forest climate, some have growth on them that discolors the gel-coat, and thus looks unsightly. It is the general policy to NOT wash the superficial growth on your boat as you would a car because the detergents go directly into the water. This makes a stunningly beautiful sailboat look unkempt, but it is preferable to contaminants in the water. Many of the boats have fine teak or hardwood bright work that is designed for a salt water environment. On the Channel however, these hardwoods are more prone to breakdown from algae and ultraviolet light. The best way to protect the wood is to cover it during the rainy season, with a tarp. This also lengthens the time between washes, or refinishing.

Most of the live aboard community is very concerned about the ecology of the channel where they live, and can identify every species of native plant and animal. During the summer the visiting kids spend most of the time exploring the riverbank and all that mud beholds. We are also very proactive stewards of this ecology that supports us, akin to lawn and garden care, except that protecting the river bank does not spew the exhaust from the droning of a lawn mower or leaf blower(smile). This includes removing invasive Ivy and blackberries, but also keeping a life list of the birds and reptiles seen bobbing around the shore. We are vigilant about the zebra mussels and many provide data for research projects.

Watercraft capable of serving as a residence have fresh and waste water plumbing, electrical, heating and cooking systems that are designed to be **self-contained and ruggedized to withstand the stress and vibration from water transit. At sea, a plumbing failure could cost you your life.**

Most of these systems are extremely efficient using solar and wind for electricity, scrubbing thermal energy from most internal systems, and recycling fresh water for multiple uses. Drinking water at sea is very precious, and many of the sailboats at our marina have water makers that desalinate with reverse osmosis then use pressure filtration driven by the propeller shaft when the engine is running, or under sail, as the propeller turns with making way. Alternatively, a separate DC electric motor will run the water maker should the prop get fouled, or seizes.

Cheshire's shower recirculates two quarts of water, then stores the water in a grey water holding tank before discharge. Cheshire's hot water is heated by her carbon fiber masts, and a water heater that uses the engines cooling system, the refrigerators compressor, the propane oven, and both, but independently wired AC and DC electrical systems. Very little energy escapes attention on most of the live-aboard sailboats.

Waste discharge is not only against state and federal law, but contaminates the place we live. Many offshore marine heads (toilets), like Cheshire, have a 3" gate valve that can redirect the waste from the holding tank to a siphon break loop that extends 3 feet above the water line, then down to a 3" through hull fitting with a ball valve that permits discharge directly into the water, when opened.

The siphon loop has a low pressure venting check valve to allow air to enter or leave the system and

thus prevent a siphon that can cause the boat to sink. The through hull fitting is below the waterline. In Cheshire, if the waste is diverted through the 6 foot siphon break system and into the water, the siphon vent makes the whole cabin Stink! More importantly, the law requires that the diversion valve and the head 'through hull' be locked in the closed position.

Most boats in the live aboard community are equipped with holding tanks, macerators , or composting toilets such that the likelihood of waste discharge is minimal. It should be stressed that in these living circumstances you choose to be in close quarters with many things, and waste is the least pleasant of the lot. All of the marinas we have lived at have facilities connected to a sewer or drain fields. Folks predominantly use the land side restroom as it is much easier to live with. But, this lifestyle is such that we take our homes, and go sailing for days, so onboard heads require attention. There is only one public pump out station on the Multnomah Channel within Multnomah County, and that is at Rocky Pointe. This gives Rocky Pointe the monopoly of service, forcing boats to travel there. A pump-out station at Fred's or other marinas would be invaluable!

This past summer we helped four boats at our marina rebuild their heads with American Boat and Yacht Council (ABYC) approved composting toilets that separate urine and non-sterile waste, and then use a combination of peat moss species that turn the solid waste into soil. This is the system of the toilets at Hadley Landing and Coon Island.

This does bring up a very important point. There is continuous river traffic of smaller watercraft along the Channel that do not have facilities to properly dispose of human waste, and as the river sheriff pointed out, use a bucket. There is a joke where two fishermen in a boat find a Jeanie whom grants three wishes. One wish is that the river would turn into beer. When granted, the small craft pilots realize that now, they would have to pee in the boat (smile).

In the summer, most of the folk at our marina swim in the water we live on. The live aboard marinas are akin to an apartment building with multiple common use areas. Discharging waste into the Channel would be akin to pooping in the elevator or lobby of an apartment complex (smile). That said, there are two cat sized dogs, two cats, and one black lab that live at our marina. We generally frown on discarding pet waste into the water and it is usually sent into the dumpster. We really frown on any activity that alters water quality.

One very important safety consideration unique to living aboard a boat is Fresh Water Electrocutation (FWE). Beth and I were close to a family living at what was Casselmans Marina on the Multnomah Channel. We purchased and moored Cheshire here before we refit her the first time at Rocky Pointe. Unfortunately, 12 year old Lucas Ritz died from one type of fresh water electrocution. His dad, Kevin Ritz has become one of the nation's experts on this topic and marine wiring and has a very useful website here:

<http://www.electricschockdrowning.org/>

Although the wiring fault that killed Lucas was several slips away from ours, the incident revealed to us that some wiring 'stop-gaps' from Cheshire's previous live-aboard owner, in response to the faulty marina wiring, was capable of creating a DC current path through the water. We immediately ripped out all of the "repairs" that also caused enough unseen electrolytic damage to the engine that it failed on Columbia Bar. I had to replace the entire engine.

**Proper shore power grounding (bonding) so that no electric current can travel through the water is imperative for all dwellings on the Multnomah Channel connected to the electrical grid!**

The repairs to our boat were simple and relatively easy to find, as there are American Boat and Yacht Council (ABYC) and Coast Guard standards for ruggedized Marine wiring. However, many of the floating homes are wired to the grid with little standards to follow, or inspection.

This is the topic I introduced at the meeting. Kevin Ritz has many resources regarding this topic, and has spent time with the Mult Co. Sherriffs office and Fire Dept teaching on FEW, but these are specifically targeted to boats connected to shore power in marina slips. Below is a brief description using Cheshire as an example.

Almost all of the cruising boats use a 12 or 24volt DC system similar to a car. The batteries provide the DC current for the electrical equipment in the boat, and are charged by an alternator, solar, wind and water when the boat under way. Most of the live aboard cruisers use shore power from a receptacle at the slip. Some boats have a separate, and dedicated 120v AC system that powers fixtures as you would find in a home, or floating home. But most boats use the high voltage AC shore power to continuously charge the 12 V DC batteries. As an example, Cheshire has a 12v DC refrigerator and water heater. We use these while connected to shore power. Unlike a car connected to a home battery charger, marine 12 volt systems ground terminals often have electrical contact with the water.

For a sailboat, the DC ground wire is connected to each metal fixture that passes through the hull to the water, such as the propeller shaft, water intakes for the engine coolant, etc. This is typically wired with a 10ga Green Wire, serving as a lightning rod to dissipate charge at the mast head, and improve radio reception among other things. This connection to the water can also act as an electrical path to ground if there is an electrical fault in the boat, especially when the proper bonding via the shore power connection is inadequate.

**Current technology has multiple solutions to minimize this hazard including: ground fault circuit interruption (GFCI) on all AC receptacles WITHOUT isolation transformers and smart marine battery chargers within the boat; and Shore power connections to each slip with Equipment Leakage Circuit Interruption (ELCI) and most importantly, AWARENESS!** This is why I am writing this (smile).

I will continue after I see you at the next meeting. If you would like a tour of the marina, let me know.

## Exhibit 7: Email from Cherie Sprando

Hi All,

I am so sorry that I will not be at the meeting tonight. However, I have reviewed the 64 page document and have the following comments. Emails have a tendency to be harsh and without emotion so do forgive my directness, but I know no other way to convey my concerns.

Beginning with the Historical context and the statement in quotes "... little other than agricultural development has occurred on the island. The Channel is a peaceful waterway featuring quiet moorages, lush vegetation, song birds and waterfowl."

Regarding the island, where is the mention of a sawmill, an animal pellet factory, an Esco waste dump area, grocery stores, large farms which bring thousands of customers to the Island for produce, crafts, special foods made on the premises, hayrides, corn mazes, petting zoos, school field trips and everything else that goes along with today's agricultural farm makeup. These events also plug up the inadequate roadways for hours upon hours on weekends, esp. What about all the public beaches that also draw people from all over Oregon that clog up the roads again during any warm weather and make it next to impossible for residents and safety vehicles to travel the road system. This is not depicted in the quote above. We need to get real here.

The Island also lies directly across the Willamette from Portland's largest container port, a coal terminal and altogether one of the largest industrial parks in the state. The noise and basic pollution that comes from this area directly impacts the southern tip of the Island all the way to the Columbia.

Regarding the Channel, it is a navigable waterway of the State of Oregon. It is a commercial highway for tugs, barges, log rafts in addition to all the recreational activities from salmon fishing to jet skis to kayaks to every size of boat to yacht. They all use the waterway and travel it at various speeds. There are gas docks, convenience stores, launch ramps, restaurants that draw the water-loving public to the area. The Channel is a salmon fisherman's paradise. From February to June from 4:30 am to dusk, the Channel is swarming with fishermen and they are far from "quiet". Summer brings water-skiers, jet skiers, and all the other water toys available which require speed to perform. They too are not so quiet. The floating home community is a cohesive group who enjoy their lifestyle and the camaraderie that goes with it so to say these are quiet, serene moorages can be a bit of a misnomer. Of course these are quiet most of the time, but to make it sound like nothing ever happens but the flapping of butterfly wings and the quacking of ducks is a bit misleading to people who are unaware of water living.

Whoever wrote this "Historical Context" does not have a true picture of what Sauvie Island or the Multnomah Channel is really like, esp today. This introduction needs to be reworked to represent what actually happens to be these areas today. DO NOT present a "ethereal concept" to try to sway the uninformed public.

Page 11--Marinas DO NOT "rapidly" change owners and names. Most of these moorages have existed from the early 30's, 40's and 50's and are currently owned by multi-generational families.

Page 13--The comment "in water shading" has been proven to be bad science and should be removed from this report. If shading is such a fish issue, why does ODFW put trees, etc. into streams and rivers to provide cover for baby salmon. The Cormorants and Osprey sit in wait on the dolphin tops, even making their nests there along the stretch of unprotected shoreline along the dike road on S.I. and wait to eat the salmon smolt that are trying to get out to the ocean. There are no "eating" issues within the moorages because the fish can hide from their attackers. This claim of shading is another extreme scare tactic that is NOT proven science and should be removed from this report.

Page 20--Policy 6A

If the Rural Reserve is to protect Ag land, forest land and important landscaper features, marinas and moorages are NONE of the above. The true question is WHY are these high density

residential marinas and commercial entities overlaid by the RR? Fred's Marina is half inside and half outside the UGB. Why are they included under the RR overlay at all?

Page 21--Marina/Moorages are not totally quiet all the time. If they have launch ramps, motor-powered boats, gas docks, convenience stores with hours to accommodate the fisherman or the late summer traffic, these places are far from "quiet".

Page 22--Erosion Control

Erosion control is a natural consequence when structures prevent the damaging waves from passing vessels from reaching the shoreline. If you travel up and down the channel, the erosion of the banks are sever in areas where they are unprotected to the point of bank undermining and trees falling into the channel.

Policy 9

The Channel is a navigable waterway of the State of Oregon. It is used for commercial and for recreational purposes. Variable motor noises are going to irritate people at different levels. Noise on the water travels differently, as well, so basic conversations in boats can often be heard perfectly from completely across the waterway. To try to monitor these normal noises on the water and hold people accountable will be an impossible endeavor. Only education of waterway users will work in the end.

Page 28--Policy 13

"Marina Special Areas".

This overlay, from a cursory look, should be applied to the marinas along the Channel. This would begin to help with the existing confusion that all marinas have been burdened with since 1997. The next step would be to remove the RR designation from all Channel marinas.

Page 30--Cumulative impacts

"Special Plan Area"

Marina/moorages within all of Multnomah Co. should have some kind of designation such as these "special plan areas". However, they need to be designed specifically for the particular area the marina/moorages occupy. On the surface, this looks like a viable approach to getting the consistency needed for the water communities within Multnomah Co. The major stumbling block, though, is the existence of the Rural Reserve overlay on the Multnomah Channel.

Page 33-34

Conditional Uses--

As in most of my comments above and AGAIN, here, Multnomah Co. says a zone change is not required to redevelop existing marinas, then in the next sentence, says redevelopment may not be permitted due to the RR overlay. I hope everyone is seeing this teeter-totter we are all on. It is more and more apparent that decisions CANNOT be made until the Rural Reserve overlay issue is fully addressed by the county and state authorities above Multnomah Co. Staff. All our efforts to try to "guess" what MIGHT happen seems like an exercise of futility. We need a solid base to start from and then we can move forward and provide the water community a workable, consistent, established framework that they can depend on from here to the next SIMC review and update years into the future.

Page 48--(49) "Non-Marina Uses"

I know there are certain factions that would like all of the marina/moorages to disappear. However, water living has been a choice for citizens for over a hundred years. It has grown and matured from a ramshackle structure built on some logs tied to a piling to multi-million dollar docks and structures that accommodate floating homes, boathouses, commercial use buildings and covered moorages that cost hundreds of thousands of dollars. This is NOT a use that is going to become extinct anytime soon. Therefore, to say that these structures that are built to float and serve the ever-growing water community are Non-water dependent is like an ostrich putting its head in the sand. These are water dependent because they cannot be removed from the water and exist on land as built.

Page 51--Section 7

SIMC Vision

Please, let's rework this "warm and fuzzy" vision statement. Let's tell it like it is as I described in the beginning of this email. This is a Navigable water of the State of Oregon in a Metropolitan area where hundreds of thousands of people use the waterway annually for a myriad of activities, not a sleepy, meandering stream somewhere in the back country.

Page 52--#1-Policy 10 and Larson's

My question is why does Larson not have to meet the parking requirements for his 46 approved floating homes--2 spaces, paved, water runoff plans, etc. We all would like to know how he approached this redevelopment so other citizens may take advantage of this county procedural path.

Page 53

Policy Issue

Marina/Moorages along the Channel have been unfairly overlaid with a restrictive plan to keep them from being able to redevelop, reconfigure, remodel or upgrade within their existing footprint. For whatever reason this happened when we were all told at a meeting that we were going to be excluded from this overlay seems like maybe it happened accidentally. I would only hope that was the case. Since water is not agricultural land by definition and the high density living which is part and parcel of floating homes and boat moorages, the reasoning behind the RR does not apply. To allow the waterfront community to redevelop, reconfigure etc., to keep up with the demands of society and maintain their businesses as a viable entity in Portland's tax base seems like the best possible choice. If a waterfront owner would choose to change their current use on the water from a large boat storage facility to a floating home Moorage, this change would most likely decrease the demands put on the waterway and parking areas along the water. The decrease would come when hundreds upon hundreds of fisherman who trailer their boats, use the launch ramps from before daybreak to dusk for months at a time. The decrease would also come from the downsizing of dock requirements for 200 plus boats and the boats themselves. It is a known fact which is next to impossible to control that in water boats have automatic bilge pumps that come on whenever there is enough water accumulated to present a problem. This expelled water is most likely oil and or gas laden and goes into the water unchecked. If you think of all the In-water boats, then add boats coming off trailers with the same issues, again emptying into the River, plus the number of boats with holding tanks for gray and black water that indiscriminately empty into the River due to the sheer lack of adequate pump-out stations, then trading out floating homes which are built under codes, have attached septic systems that are monitor-able and because of their size, the sheer number of them are multiple times fewer in number which also decreased traffic demands, railroad crossing demands, etc., this change in use seems like a more viable, environmentally friendly adaptation.

I hope you all understand that we want to work with and not against the agencies to come to a viable conclusion for Multomah County's waterfront community. This is going to take both sides coming together to making some hard decisions. Let's do it now and let's do it right this time.

Cherie Sprando

## Exhibit 8: Email from Mark Doyle RE: Live-aboards

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### Marinas Floating home/ Live-aboard Comparison

2 messages

Mark Doyle <mdoyle@georgetox.edu>

Wed, Feb 5, 2014 at 3:40 PM

To: "kevin.c.cook@multco.us" <kevin.c.cook@multco.us>, Maia HARDY <maia.hardy@multco.us>

On Wednesday, February 5, 2014, Mark Doyle <mdoyle@georgetox.edu> wrote:

Kevin,

Well, there is a lot of discussion stirred in the live-aboard crowds. There will be several attending the next meeting along with Tracy (the gal sitting behind me at the last meeting).

These folk have twisted my ear, and below are some of their concerns and ideas. I do think that there should be a policy for live-aboards as they have much less of an ecological impact than a floating home, and are designed and built to be water dependent. I will try to answer your questions on the difficulties you presented on writing policy for live-aboards from the tenants answers to my questions.

I will only use our marina as an example because it is the only marina with true live-aboard permits, and also so I can speak from personal experience. Beth and I do choose not to live-aboard for ecological and functional (health) reasons, and I have been outspoken about this. I am not the most popular fellow at our marina just now, but I am honest, and these friendships have been through worse. The discussion is honest, and productive.

1) Density and an Urban Designation.

There are 21 live-aboard residents at our marina (I missed some folks in my last count), 8 couples and 5 individuals occupying a total of 13 slips. Each slip is around 16 feet wide in the water with 3 foot finger piers on either side and 40 foot long with a 30 degree cant toward the downstream. There are 33 slips total including the inside but these are no longer occupied by live-aboards. For privacy, the natural slip occupation places as many non-live-aboard slips as possible between each live-aboard slip. Across the entire marina, the occupation density is actually less than the floating home marinas on either side.

Also, they are boats. Live-aboards are mobile. You mentioned writing a policy to space boats apart to maintain a certain population density. This can be spaced tomorrow as all we need to do is untie them and move them. You also mentioned allowing occupation for only a certain period of the year as Beth and I do, or requiring them to move to another location, as in transient moorings.

This actually happens naturally due to the nature of this lifestyle. During any given month, at least three of the live-aboard boats go mini-cruising due to the availability of a three day weekend or holiday. Unlike driving to the beach, we take our house with us, and do stay away for extended periods. Most of the live-aboards dream and plan of getting the hell out of dodge by taking to ship, and most of us do this every chance we get. We pay large sums of money to get wet and move slowly away, perhaps only a little faster than you can walk, but away. Sailing around Sauvie Island is beautiful, and there are several places to anchor for a few days, or hours, even if it is to tie off in St Helens so you can drive to work the next day. For Beth and I, we have found a lifetime of exploration just around Sauvie Island or from Portland to Astoria. Live-aboards are mobile.

Every three months or so there are cruises (events) by the Sauvie Island Yacht club or just groups of boaters including live-aboards. These events carry away most of our marina, live-aboards, and live-aboard wannabes like Beth and I, to sail seriously 20 whole miles, or perhaps 400 yards to Hadley Landing, for a cruiser's get

together. I have earned warm beer by asking "Don't you guys just live down the dock from each other, just over there?" My point is that a floating home will never leave its slip, and that the live-aboard residents have a lower population density with respect to time, as they leave often throughout the year.

## 2) Water Dependency

Boats are designed, and built, to be in, and in the water, including construction that is ecologically friendly to an aqueous environment.

We have some contractors that live at our marina, and they had a lot to say about floating home construction within the two floating home marinas on either side of ours, including suspended electrical conduits and other safety concerns. I figured I would give you a head's up. I did get a well deserved wrist slap from an electrician live-aboard for taking Cheshire out of her slip without shutting off our shore power. I respect that honesty, and he was correct. I will never do that again.

Starting from the ground (water) up, the floating homes have log floats, decks and siding constructed from standard hardware stores like Home Depot. Most have pressure treated decking and siding that would be unheard of in a boat yard or yacht construction. This pressure treated Chromated Copper Arsenate (CCA) wood contains a chemical mixture consisting of three pesticidal compounds (arsenic, chromium, and copper). This prevents dry rot and mold fungi, bacteria, algae, moss, lichens, termites and the myriad of other insects and amphibian eggs that grow like crazy in a water surrounded ecology.

When you install these chemically protected boards on a land home, these chemicals do work way to the ground from leaching and gravity. For a floating home, these toxins go straight into the water, and continue to leach out due to equilibrium thermodynamics. There is always a higher concentration in the wood because the river continually dilutes the toxic effluent. The floating homes are extremely susceptible to these biological attacks because they are living inside a water ecosystem, so the insecticide and fungicides can get re-applied in copious quantities, multiple times during the year.

Our Foster daughter's kids and I found a lost family of ducklings wandering by our home. We collected them and decided they could live in our down stairs bathtub. I suggested that we make cedar chips out of some cedar boards left over from a deck. We shaved them through the planer and the chips smelled like cedar. We made the nest, but after a week, each duckling died of specific paralysis from the arsenic that dissolved from the treated cedar chips into their bathtub swimming water. I recognized the arsenic poisoning as a neuroscientist. I studied the Alvord Chub, a small fish that lives in borax thermal springs of the Alvord desert in Eastern Oregon. These springs have extremely high concentrations of arsenic but the little fish, and the beautiful avocets that eat them, have adapted. But our ducklings had not adapted to arsenic, nor have we, and this taught us a very hard lesson. I could not tell that the cedar was treated with Arsenic.

The fiberglass hull of a boat on the other hand, is not nearly as susceptible to biological infection or parasites. For safety a boat should get hauled out and pressure washed every two years at best. Boat yards have strict pressure washing recirculation requirements due to many older anti algae paints that contained copper. These bottom paints have been wonderfully superseded with once application epoxy barrier coats and teflon such as Interlux 2000E that are aquatic-ecologically friendly, once cured. Many home products that state eco-friendly were not considered for an aquatic, water related environment, especially in their application.

There are certainly wood hulled boats, and Beth and I have two of them. But when dry rot sets into these boats, they must be scheduled for a haulout and rebuilt instead of treatment. A wood boat is only a temporary state between dirt and dirt, and these boats are not as feasible for living aboard. Our 17' 1946 Higgins, mahogany ski boat has a wood hull treated with penetrating epoxy, then layered with 3/32" carbon fiber embedded in epoxy. This wood treatment would be extremely cost prohibitive for a floating home. Also, this work was done in my barn, where I could control the chemistry, not over the water.

The siding on many of the floating homes poses additional toxic factors to the water that, once again, boats do not have. The dyes that color several types of siding, and house paints make projects such as touching up the window trim difficult due to potential water contamination. When you spill these finishing products on your lawn they affect the grass, but when you are floating in a river, with a current, a small spill or chemical clean up will not only contaminate your underwater basement, but downstream biology as well.

The roofs of any home in the greater Portland area, within a temperate rain forest, are susceptible to moss and other growth. Roof maintenance is always difficult due to height. Many of the roofs use zinc and other methods to inhibit moss or other growth preventatively on the large exposed surface area of the roof. A live-aboard boat, especially a sailboat designed with efficient fluid dynamics on all surfaces, has accessible decks, made of resilient surfaces, serving also as roofs. These have a much smaller surface area and impact from water runoff than a floating home.

Most of the painting and re-finishing done on boats require extremely toxic paints, but once applied are impervious to weather and are more durable than most car finishes, or your kitchen countertop. Most importantly, a boat as a dwelling can be taken to a boat yard, removed from the water, and repaired and refinished, off the water. Two boats from our marina are currently 'on the hard' for the responsible scheduled haulout. This cannot be done with a floating home, and I think this makes live-aboard residences more appealing, as they carry a smaller ecological footprint than a floating home. These requirements are also set by the American Boat and Yacht Council and can be written into a live-aboard policy. All boats moored, regardless of live-aboard status, need haulout facilities. This is part of their water dependency, so these provisions are currently in place, to some extent.

My point is **not** that a floating home cannot be constructed with an eco-friendly roof, siding, and decking, compliant to standards that allow for minimizing the water environmental impact. My point is that a boat, by its design as a true water dependent structure, makes for an excellent residence for living simply on the Multnomah Channel, provided the resident chooses to live with the spacial sacrifices and costs this life entails. I suggest that live-aboards on the Multnomah Channel be considered as a viable residence in the SIMC year plan, and meet the density, parking and drainage requirements that the floating homes demand. Live-aboards are good rural neighbors due to the low population from the hardship of living aboard, and excellent ecological neighbors because of their immersion in the water ecology.

Again, Thank You for your work, and I will send more information as I collect it.

Peace,  
Mark Doyle

Dr. Mark Doyle  
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On Tue, Feb 4, 2014 at 1:11 PM, Kevin COOK <kevin.c.cook@multco.us> wrote:

Mark,

Thank you for sharing your wisdom. We want to be able to address live-aboards head on this time. It's challenging because state rules direct density to urban areas, but we want to be able to be thoughtful about the big picture and the reality of what is the situation currently.

**Kevin Cook**  
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kevin.c.cook@multco.us

On Fri, Jan 24, 2014 at 7:35 PM, Mark Doyle <mdoyle@georgetox.edu> wrote:

Kevin,

Cherie's letter presents a very clear and objective group of arguments that I agree with completely. I understand that the Rural Reserve Designation process is completed, but her arguments still stand. Special note should be considered to the continuous small watercraft traffic along the South Multnomah Channel. I would surmise that the number of folks in boats that go under the Sauvie Island Bridge may be very close to the annual number of folks crossing the bridge perhaps there is a survey quantifying this.

Cherie has an extremely important point about automatic bilge pumps in every boat that enters or has moorings on the Channel. Boats that stay in slips most of the year can collect liters of water from condensation similar to a bathroom mirror after a shower on the cold thermal sinks within the boat, such as uninsulated hull below the water line, or engine. When these boats are without attention, or active ventilation, such as sealing them up for the winter, a bilge can collect a liter of condensate within days. An oil leak from a poor engine seal, leaking into the bilge, will be rinsed automatically into the water without supervision.

This is a very, very strong argument for live-aboard slips, as someone living in the boat will keep the temperature in the boat high enough to prevent condensation, and also actively clean the bilge to prevent mildew as you would do in your bathroom. At Big Island Marina, we watch each others boats for a bilge pump turning on, especially when someone is not present. Boats of this size require a lot of time and attention and this is one reason so many folks at our marina live on their boats. It takes years to prepare for an Ocean Passage, and historically Parker's was the place in Portland to do it.

Forgive me for telling another personal story, but experience has the best examples. The hard freeze this year froze Cheshire's engine heat exchanger, which is similar to a radiator in a car, except that the engine's antifreeze coolant is cooled with river water instead of air. The river water froze, but the system has an expansion fitting that is designed to fail in case of a freeze. It worked perfectly. However, this started a small drip of river water into the bilge that kicked in the bilge pump. Again, that is what it is supposed to do. I caught the small leak because I visit the boat once a week, and our bilge is clean enough to drink from. But I was told by three of the tenants, one who called me while I was fixing it (smile).

This type of event is common to all boats large enough and designed for people to stay on for long periods of time, such as an ocean crossing. But when these boats are left unattended for long periods, problems that can harm the ecology or water quality occur. If there were an engine oil or fuel leak in your kitchen, you would attend to it, post haste, especially when you have, as we on the docks call it, a one butt kitchen (smile). My point is that a live-aboard boat can be, under the proper circumstances, much, much better than the same boat in a seasonal slip. There are tightly enforced regulations from the ABYC, The Coast Guard and the State Marine Board.

The live-aboard community has a place on the Multnomah Channel and I strongly feel it is an asset and should be incorporated into the SIMC plan. I cannot speak for transient live-aboards, because I don't know them, but the live-aboard community that I know choose to be very water dependent, and as a trained bi

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Kevin COOK <kevin.c.cook@multco.us>

Wed, Feb 5, 2014 at 4:53 PM

To: Greg Winterowd <greg@winterbrookplanning.com>, Maia HARDY <maia.hardy@multco.us>, Adam BARBER <adam.t.barber@multco.us>

Mark Doyle has shared a fair amount of info with us. I will be including these comments in the outgoing packet tomorrow.

**Kevin Cook**  
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[Quoted text hidden]

## Exhibit 9: Email from Jan Hamer



Kevin COOK <kevin.c.cook@multco.us>

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### Multnomah Channel

1 message

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Jan Hamer <janrhamer@hotmail.com>

Thu, Feb 6, 2014 at 12:40 PM

To: "mdoyle@georgetox.edu" <mdoyle@georgetox.edu>

Cc: Kevin COOK <kevin.c.cook@multco.us>

Hello Mark, Thank you for the info. You have done an excellent job of describing the stay on your boat life style.

I felt your tough comparison to house boat construction is very old technology and doesn't take into account new and significantly improved designs, materials for remodeling and new homes. I too, have much experience on the Willamette, Columbia and The Channel, celebrating 40 years on the water yesterday. I own boats, designed and built two moorages and rebuilt, over nine years the largest Marina/moorage west of the Mississippi River using the latest technology of steel and synthetic decking and steel piling. As homes age, they are rebuilt with vinyl siding, metal roofs, synthetic decking, untreated logs or concrete floats, steel stringers or wood stringers, with a new environmentally friendly wood treatment. Same for new replacement homes where the old unit is torn down and a new one built. Standard marina, rules prevent all moorage tenants from resurfacing anything on the water without preventive measures. My 40 years on the rivers of Oregon have taught me that these residents, are the best environmental water stewards like the live a boarders, because the live it, work on it and enjoy it every day.

Back to boating, for our mission we were charged with, at the last meeting.. I/we were charged with preparing a draft list of conditions for people staying on their boat for an extended period of time, tied up at a marina. I have started a list, both for boats and the facility to comply with and will send to you and others for modification, hopefully tonight. Call if you have a moment. Jan 503-543-6223 or cell at 503-789-5873.