Multnomah County Oregon

Board of Commissioners & Agenda

connecting citizens with information and services

BOARD OF COMMISSIONERS

Ted Wheeler, Chair
501 SE Hawthorne Boulevard, Suite 600
Portland, Or 97214
Phone: (503) 988-3308 FAX (503) 988-3093
Email: mult.chair@co.multnomah.or.us

Deborah Kafoury, Commission Dist. 1
501 SE Hawthorne Boulevard, Suite 600
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On-line Streaming Media, View Board Meetings www2.co.multnomah.or.us/cc/live_broadcast.shtml **On-line Agendas & Agenda Packet Material** www.co.multnomah.or.us/cc/agenda.shtml

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REVISED

JANUARY 21 & 22, 2009

BOARD MEETINGS

FASTLOOK AGENDA ITEMS OF INTEREST

Pg 2	9:00 a.m. Wednesday Board Work Sessions
Pg 3	9:15 a.m. Thursday Public Safety Briefing
Pg 3	9:50 a.m. Thursday Public Comment
Pg 3	9:50 a.m. Thursday Appeal of a Hearings Officer Decision to Deny Land Use Permits
Pg 3	10:20 a.m. Thursday First Reading of an ORDINANCE Amending Multnomah County Code Chapters Relating to Nonconforming Uses, Transportation and Signs
Pg 4	10:50 a.m. Thursday Approval of Multnomah County State and Federal Legislative Agenda
Pg 4	11:05 a.m. Thursday Public Safety/Animal Welfare Response to Winter Storms 2008

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(503) 667-8848, ext. 332 for further info
or: http://www.metroeast.org

Wednesday, January 21, 2009 - **9:00 AM**
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

BOARD WORK SESSION

WS-1 New Board Orientation of the Public Safety System: Adult and Juvenile Community Justice. 1 HOUR REQUESTED.

Wednesday, January 21, 2009 - **10:00 AM**
Multnomah Building, Sixth Floor Commissioners Conference Room 635
501 SE Hawthorne Boulevard, Portland

BOARD WORK SESSION

WS-2 New Board Orientation: Fiscal Year 2009 Budget Overview of the Department of Community Justice. 1 HOUR REQUESTED.

Thursday, January 22, 2009 - **9:15 AM**
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

REGULAR MEETING

CONSENT CALENDAR - 9:15 AM
DEPARTMENT OF COMMUNITY SERVICES

C-1 RESOLUTION Authorizing the Private Sale of a Tax Foreclosed Property to STEPPING STONE PROPERTIES, LLC

C-2 RESOLUTION Authorizing the Private Sale of a Tax Foreclosed Property to LONNY S. NOINOLA

DEPARTMENT OF COUNTY MANAGEMENT

C-3 BUDGET MODIFICATION DCM-10 Reclassifying Four Positions in Finance and Risk Management and Assessment & Taxation as Determined by the Class/Comp Unit of Central Human Resources

REGULAR AGENDA
NON-DEPARTMENTAL - 9:15 AM

R-1 Public Safety Briefing on Potential Responses of the Public Safety System to Reductions in Resources: An Impending Reduction in Jail Space. Presented by Deputy Chief Operating Officer for Public Safety Peter Ozanne; Sheriff Bob Skipper; Department of Community Services Director Scott Taylor; District Attorney Mike Schrunk and Presiding Judge Jean Maurer. 30 MINUTES REQUESTED.

R-2 Appointment of David Forman and Maggie Long to the City of Portland Multnomah County Sustainable Development Commission

PUBLIC COMMENT - 9:50 AM

Opportunity for Public Comment on non-agenda matters. Testimony is limited to three minutes per person. Fill out a speaker form available in the Boardroom and turn it into the Board Clerk.

DEPARTMENT OF COMMUNITY SERVICES – 9:50 AM

R-3 PUBLIC HEARING on the Appeal of a Hearings Officer Decision to Deny Land Use Permits for a 45 Boat Marina, Related Accessory Uses, and a Floating Home at 12950 NW Marina Way

R-4 First Reading of a Proposed ORDINANCE Amending the Multnomah County Code Chapters 33-36, 38, 11.15 and 11.45 Relating to Nonconforming Uses, Transportation and Signs

DEPARTMENT OF COMMUNITY JUSTICE – 10:35 AM

R-5 BUDGET MODIFICATION DCJ-13 Adding City of Portland Pass-Through Funding for Prostitution Alternative Services

DEPARTMENT OF COUNTY MANAGEMENT – 10:40 AM

R-6 Reallocation of Facilities Capital Project Funds FPM 09-02, Capital Repair and Maintenance Mini-Fund

R-7 Reallocation of Facilities Capital Project Funds FPM 09-03, Justice Center Jail Shower Repair Project CP08.08.62

DEPARTMENT OF COUNTY HUMAN SERVICES – 10:45 AM

R-8 BUDGET MODIFICATION DCHS-20 Reallocating $131,788 of the Mental Health and Addiction Services Division (MHASD) Appropriation and Increasing the Developmental Disabilities Services Division (DDSD) Appropriation by $26,360 to Add a Permanent 0.60 FTE Physician (Child Psychiatrist) Position

R-9 NOTICE OF INTENT for Aging and Disabilities Services Division to Apply for a $25,000 Digital TV Keeping Seniors Connected Campaign Grant from the National Association of Area Agencies on Aging

NON-DEPARTMENTAL - 10:50 AM

R-10 Approval of Multnomah County State and Federal Legislative Agenda. Presented by Government Relations Manager Phillip Kennedy-Wong. 15 MINUTES REQUESTED.

R-11 Multnomah County's Public Safety/Animal Welfare Response to the Winter Storms in Late December 2008. Presented by Chief Deputy Ron Bishop, MSCO-Corrections; Chief Deputy Tim Moore, MSCO-Patrol; Scott Taylor, DCJ Director; David Houghton, Emergency Management Director; and Michael Oswald, Animal Services. 45 MINUTES REQUESTED.

BOARD COMMENT

Opportunity (as time allows) for Commissioners to provide informational comments to Board and public on non-agenda items of interest or to discuss legislative issues.

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501 SE Hawthorne Boulevard, Portland

BOARD WORK SESSION

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Thursday, January 22, 2009 - **9:15 AM**
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501 SE Hawthorne Boulevard, Portland

REGULAR MEETING

CONSENT CALENDAR - 9:15 AM
DEPARTMENT OF COMMUNITY SERVICES

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DEPARTMENT OF COUNTY MANAGEMENT

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Opportunity (as time allows) for Commissioners to provide informational comments to Board and public on non-agenda items of interest or to discuss legislative issues.

MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST (revised 09/22/08)

Board Clerk Use Only	
Meeting Date:	01/22/09
Agenda Item #:	C-1
Est. Start Time:	9:15 AM
Date Submitted:	01/06/09

Agenda Title: **RESOLUTION Authorizing the Private Sale of a Tax Foreclosed Property to STEPPING STONE PROPERTIES, LLC**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.

Requested Meeting Date:	January 22, 2009	**Amount of Time Needed:**	Consent Item
Department:	Community Services	**Division:**	Tax Title
Contact(s):	Gary Thomas		
Phone:	503-988-3590 **Ext.** 22591	**I/O Address:**	503/1/Tax Title
Presenter(s):	N/A		

General Information

1. **What action are you requesting from the Board?**

   The Tax Title Section is requesting the Board to approve the private sale of a tax foreclosed property to STEPPING STONE PROPERTIES, LLC.

2. **Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

   The subject property is a strip of land that came into county ownership through the foreclosure of delinquent tax liens on September 25, 2006. The strip is more or less 5' x 55.56 and contains approximately 275 square feet. It is described on the attached plat map, Exhibit A, as Tax Lot #700. The lot is located at the rear and adjacent to 9628 SE Holgate Blvd. We propose to sell the strip to the owner of the 9628 SE Holgate property. The attached aerial photo, Exhibit B, shows the strip in relation to the adjacent properties.

   Researching deed records, the subject strip was created when a 1954 deed was recorded. That deed measured the west and east property lines from a point in SE Holgate Street that was in fact 5 feet into the street. On the attached plat map the point of beginning is shown where the tips of the arrows measure from. The measurements left the balance which ended up being the subject strip.

   This action affects our Vibrant Communities Program Offer by placing a tax foreclosed property

back onto the tax roll.

3. **Explain the fiscal impact (current year and ongoing).**

   The private sale will allow for the recovery of a portion of the delinquent taxes, fees, and expenses. The sale will also reinstate the property on the tax roll (see Exhibit C).

4. **Explain any legal and/or policy issues involved.**

   No legal issues are expected. The parcel will be deeded "As Is" without guarantee of clear title.

5. **Explain any citizen and/or other government participation that has or will take place.**

   No citizen or government participation is anticipated..

Required Signature

Elected Official or Department/ Agency Director: M. Cecilia Johnson **Date: 01/06/09**

EXHIBIT A

R125342

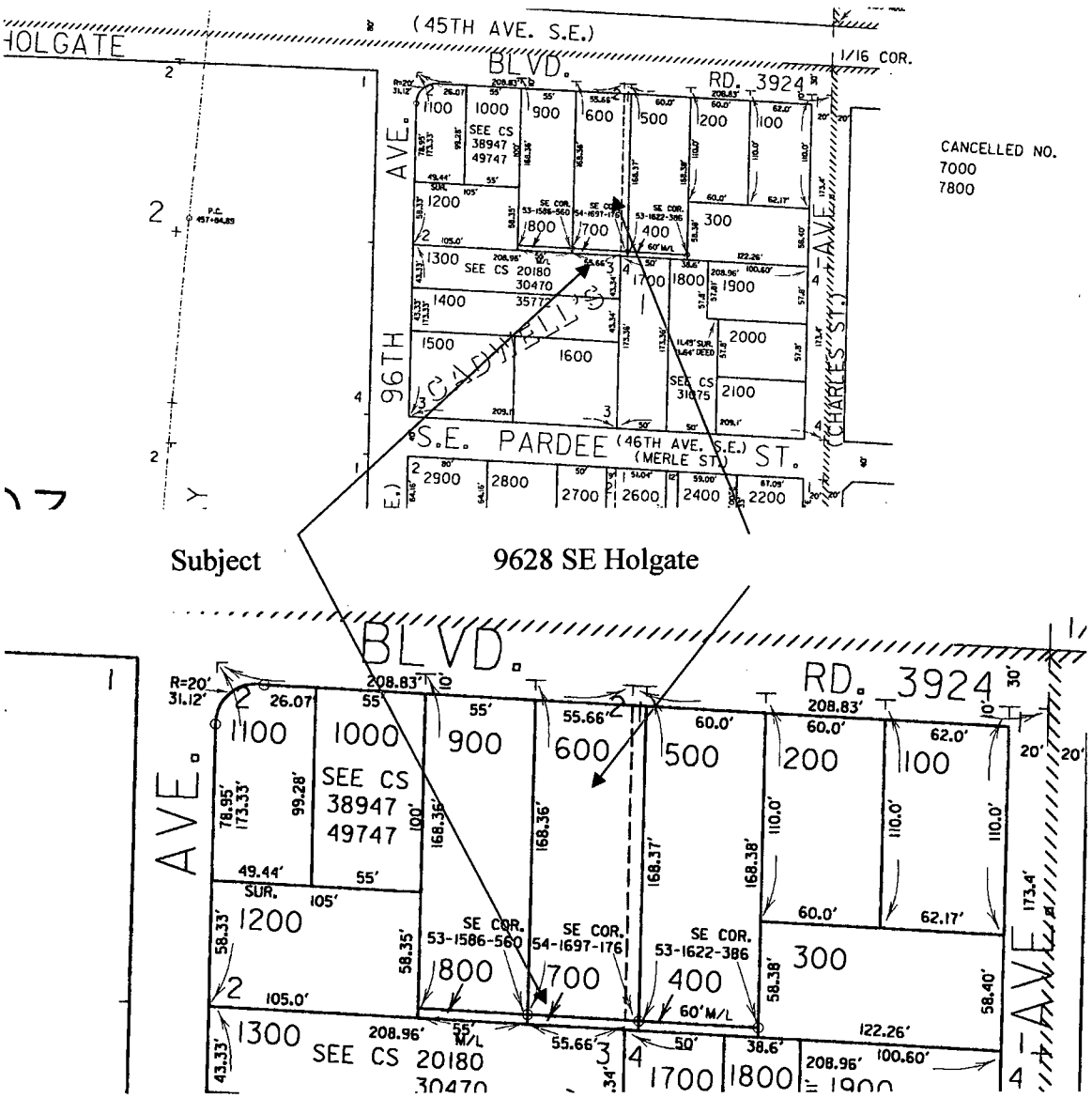

EXHIBIT B

EXHIBIT C

LEGAL DESCRIPTION:

A Part of Lots 1 and 2, Block 1, Cadwells Addition, Described as follows:

Beginning at the Southeast corner of that tract of land conveyed to Rudolph D. Derschmidt and Mary T. Derschmidt by Warranty Deed recorded December 21, 1954 in Book 1697 Page 176; thence Southerly along the Southerly extension of the Easterly line of the said Derschmidt parcel to the South line of Lot 1; thence Westerly along the South line of Lot 1 and Lot 2, a distance of 55.66 feet, more or less, to the intersection of the South line of Lot 2 and the Southerly extension of the Westerly line of said Derschmidt parcel; thence Northerly along said Southerly extension of Westerly line to the Southwest corner of said Derschmidt parcel; thence Easterly along the South line of said Derschmidt parcel to the point of beginning.

ADJACENT PROPERTY ADDRESS:	9628 SE Holgate Blvd
TAX ACCOUNT NUMBER:	R125342
GREENSPACE DESIGNATION:	No designation
SIZE OF PARCEL:	More or less 275 square feet
ASSESSED VALUE:	$300

ITEMIZED EXPENSES FOR TOTAL PRICE OF PRIVATE SALE

BACK TAXES & INTEREST:	$83.06
TAX TITLE MAINTENANCE COST & EXPENSES:	$50.00
RECORDING FEE:	$26.00
SUB-TOTAL	$159.06
MINIMUM PRICE REQUEST OF PRIVATE SALE	$100.00

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Authorizing the Private Sale of a Tax Foreclosed Property to Stepping Stone Properties, LLC

The Multnomah County Board of Commissioners Finds:

a. Multnomah County acquired through the foreclosure of liens for delinquent real property taxes the real property described in the attached Exhibit A.

b. The property has a real market value of $300 on the assessment roll prepared for the County, consistent with the requirement of ORS 275.225(1) (a).

c. Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident that the shape and size of the property make it unsuitable for the construction or placement of a dwelling thereon under applicable zoning ordinances and building codes, as provided under ORS 275.225(1) (b).

d. Stepping Stone Properties, LLC has agreed to pay $100, an amount the Board finds to be a reasonable price for the property in conformity with ORS 275.225.

The Multnomah County Board of Commissioners Resolves:

1. Upon Tax Title's receipt of the payment of $100, the Chair on behalf of Multnomah County is authorized to execute a deed, substantially in compliance with the attached deed; conveying to Stepping Stone Properties, LLC the real property described in the attached Exhibit A.

ADOPTED this 22nd day of January, 2009.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

_____
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By_____
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:
M. Cecilia Johnson, Director, Dept. of Community Services

EXHIBIT A RESOLUTION

Legal Description:

A Part of Lots 1 and 2, Block 1, Cadwells Addition, Described as follows:

Beginning at the Southeast corner of that tract of land conveyed to Rudolph D. Derschmidt and Mary T. Derschmidt by Warranty Deed recorded December 21, 1954 in Book 1697 Page 176; thence Southerly along the Southerly extension of the Easterly line of the said Derschmidt parcel to the South line of Lot 1; thence Westerly along the South line of Lot 1 and Lot 2, a distance of 55.66 feet, more or less, to the intersection of the South line of Lot 2 and the Southerly extension of the Westerly line of said Derschmidt parcel; thence Northerly along said Southerly extension of Westerly line to the Southwest corner of said Derschmidt parcel; thence Easterly along the South line of said Derschmidt parcel to the point of beginning.

Until a change is requested, all tax statements shall be sent to the following address:
STEPPING STONE PROPERTIES, LLC
24021 SE McCABE ROAD
SANDY, OR 97055

After recording return to:
Multnomah County Tax Title 503/4

Deed D092178 for R125342

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, **Grantor**, conveys to STEPPING STONE PROPERTIES, LLC, **Grantee,** the property described in the attached Exhibit A.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007.

The true consideration for this conveyance is $100.

IN WITNESS WHEREOF, the Multnomah County Board of Commissioners by authority of a Resolution of the Board, entered of record; has caused this deed to be executed by the Chair of the of County Board.

Dated this 22nd day of January, 2009.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

_____
Ted Wheeler, Chair

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

This Deed was acknowledged before me this 22nd day of January 2009, by Ted Wheeler, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.

_____
Deborah Lynn Bogstad,
Notary Public for Oregon;
My Commission expires: 6/27/09

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By_____
Matthew O. Ryan, Assistant County Attorney

EXHIBIT A

(Deed D092178 for R125342)

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Beginning at the Southeast corner of that tract of land conveyed to Rudolph D. Derschmidt and Mary T. Derschmidt by Warranty Deed recorded December 21, 1954 in Book 1697 Page 176; thence Southerly along the Southerly extension of the Easterly line of the said Derschmidt parcel to the South line of Lot 1; thence Westerly along the South line of Lot 1 and Lot 2, a distance of 55.66 feet, more or less, to the intersection of the South line of Lot 2 and the Southerly extension of the Westerly line of said Derschmidt parcel; thence Northerly along said Southerly extension of Westerly line to the Southwest corner of said Derschmidt parcel; thence Easterly along the South line of said Derschmidt parcel to the point of beginning.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 09-010

Authorizing the Private Sale of a Tax Foreclosed Property to Stepping Stone Properties, LLC

The Multnomah County Board of Commissioners Finds:

a. Multnomah County acquired through the foreclosure of liens for delinquent real property taxes the real property described in the attached Exhibit A.

b. The property has a real market value of $300 on the assessment roll prepared for the County, consistent with the requirement of ORS 275.225(1) (a).

c. Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident that the shape and size of the property make it unsuitable for the construction or placement of a dwelling thereon under applicable zoning ordinances and building codes, as provided under ORS 275.225(1) (b).

d. Stepping Stone Properties, LLC has agreed to pay $100, an amount the Board finds to be a reasonable price for the property in conformity with ORS 275.225.

The Multnomah County Board of Commissioners Resolves:

1. Upon Tax Title's receipt of the payment of $100, the Chair on behalf of Multnomah County is authorized to execute a deed, substantially in compliance with the attached deed; conveying to Stepping Stone Properties, LLC the real property described in the attached Exhibit A.

ADOPTED this 22nd day of January, 2009.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:
M. Cecilia Johnson, Director, Dept. of Community Services

EXHIBIT A RESOLUTION

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Until a change is requested, all tax statements shall be sent to the following address:
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24021 SE McCABE ROAD
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FOR MULTNOMAH COUNTY, OREGON

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) ss
COUNTY OF MULTNOMAH)

This Deed was acknowledged before me this 22nd day of January 2009, by Ted Wheeler, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.

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Deborah Lynn Bogstad,
Notary Public for Oregon;
My Commission expires: 6/27/09

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

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(Deed D092178 for R125342)

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Beginning at the Southeast corner of that tract of land conveyed to Rudolph D. Derschmidt and Mary T. Derschmidt by Warranty Deed recorded December 21, 1954 in Book 1697 Page 176; thence Southerly along the Southerly extension of the Easterly line of the said Derschmidt parcel to the South line of Lot 1; thence Westerly along the South line of Lot 1 and Lot 2, a distance of 55.66 feet, more or less, to the intersection of the South line of Lot 2 and the Southerly extension of the Westerly line of said Derschmidt parcel; thence Northerly along said Southerly extension of Westerly line to the Southwest corner of said Derschmidt parcel; thence Easterly along the South line of said Derschmidt parcel to the point of beginning.

Until a change is requested, all tax statements shall be sent to the following address:
STEPPING STONE PROPERTIES, LLC
24021 SE McCABE ROAD
SANDY, OR 97055

After recording return to:
Multnomah County Tax Title 503/4

Deed D092178 for R125342

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, **Grantor**, conveys to STEPPING STONE PROPERTIES, LLC, **Grantee,** the property described in the attached Exhibit A.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007.

The true consideration for this conveyance is $100.

IN WITNESS WHEREOF, the Multnomah County Board of Commissioners by authority of a Resolution of the Board, entered of record; has caused this deed to be executed by the Chair of the of County Board.

Dated this 22nd day of January, 2009.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

This Deed was acknowledged before me this 22nd day of January 2009, by Ted Wheeler, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.

Deborah Lynn Bogstad
Notary Public for Oregon;
My Commission expires: 6/27/09

OFFICIAL SEAL
DEBORAH LYNN BOGSTAD
NOTARY PUBLIC-OREGON
COMMISSION NO. 392621
MY COMMISSION EXPIRES JUNE 27, 2009

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Matthew O. Ryan, Assistant County Attorney

EXHIBIT A

(Deed D092178 for R125342)

A Part of Lots 1 and 2, Block 1, Cadwells Addition, Described as follows:

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MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST (revised 09/22/08)

Board Clerk Use Only	
Meeting Date:	01/22/09
Agenda Item #:	C-2
Est. Start Time:	9:15 AM
Date Submitted:	01/07/09

Agenda Title: **RESOLUTION Authorizing the Private Sale of a Tax Foreclosed Property to LONNY S. NOINOLA**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.

Requested Meeting Date:	January 22, 2009	**Amount of Time Needed:**	Consent Item
Department:	Community Services	**Division:**	Tax Title
Contact(s):	Gary Thomas		
Phone:	503-988-3590 **Ext.** 22591	**I/O Address:**	503/1/Tax Title
Presenter(s):	Gary Thomas		

General Information

1. What action are you requesting from the Board?

The Tax Title Section is requesting the Board to approve the private sale of a tax foreclosed property to LONNY S. NOINOLA.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

The subject property is a strip of land that came into county ownership through the foreclosure of delinquent tax liens on September 25, 2006. The strip is more or less 5' x 55 and contains approximately 275 square feet. It is described on the attached plat map, Exhibit A, as Tax Lot #800. The lot is located at the rear and adjacent to 9618 SE Holgate Blvd. We propose to sell the strip to the owner of the 9618 SE Holgate property. The attached aerial photo, Exhibit B, shows the strip in relation to the adjacent properties.

Researching deed records, the subject strip was created when a 1953 deed was recorded. That deed measured the west and east property lines from a point in SE Holgate Street that was in fact 5 feet into the street. On the attached plat map the point of beginning is shown where the tips of the arrows measure from. The measurements left the balance which ended up being the subject strip.

This action affects our Vibrant Communities Program Offer by placing a tax foreclosed property

back onto the tax roll.

3. **Explain the fiscal impact (current year and ongoing).**

   The private sale will allow for the recovery of a portion of the delinquent taxes, fees, and expenses. The sale will also reinstate the property on the tax roll (see Exhibit C).

4. **Explain any legal and/or policy issues involved.**

   No legal issues are expected. The parcel will be deeded "As Is" without guarantee of clear title.

5. **Explain any citizen and/or other government participation that has or will take place.**

   No citizen or government participation is anticipated.

Required Signature

Elected Official or Department/ Agency Director: M. Cecilia Johnson **Date: 01/06/09**

EXHIBIT A

R125344

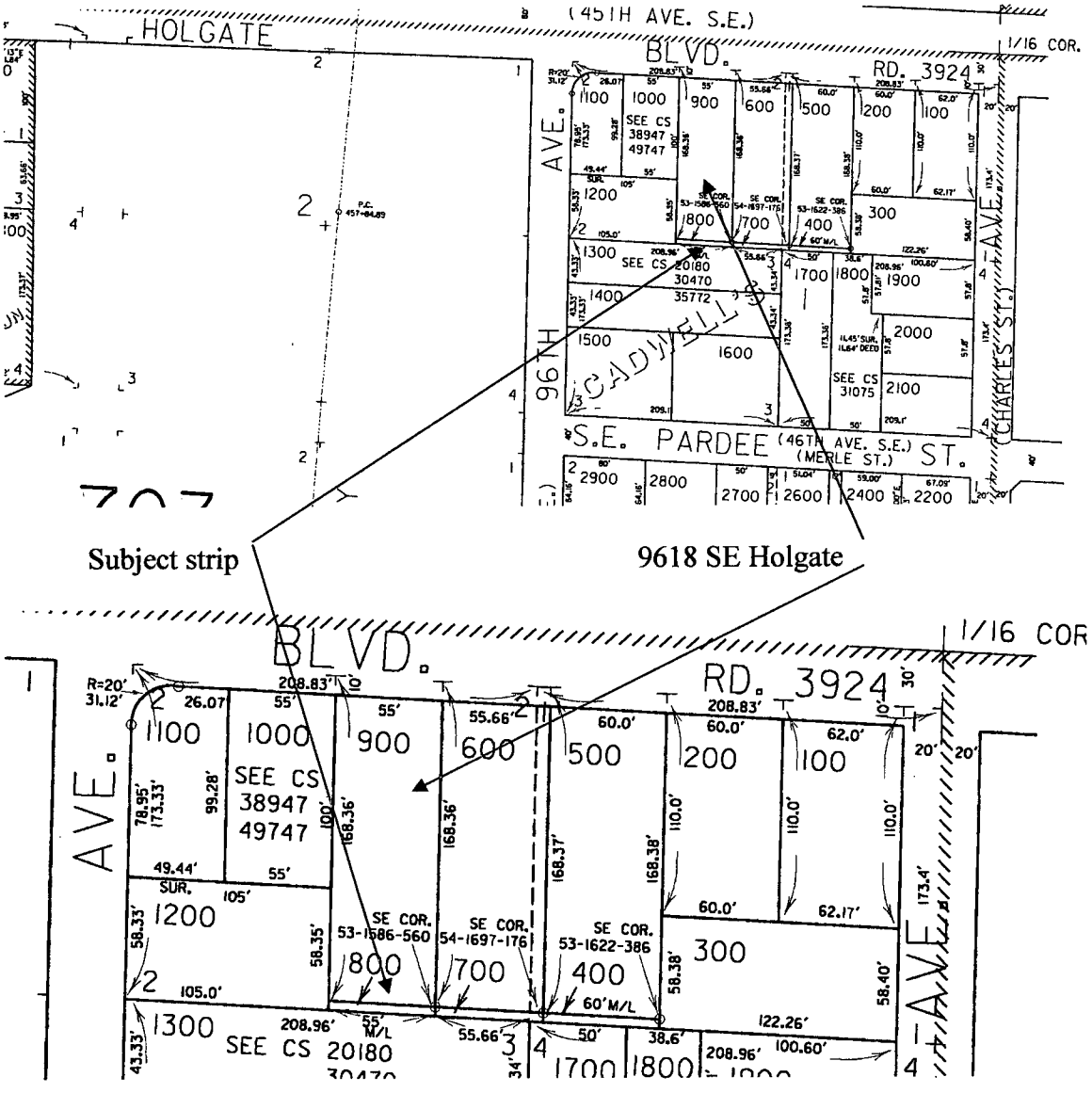

EXHIBIT B

Subject strip 9618 SE Holgate Blvd

EXHIBIT C

LEGAL DESCRIPTION:

A Part of Lot 2, Block 1, Cadwells Addition, described as follows:

Beginning at the Southeast corner of that tract of land conveyed to G. Dean Barnhardt and K. Virginia Barnhardt by Warranty Deed recorded march 2, 1953 in Book 1586 page 560; thence Southerly, along the Southerly extension of the Easterly line of said Barnhardt parcel to the South line of Lot 2; thence Westerly, along the South line of said Lot 2, a distance of 55 feet, more or less, to the intersection of the South line of Lot 2 and the Southerly extension of the Westerly line of Barnhardt Parcel; thence Northerly, along said Southerly extension of said Westerly line to the Southwest corner of said Barnhardt parcel; thence Easterly, along the South line of said Barnhardt parcel, a distance of 55 feet, more or less, to the point of beginning.

ADJACENT PROPERTY ADDRESS:	9618 SE Holgate Blvd
TAX ACCOUNT NUMBER:	R125344
GREENSPACE DESIGNATION:	No designation
SIZE OF PARCEL:	More or less 275 square feet
ASSESSED VALUE:	$300

ITEMIZED EXPENSES FOR TOTAL PRICE OF PRIVATE SALE

BACK TAXES & INTEREST:	$83.06
TAX TITLE MAINTENANCE COST & EXPENSES:	$250.00
RECORDING FEE:	$26.00
SUB-TOTAL	$359.06
MINIMUM PRICE REQUEST OF PRIVATE SALE	$100.00

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Authorizing the Private Sale of a Tax Foreclosed Property to Lonny S. Noinola

The Multnomah County Board of Commissioners Finds:

a. Multnomah County acquired through the foreclosure of liens for delinquent real property taxes the real property described in the attached Exhibit A.

b. The property has a real market value of $300 on the assessment roll prepared for the County, consistent with the requirement of ORS 275.225(1) (a).

c. Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident that the shape and size of the property make it unsuitable for the construction or placement of a dwelling thereon under applicable zoning ordinances and building codes, as provided under ORS 275.225(1) (b).

d. Lonny S. Noinola has agreed to pay $100, an amount the Board finds to be a reasonable price for the property in conformity with ORS 275.225.

The Multnomah County Board of Commissioners Resolves:

1. Upon Tax Title's receipt of the payment of $100, the Chair on behalf of Multnomah County is authorized to execute a deed, substantially in compliance with the attached deed; conveying to Lonny S. Noinola the real property described in the attached Exhibit A.

ADOPTED this 22nd day of January, 2009.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

_____
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By_____
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:
M. Cecilia Johnson, Director, Dept. of Community Services

EXHIBIT A RESOLUTION

Legal Description:

A Part of Lot 2, Block 1, Cadwells Addition, described as follows:

Beginning at the Southeast corner of that tract of land conveyed to G. Dean Barnhardt and K. Virginia Barnhardt by Warranty Deed recorded march 2, 1953 in Book 1586 page 560; thence Southerly, along the Southerly extension of the Easterly line of said Barnhardt parcel to the South line of Lot 2; thence Westerly, along the South line of said Lot 2, a distance of 55 feet, more or less, to the intersection of the South line of Lot 2 and the Southerly extension of the Westerly line of Barnhardt Parcel; thence Northerly, along said Southerly extension of said Westerly line to the Southwest corner of said Barnhardt parcel; thence Easterly, along the South line of said Barnhardt parcel, a distance of 55 feet, more or less, to the point of beginning.

Until a change is requested, all tax statements shall be sent to the following address:
LONNY S NOINOLA
9618 SE HOLGATE BLVD
PORTLAND OR 97266

After recording return to:
Multnomah County Tax Title 503/4

Deed D092179 for R125344

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, **Grantor**, conveys to Lonny S. Noinola, **Grantee,** the property described in the attached Exhibit A.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007.

The true consideration for this conveyance is $100.

IN WITNESS WHEREOF, the Multnomah County Board of Commissioners by authority of a Resolution of the Board, entered of record; has caused this deed to be executed by the Chair of the of County Board.

Dated this 22nd day of January, 2009.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

_____
Ted Wheeler, Chair

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

This Deed was acknowledged before me this 22nd day of January 2009, by Ted Wheeler, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.

_____
Deborah Lynn Bogstad,
Notary Public for Oregon;
My Commission expires: 6/27/09

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By_____
Matthew O. Ryan, Assistant County Attorney

EXHIBIT A

(Deed D092179 for R125344)

A Part of Lot 2, Block 1, Cadwells Addition, described as follows:

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BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 09-011

Authorizing the Private Sale of a Tax Foreclosed Property to Lonny S. Noinola

The Multnomah County Board of Commissioners Finds:

a. Multnomah County acquired through the foreclosure of liens for delinquent real property taxes the real property described in the attached Exhibit A.

b. The property has a real market value of $300 on the assessment roll prepared for the County, consistent with the requirement of ORS 275.225(1) (a).

c. Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident that the shape and size of the property make it unsuitable for the construction or placement of a dwelling thereon under applicable zoning ordinances and building codes, as provided under ORS 275.225(1) (b).

d. Lonny S. Noinola has agreed to pay $100, an amount the Board finds to be a reasonable price for the property in conformity with ORS 275.225.

The Multnomah County Board of Commissioners Resolves:

1. Upon Tax Title's receipt of the payment of $100, the Chair on behalf of Multnomah County is authorized to execute a deed, substantially in compliance with the attached deed; conveying to Lonny S. Noinola the real property described in the attached Exhibit A.

ADOPTED this 22nd day of January, 2009.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:
M. Cecilia Johnson, Director, Dept. of Community Services

EXHIBIT A RESOLUTION

Legal Description:

A Part of Lot 2, Block 1, Cadwells Addition, described as follows:

Beginning at the Southeast corner of that tract of land conveyed to G. Dean Barnhardt and K. Virginia Barnhardt by Warranty Deed recorded march 2, 1953 in Book 1586 page 560; thence Southerly, along the Southerly extension of the Easterly line of said Barnhardt parcel to the South line of Lot 2; thence Westerly, along the South line of said Lot 2, a distance of 55 feet, more or less, to the intersection of the South line of Lot 2 and the Southerly extension of the Westerly line of Barnhardt Parcel; thence Northerly, along said Southerly extension of said Westerly line to the Southwest corner of said Barnhardt parcel; thence Easterly, along the South line of said Barnhardt parcel, a distance of 55 feet, more or less, to the point of beginning.

Until a change is requested, all tax statements shall be sent to the following address:
LONNY S NOINOLA
9618 SE HOLGATE BLVD
PORTLAND OR 97266

After recording return to:
Multnomah County Tax Title 503/4

Deed D092179 for R125344

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, **Grantor**, conveys to Lonny S. Noinola, **Grantee,** the property described in the attached Exhibit A.

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The true consideration for this conveyance is $100.

IN WITNESS WHEREOF, the Multnomah County Board of Commissioners by authority of a Resolution of the Board, entered of record; has caused this deed to be executed by the Chair of the of County Board.

Dated this 22nd day of January, 2009.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

_____
Ted Wheeler, Chair

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

This Deed was acknowledged before me this 22nd day of January 2009, by Ted Wheeler, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.

_____
Deborah Lynn Bogstad,
Notary Public for Oregon;
My Commission expires: 6/27/09

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By_____
Matthew O. Ryan, Assistant County Attorney

EXHIBIT A

(Deed D092179 for R125344)

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After recording return to:
Multnomah County Tax Title 503/4

Deed D092179 for R125344

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The true consideration for this conveyance is $100.

IN WITNESS WHEREOF, the Multnomah County Board of Commissioners by authority of a Resolution of the Board, entered of record; has caused this deed to be executed by the Chair of the of County Board.

Dated this 22nd day of January, 2009.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

This Deed was acknowledged before me this 22nd day of January 2009, by Ted Wheeler, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.

Deborah Lynn Bogstad, .
Notary Public for Oregon;
My Commission expires: 6/27/09

OFFICIAL SEAL
DEBORAH LYNN BOGSTAD
NOTARY PUBLIC-OREGON
COMMISSION NO. 392621
MY COMMISSION EXPIRES JUNE 27, 2009

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Matthew O. Ryan, Assistant County Attorney

EXHIBIT A

(Deed D092179 for R125344)

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MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST (long form)

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-3 DATE 01.22.09
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date:	01/22/09
Agenda Item #:	C-3
Est. Start Time:	9:15 AM
Date Submitted:	01/08/09

BUDGET MODIFICATION: DCM-10

Agenda Title:	**BUDGET MODIFICATION DCM-10 Reclassifying Four Positions in Finance and Risk Management and Assessment & Taxation as Determined by the Class/Comp Unit of Central Human Resources**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Requested Meeting Date:	January 22, 2009	**Amount of Time Needed:**	N/A
Department:	County Management	**Division:**	Director's Office
Contact(s):	Tory Mitchell		
Phone:	503-988-4545 **Ext.** 84545	**I/O Address:**	503/4
Presenter(s):	Consent Calendar		

General Information

1. What action are you requesting from the Board?

The department is requesting Board approval of a budget modification reclassifying one position in the Finance & Risk Division and three positions in the Assessment and Taxation Division as determined by the Class/Comp Unit of Central Human Resources.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

The Department of County Management is asking the Board to approve the reclassification of the following positions:

Finance and Risk Management

Position Title (Old)	Position Title (New)	Position Number	FTE
HR Analyst 1	HR Analyst 2	709376	No Change

This position serves as the Benefits Office disability leave coordinator. In this role the incumbent provides guidance to department HR staff, mangers and employees regarding OFLA/FMLA leaves; serves as the key advisor for Military Leave and administers the Short and Long Term Disability plans for County employees. The incumbent analyzes information and makes recommendations regarding disability leave and benefits programs; provides liaison with insurance companies and other outside vendors; and oversees processing of benefit-related documents. These functions, and their level of complexity, are consistent with those of the HR Analyst 2 (9670) classification.

Assessment and Taxation

Position Title (Old)	Position Title (New)	Position Number	FTE
A&T Tech 1	Property Appraiser 1	704565	See
A&T Tech 2		702624	Below*

*(Two .5 FTE positions, numbers 704565 and 702624, will combine to make one 1.0 FTE Property Appraiser 1 position, which will have position number 704565)

This position is an entry level appraiser in training who, under close supervision, will assist in the description, classification and estimation of property values for residential properties and participate in the preparation of related cases for appeal. Work assigned does not include the more complex assignments and is typically limited to residential properties. Typical tasks include: research and analysis by assisting in analyzing sales information; inspection of improved property to determine use, condition and construction information; and appraisal under close supervision to make value estimates using market, and/or cost approaches.

Assessment and Taxation

Position Title (Old)	Position Title (New)	Position Number	FTE
A&T Tech 2	Property Appraiser 1	706160	No Change

This position is an entry level appraiser in training who, under close supervision, will assist in the description, classification and estimation of property values for residential properties and participate in the preparation of related cases for appeal. Work assigned does not include the more complex assignments and is typically limited to residential properties. Typical tasks include: research and analysis by assisting in analyzing sales information; inspection of improved property to determine use, condition and construction information; and appraisal under close supervision to make value estimates using market, and/or cost approaches.

3. **Explain the fiscal impact (current year and ongoing).**

   Total personnel services were increased by $807; materials and services were adjusted to offset that amount.

4. **Explain any legal and/or policy issues involved.**

   The reclassifications for which approval is sought in this request have been reviewed by the Classification/Compensation Unit and the positions have been found to be wrongly classed. By contract and under our personnel rules, we are required to compensate employees appropriately based on these findings.

5. **Explain any citizen and/or other government participation that has or will take place.**

   N/A

ATTACHMENT A

Budget Modification

If the request is a Budget Modification, please answer all of the following in detail:

- **What revenue is being changed and why?**

  Risk Management revenue is decreased by $582.

- **What budgets are increased/decreased?**

  Risk Management budget is decreased by $582.

- **What do the changes accomplish?**

  Reclassification of four positions.

- **Do any personnel actions result from this budget modification? Explain.**

  Reclassification of four positions.

- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**

  NA

- **Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?**

  NA

- **If a grant, what period does the grant cover?**

  NA

- **If a grant, when the grant expires, what are funding plans?**

  NA

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

ATTACHMENT B

BUDGET MODIFICATION: DCM-10

Required Signatures

Elected Official or Department/ Agency Director: Carol M. Ford **Date:** 01/08/09

Budget Analyst: [signature] **Date:** 01/07/09

Department HR: [signature] **Date:** 01/08/09

Countywide HR: [signature] **Date:** 01/08/09

Budget Modification ID: DCM-10

EXPENDITURES & REVENUES

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with SAP.

Budget/Fiscal Year: 2009

Line No.	Accounting Unit						Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
	Fund Center	Fund Code	Func. Area	*Internal Order*	*Cost Center*	*WBS Element*						
1	72-10	3500	20		705200		60000	429,846	431,197	1,351		Increase Permanent
2	72-10	3500	20		705200		60130	125,825	126,217	392		Increase Salary Related
3	72-10	3500	20		705200		60140	104,576	104,665	89		Increase Ins/Benefits
4	72-10	3500	20		705200		60170	14,445	12,613	(1,832)	**0**	Decrease Prof Services
1	72-30	1000	20		706209		60000	333,250	323,023	(10,227)		Decrease Base Pay
2	72-30	1000	20		706209		60130	99,912	96,949	(2,963)		Decrease Salary Related
3	72-30	1000	20		706209		60140	110,086	106,378	(3,708)	**(16,898)**	Decrease Insurance Benefits
4	72-30	1000	20		706402		60000	451,454	439,818	(11,636)		Decrease Base Pay
5	72-30	1000	20		706402		60130	132,618	128,960	(3,658)		Decrease Salary Related
6	72-30	1000	20		706402		60140	133,548	129,748	(3,800)	**(19,094)**	Decrease Insurance Benefits
7	72-30	1000	20		706211		60000	441,543	418,262	(23,281)		Decrease Base Pay
8	72-30	1000	20		706211		60130	129,727	122,982	(6,745)		Decrease Salary Related
9	72-30	1000	20		706211		60140	127,232	120,245	(6,987)	**(37,013)**	Decrease Insurance Benefits
10	72-30	1000	20		706405		60000	1,525,667	1,569,913	44,246		Increase Base Pay
11	72-30	1000	20		706405		60130	452,045	465,955	13,910		Increase Salary Related
12	72-30	1000	20		706405		60140	402,253	416,077	13,824		Increase Insurance Benefits
13	72-30	1000	20		706405		60240	16,722	17,747	1,025	**73,005**	Increase Supplies
5												
6	72-10	3500	20		705210		50316		582	582		Insurance Revenue
7	72-10	3500	20		705210		60330		(582)	(582)		Offsetting Expenditure
8									0			
9									0			
10									0			
11									0			
										0	**0**	**Total - Page 1**
										0	**0**	**GRAND TOTAL**

ANNUALIZED PERSONNEL CHANGE

Change on a full year basis even though this action affects only a part of the fiscal year (FY).

						ANNUALIZED			
Fund	Job #	HR Org	CC/WBS/IO	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
3500	9080	61279	705200	HUMAN RESOURCES ANALYST 1	709376	(1.00)	(57,821)	(16,751)	(14,706)	(89,278)
3500	9670	61279	705200	HUMAN RESOURCES ANALYST 2	709376	1.00	58,977	17,086	14,782	90,844
										0
1000	6450	64581	706209	AT Technician 1	704565	(0.50)	(20,453)	(5,925)	(7,416)	(33,794)
1000	6451	62739	706402	AT Technician 2	702624	(0.50)	(23,271)	(7,316)	(7,600)	(38,187)
1000	6451	61798	706211	AT Technician 2	706160	(1.00)	(46,562)	(13,489)	(13,975)	(74,026)
1000	6051	61996	706405	Property Appraiser 1	704565	1.00	44,245	13,910	13,824	71,979
1000	6051	61996	706405	Property Appraiser 1	706160	1.00	44,245	13,910	13,824	71,979
										0
										0
										0
										0
										0
										0
										0
				TOTAL ANNUALIZED CHANGES		0.00	(640)	1,424	(1,267)	(483)

CURRENT YEAR PERSONNEL DOLLAR CHANGE

Calculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.

						CURRENT YEAR			
Fund	Job #	HR Org	CC/WBS/IO	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
3500	9080	61279	705200	HUMAN RESOURCES ANALYST 1	709376	(1.00)	(67,651)	(19,599)	(17,206)	(104,456)
3500	9670	61279	705200	HUMAN RESOURCES ANALYST 2	709376	1.00	69,003	19,991	17,295	106,289
										0
1000	6450	64581	706209	AT Technician 1	704565	(0.25)	(10,227)	(2,963)	(3,708)	(16,898)
1000	6451	62739	706402	AT Technician 2	702624	(0.25)	(11,636)	(3,658)	(3,800)	(19,094)
1000	6451	61798	706211	AT Technician 2	706160	(0.50)	(23,281)	(6,745)	(6,987)	(37,013)
1000	6051	61996	706405	Property Appraiser 1	704565	0.50	22,123	6,955	6,912	35,990
1000	6051	61996	706405	Property Appraiser 1	706160	0.50	22,123	6,955	6,912	35,990
										0
										0
										0
										0
										0
										0
										0
				TOTAL CURRENT FY CHANGES		0.00	453	936	(582)	807

MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST (short form)

Board Clerk Use Only	
Meeting Date:	01/22/09
Agenda Item #:	R-1
Est. Start Time:	9:15 AM
Date Submitted:	01/15/09

Agenda Title: **Public Safety Briefing on Potential Responses of the Public Safety System to Reductions in Resources: An Impending Reduction in Jail Space**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Requested Meeting Date:	January 22, 2009	**Amount of Time Needed:**	30 minutes
Department:	Non-Departmental	**Division:**	Chair's Office
Contact(s):	Peter Ozanne		
Phone:	503 988-5777 **Ext.**	**I/O Address:**	503/600
Presenter(s):	Peter Ozanne, Sheriff Bob Skipper, Scott Taylor, Mike Schrunk, Judge Jean Kerr Maurer		

General Information

1. **What action are you requesting from the Board?**

   Receive briefings from the County's public safety officials. Consider the most appropriate actions to address impacts on the public safety system as a result of upcoming budget reduction, most notably, the impending reduction of jail beds arising from the closure of the Seventh Floor of MCDC.

2. **Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

   During the current fiscal year, the Board of Commissioner approved funding for the operation of 126 jail beds, which is set to expire on February 1, 2009. The public safety system will need to adjust to this loss of resources. In light of the fiscal conditions facing the County during the remainder of this year and in FY 2010, this represents an example of the need for rational and coordinate actions by the County's public safety agencies to adjust to a future with reduced resources.

3. **Explain the fiscal impact (current year and ongoing).**

   Recent declines in crime rates and jail usage, as well as the County's experience in responding

effectively to public safety budget cuts in the past, should mitigate the impact of future reductions in the budgets of the County's public safety agencies.

4. **Explain any legal and/or policy issues involved.**

   Public safety agencies in Multnomah County and throughout the nation have responded to budget cuts and reduced resources in a number of ways, including but not limited to (a) aggressive community policing strategies that rely less on formal arrest, prosecution and incarceration, (b) diversion of offenders to social service systems, (c) changes in prosecutorial charging practices, (d) rigorous pretrial release standards, services and supervision based on risk and need, (e) a community justice model of probation and parole supervision that measures result by offenders' success in the community rather than their return to incarceration, (f) expanded community-based services and treatment and (g) changes in judicial sentencing practices. Most often, these responses are implemented on an ad hoc basis without coordination.

5. **Explain any citizen and/or other government participation that has or will take place.**

   County actions must be coordinated with the cities' police agencies in the county. Communication and outreach with communities will also be required.

6. **The Board Briefing Agenda is attached.**

Required Signature

Elected Official or Department/ Agency Director: RD WHEELER **Date:** 01/15/09

BOARD OF COUNTY COMMISSIONERS BRIEFING

January 22, 2009
9:15 to 9:45 a.m.
Commission Board Room
501 S.E. Hawthorne Blvd., Main Floor

AGENDA

Potential Responses of the Public Safety System to Reductions in Resources: An Impending Reduction in Jail Space

1. Introduction	Peter Ozanne
2. Panel Discussion of Potential Responses	Judge Jean Maurer Mike Schrunk Sheriff Bob Skipper Scott Taylor
3. Next Steps	Peter Ozanne

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 08-094

Establishing the Population Capacity and Adopting a Revised Capacity Management Action Plan for the Multnomah County Sheriff's Office Jail Facilities and Repealing Resolution 07-141

The Multnomah County Board of Commissioners Finds:

a. The Board of County Commissioners and the Sheriff are committed to operating the county's jails in a manner that is consistent with prevailing constitutional standards and statutory provisions regarding conditions of confinement.

b. The maximum population capacity of the Multnomah County Detention Center (MCDC) has changed over time as a result of design changes, temporary construction and capital improvement projects.

c. Resolution 06-014 established and amended the maximum jail population and capacity management plan for MCDC.

d. The Sheriff, District Attorney and the County Attorney reviewed the maximum population capacity as established in Resolution 06-014 and recommended the maximum MCDC capacity remain 676, consistent with the current design capacity, physical condition and program capabilities, prevailing constitutional standards, statutory provisions regarding conditions of confinement.

e. Multnomah County Inverness Jail (MCIJ) is an integral part of the County jail system. The population capacity at MCIJ is dictated by land use regulations and cannot exceed 1068.

f. The jail system in Multnomah County has changed significantly over time and now consists of MCIJ, a medium security facility, and MCDC a maximum security facility. The Sheriff, District Attorney and the County Attorney determined that the county jail population is best managed with a system population capacity, taking into account the individual facility capacities as specified above.

g. The Board has reviewed and considered the recommendations and consulted with the elected and appointed officials identified in ORS 169.046.

The Multnomah County Board of Commissioners Resolves:

1. Pursuant to ORS 169.042 and 169.044 the population limit for the Multnomah County jail system consisting of MCDC and MCIJ is set at 1539.

2. If the number of inmates housed within the Multnomah County Jail System reaches 97% of the population limit, a county jail population emergency will exist.

3. The attached Capacity Management Action Plan (Plan) is adopted and will be implemented in accordance with ORS 169.044 in the event of a county jail population emergency.

4. The Sheriff or designee, in the event the Sheriff is unable to act, will implement the Plan in the event of a county jail population emergency.

5. The Board, the Local Public Safety Coordinating Council, or the Sheriff may request a review of the Population Capacity at MCDC and/or the Capacity Management Plan.

6. The Board may issue additional orders or resolutions to carry out the functions and authority granted to Multnomah County under ORS 169.042, 169.044 and 169.046.

7. This resolution takes effect and Resolution 07-141 is repealed on July 1, 2008.

ADOPTED this 26th day of June, 2008.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Jacqueline A. Weber, Assistant County Attorney

SUBMITTED BY:
Sheriff Bernie Giusto

CAPACITY MANAGEMENT ACTION PLAN

I. This Capacity Management Action Plan ("Plan") is adopted pursuant to ORS 169.044 to resolve a county jail population emergency. A jail population emergency exists when the total jail population exceeds 97 percent of its population limit. In the event of a county jail population emergency, the Sheriff or his designee will implement this Plan.

II. The intent of this Plan is to resolve a jail population emergency by holding in jail those that have been evaluated and found to represent the greatest threat to the safety of the community and releasing those that pose the least risk. Such evaluations will be based on objective criteria reasonably calculated to:

A. Resolve the jail population emergency;
B. Ensure community safety; and
C. Comply with prevailing constitutional and Oregon jail standards relating to conditions of incarceration.

III. The Sheriff or his designee will develop and implement policies and procedures in which every person in custody of the Sheriff, and eligible under the Sheriff's authority to release, is evaluated using the following criteria:

A. Risk to self or other persons;
B. Propensity for violence;
C. Criminal Charges (person vs. non person);
D. Prior failures to follow court orders;
E. Parole, probation, or post-prison revocations; and
F. Institutional behavior or classification.

IV. Persons whose current charge relates to or who have a criminal history involving the following shall receive special consideration:

A. Domestic violence;
B. Sex abuse;
C. Child abuse or crimes relating to children;
D. Risk to a known victim;
E. Gang violence;
F. Crimes involving a weapon;
G. A history of an inability to comply with release conditions or sentencing orders (including Failure to Appear);
H. A history of Driving Under the Influence of an Intoxicants; or
I. A history of property crimes.

V. A numerical score will be assigned to each person in custody and will rank the inmate population from highest to lowest score as indicated in Attachment A. The lowest score will represent the least threat to community safety.

VI. As defined in ORS 169.005, the categories in this Plan apply to only to unsentenced offenders. In the event of multiple charges pending against a single inmate, the most serious charge will determine the inmate's primary charge category. Only unsentenced offenders may be released for population reasons. Releases for population reasons will be made based upon the lowest score. Also, the Sheriff may release one gender, if releasing the other gender would only make available beds that would not be filled because there are no gender appropriate inmates waiting to be housed or no gender appropriate inmates classified for housing at the available bed.

a. Each person in custody and designated as a Project 57 arrestee in accordance with the Government Revenue Contract with the City of Portland for the rental of jail beds will be exempted from Emergency Population Release until arraignment unless Project 57 capacity is exceeded and population release is necessary.

b. In the event that an Emergency Population Release is required the number of Project 57 detainees, in excess of the number specified in the Government Revenue Contract with the City of Portland for the rental of jail beds, may be considered for release consistent with the Emergency Population Release scoring range under consideration at the time consistent with the charges.

VII. In addition to the numerical score described herein, both sentenced and unsentenced inmates with a classification status consistent with confinement in a medium security facility will be transferred to MCIJ for housing as the population at MCIJ permits and as needed to reduce the population at MCDC.

VIII. The Plan shall ensure compliance with ORS 169.046 regarding notice of a county jail population emergency.

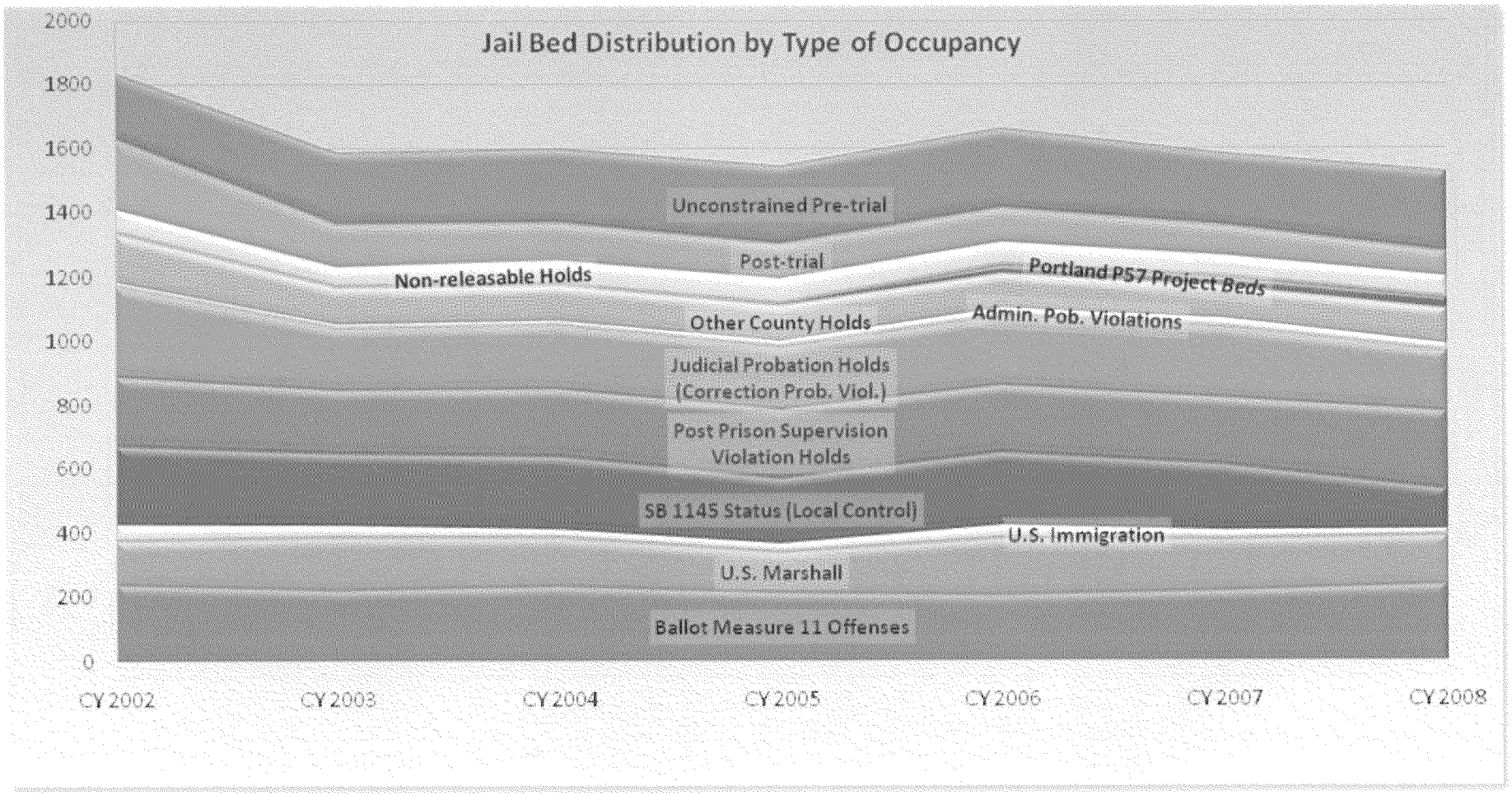
IV. The Sheriff may adopt, amend, and rescind MCSO policies and procedures as necessary to ensure compliance with the intent of section II of this Plan.

ATTACHMENT A – CAPACITY MANAGEMENT PLAN

CHARGE LEVEL	PERSON[1] [2]	NON PERSON [2]
Measure 11	150	150
Class A Felony	135	100
Exemption	100 points: Burglary 1	35 points: MCS I and all DCS I related charges, with the exception of DCS to a Minor or Using a Minor in a Drug Offense
Class B Felony	80	35
Exemption	135 points: Escape I.	50 points: MCS II, Possession of Precursor 20 points: PCS I
Class C Felony	50	20
Exemption	80 points: • Attempted Escape I • Negligent Homicide • Stalking • Violation of a Court Protective Order • Unlawful use of a Weapon • Felony DUII	35 points: • Identity Theft • Forgery • UUMV 50 points: • Tampering with a Witness • Riot • Attempted Theft by Extortion
Class A Misd.	25	14
Exemption	50 points: DUII 80 points: • Stalking • Violation of a Court Protective Order	35 points: Mail Theft 50 points: Strangulation
Class B Misd.	14	7
Class C Misd	NA	7
Unclassified Misd/Ordinances	7	7
		170 points: Restraining Order Violation
Violation	NA	7

[1] Person crimes are those defined by the Oregon Criminal Justice Commission, all child abuse and crimes relating to children, including delivering controlled substances to a child, using a child in a drug offense, all sex abuse, firearms related crimes, escape and any conspiring to commit those crimes defined here as person crimes.

[2] The charge of Conspiring to Commit a Crime is treated the same the charge for the crime (example Conspiring to Commit a Burglary I is the same score as Burglary I).


Jail Bed Distribution by Type of Occupancy
2000
1800
1600
1400
1200
1000
800
600
400
200
0
CY 2002
CY 2003
CY 2004
CY 2005
CY 2006
CY 2007
CY 2008
Unconstrained Pre-trial
Post-trial
Non-releasable Holds
Other County Holds
Portland P57 Project Beds
Admin. Pob. Violations
Judicial Probation Holds (Correction Prob. Viol.)
Post Prison Supervision Violation Holds
SB 1145 Status (Local Control)
U.S. Immigration
U.S. Marshall
Ballot Measure 11 Offenses

Multnomah County Sheriff's Office Policy and Performance Forum

May 9, 2008 9:00 to 11:00

Drivers of the Jail Population and Capacity Management

- Bookings, Slide 3
- Length of Stay, Slides 4 - 7
- The Population (Risk, Gender, Health Needs, Pre-Trial, Post-trial, Holds, Capacity), Slides 8-9
- Population Balance, Pretrial vs. Holds/Sentenced, Slides 10-13
- Leaving Jail (Recog, Court Releases, Bail, Completion of Sentence, Transports to Other Jurisdictions and USM pick ups. . .), Slides 14 -15

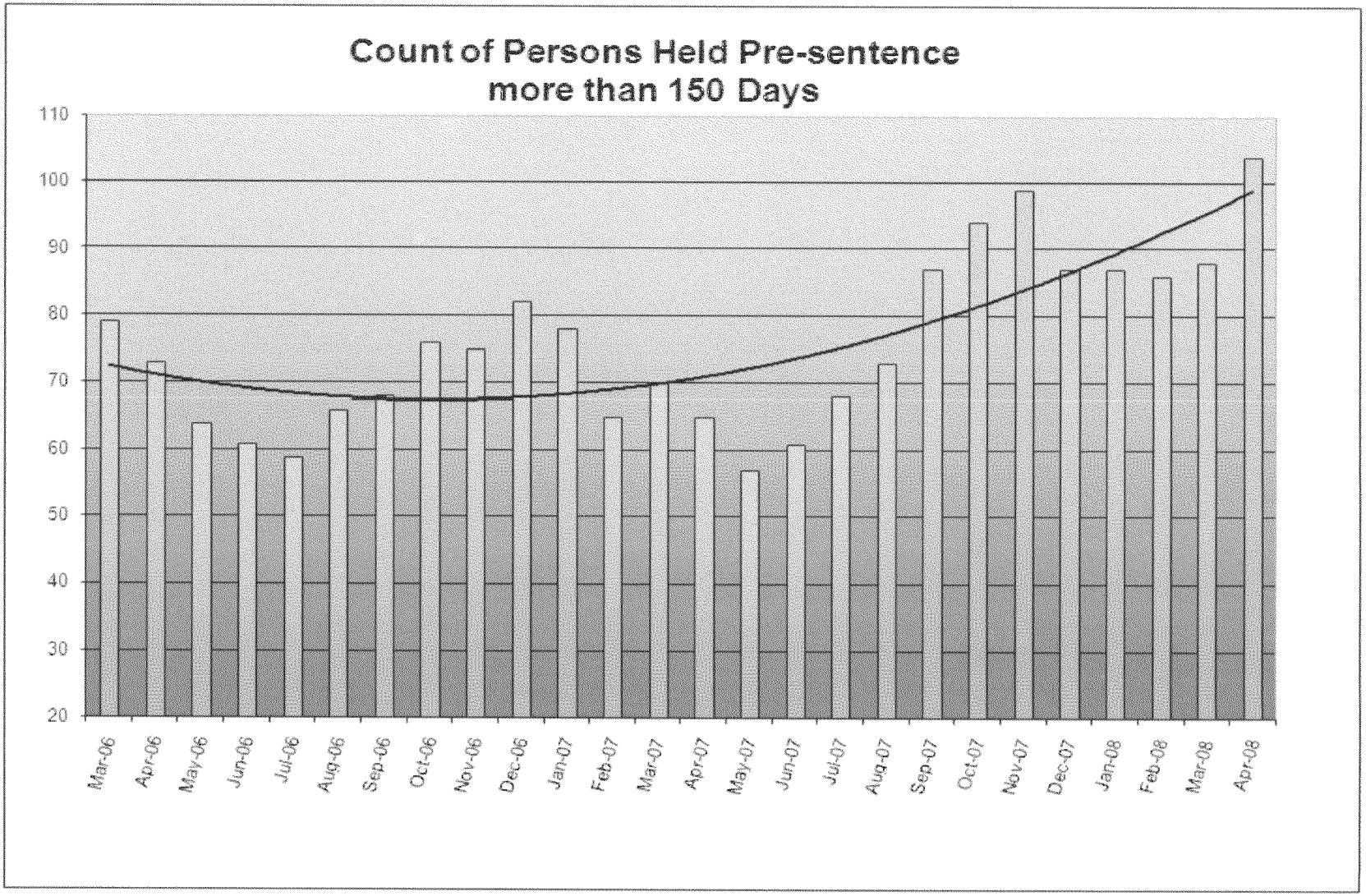
Practices Which Limit Who Comes in and Can Get to a Bed

- Police Practices – Cite in Lieu (decision to not bring to jail)
- Programs focused on Frequently Booked, CANS Project and Alternatives to Jail
- Booking Criteria
  - Not all jailable offenses are allowed to come to jail
- Recog
  - Approximately 4,500 people a year, who we do allow to be booked, never make it to a bed

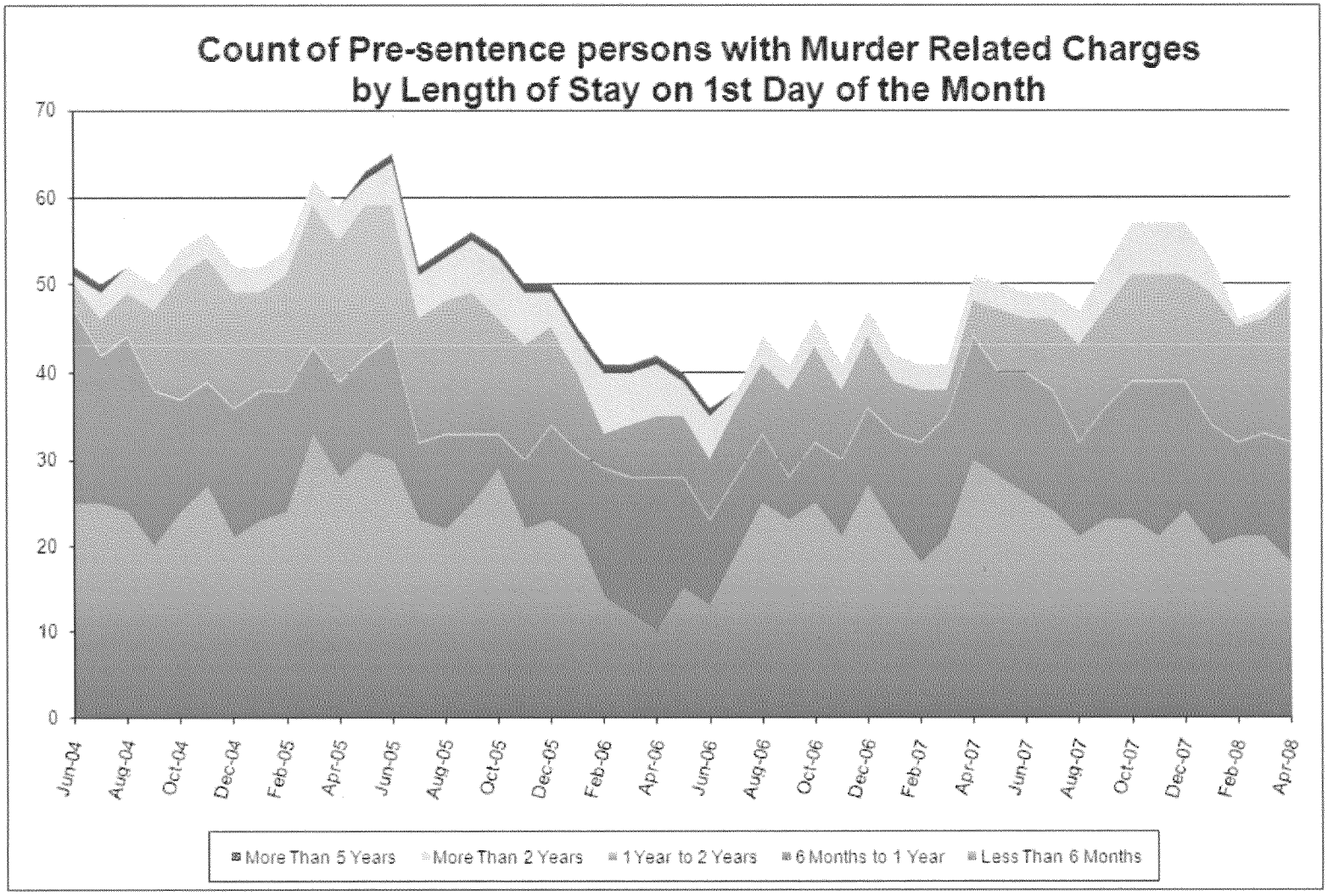
Efforts to Decrease Length of Stay

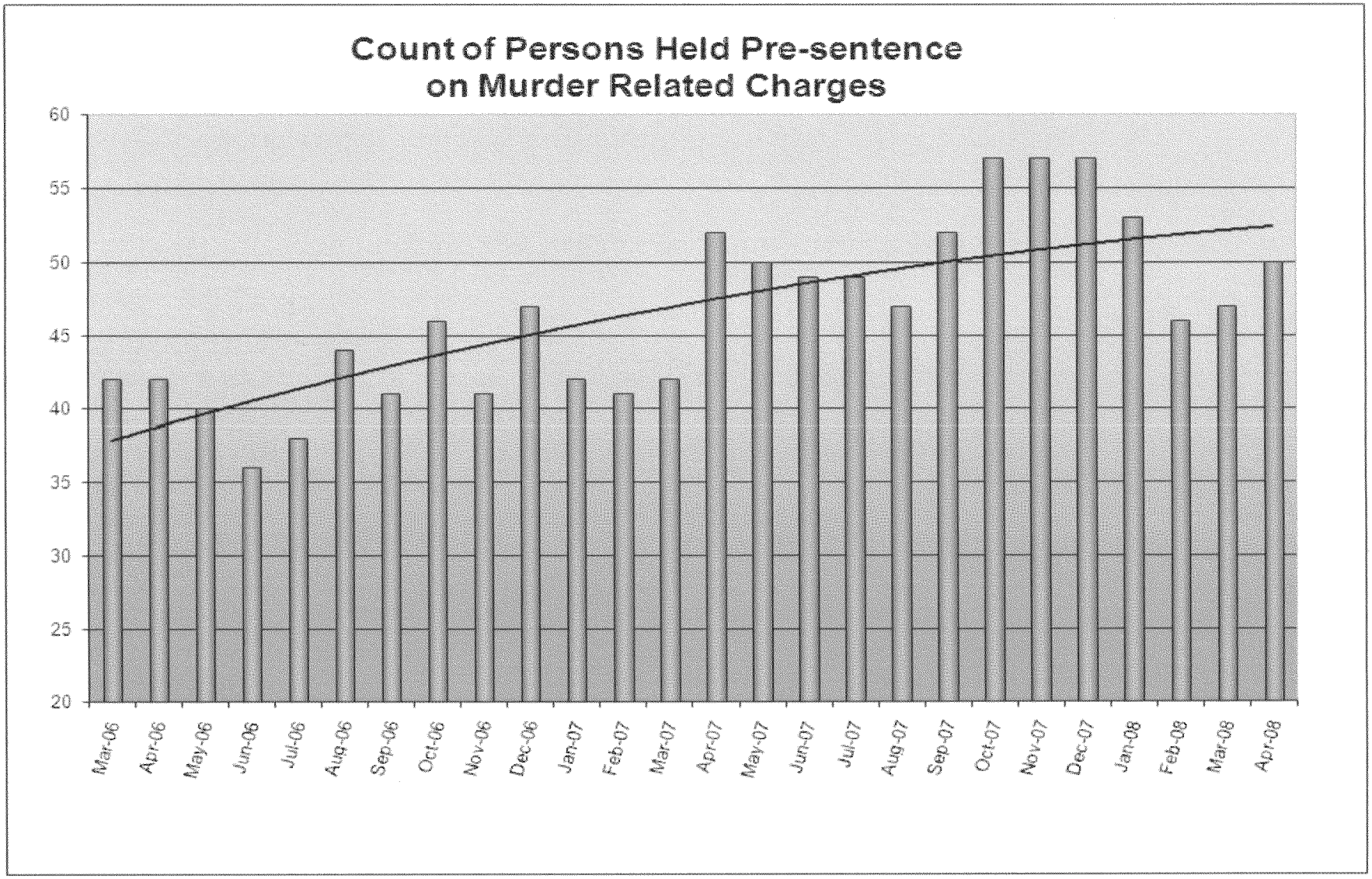
- MCSO produces regular reports for system partners highlighting Length of Stay issues – the 150 day report and Murders Report (see next three slides). Criminal Justice partners review cases.
- Developing Reports in Cooperation with County IT (eSWIS), DCJ and MCSO
  - Track expiring detainers by PO (to monitor a hold by detainer that gets dropped due to no action)
  - Amount of time in Jail before disposition on DCJ Offenders
  - Length of Stay of DCJ Offenders

Key Impact on ALS – Pre-sentence Time



A person in jail for two years, takes up a bed that 39 other people could have also used in that time period

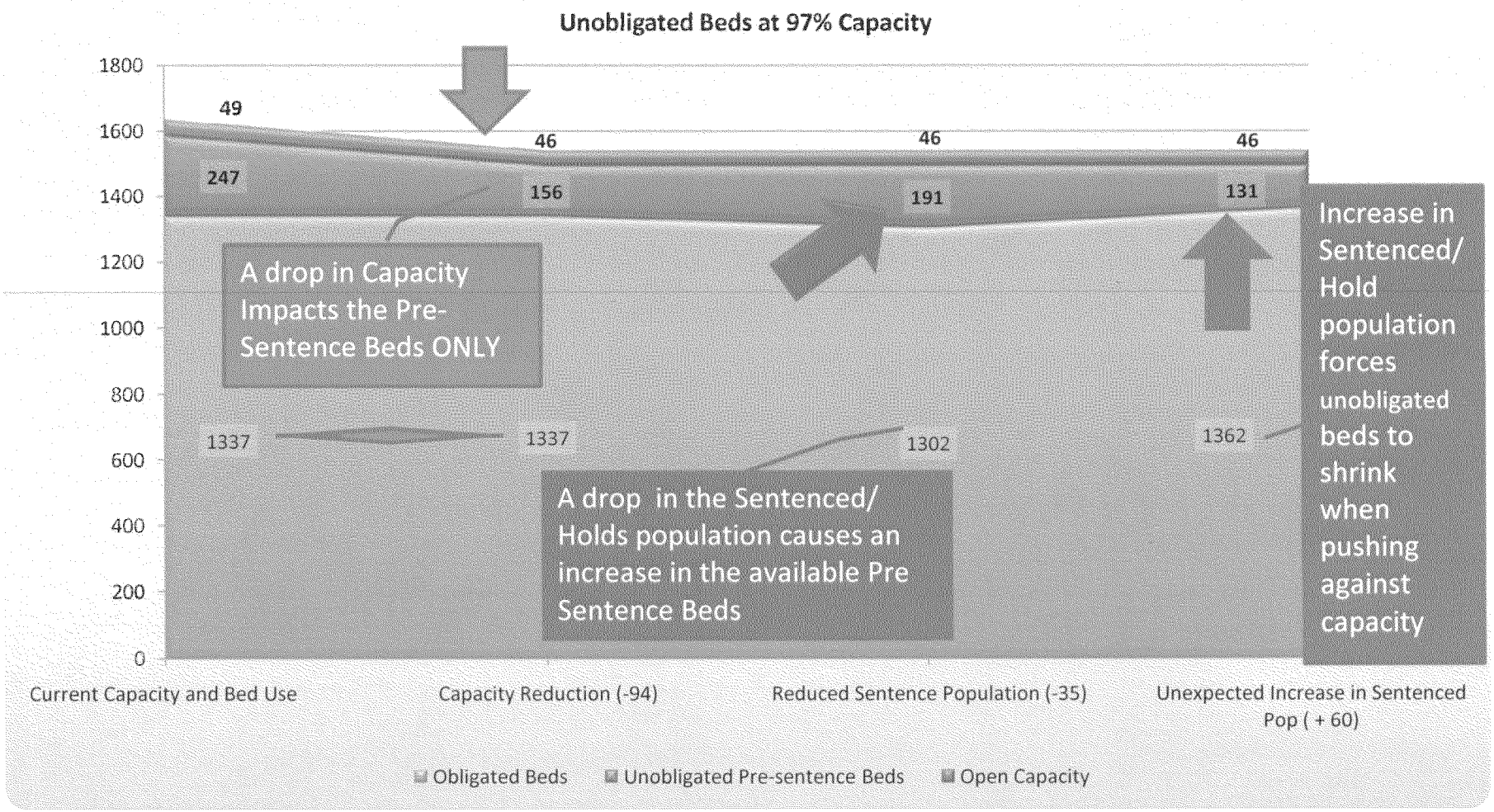



Count of Persons Held Pre-sentence on Murder Related Charges
60
55
50
45
40
35
30
25
20
Mar-06
Apr-06
May-06
Jun-06
Jul-06
Aug-06
Sep-06
Oct-06
Nov-06
Dec-06
Jan-07
Feb-07
Mar-07
Apr-07
May-07
Jun-07
Jul-07
Aug-07
Sep-07
Oct-07
Nov-07
Dec-07
Jan-08
Feb-08
Mar-08
Apr-08

Balance of Pre-trial, Sentenced and Hold Beds

- Called many different names – Pre/post trial, pre/post sentence or just sentenced.
  - Pre-trial non BM 11 beds also referred to as flexible beds or unobligated beds.
  - Sentenced, BM 11 pre-trial and Holds referred to collectively as obligated beds.
- Pre-Trail
  - All crimes
- Sentenced Beds
  - All DCJ Offenders
  - Those sentenced to less than a year (more than a year go to DOC).
- Holds
  - Federal Holds – USM, Immigration
  - Other County Holds
  - Judicial Holds

Why do we care about the balance of beds held by sentenced/hold and pre-sentenced populations as opposed to number of beds alone?



If Population Exceeds 97% of Budgeted Capacity, Emergency Status is reached and offenders can be released, BUT ONLY PRE-TRIAL offenders who meet eligibility criteria

Why only Pre-Trial Offenders? Changes in State Law and Multnomah County's legal interpretation.

Within the last few years we moved from:

- release pre and post trial offenders through EPR and supervising them TO
- releasing pre/post through EPR and not supervising them TO
- only releasing pre-trial through EPR and not supervising them.

May 4, 2008 Snapshot of Crime Category and EPR Score of Persons in Unobligated Beds, (Pre-Trial non BM 11 charges)

Crime Type	Count	Average Score	Maximum Score	Minimum Score
Alcohol & Drugs	52	83	363	23
Behavioral	29	88	384	16
Local	4	29	39	23
Other Charge	19	217	999	7
Person	54	154	277	27
Property	70	112	378	11
Vehicle	29	76	440	14

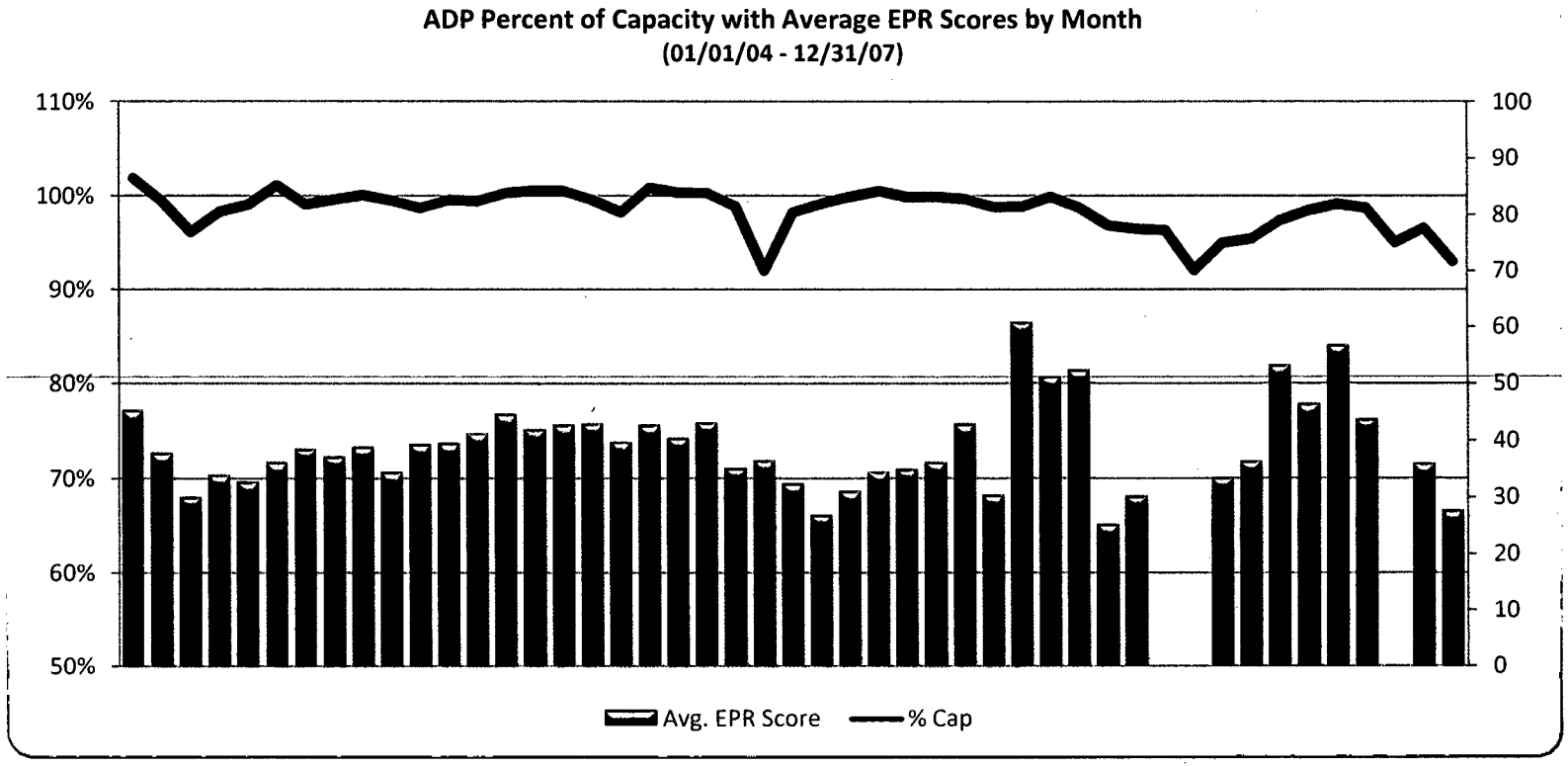
Note – The breakdown of crime type, count and scores is based on one day and time and should not be used as an indication of normal. A single snapshot may not be representative of the general situation.

The Pool of People Eligible for EPR Consideration is Actually Smaller than the Non BM 11 Pre-Trial Population

- Of the 257 unobligated pre-trial (non BM11) offenders, 122 would be eligible for EPR consideration (47.47%). (May 4, 2008 snapshot)

• (52) Alcohol and Drugs =	40/52 =	79.92%
• (29) Behavioral =	21/29 =	72.41%
• (19) Other Charge =	1/19 =	5.26%
• (70) Property =	29/70 =	41.43%
• (4) Local =	4/4 =	100%
• (29) Vehicle =	26/29 =	89.66%
• (54) Person =	1/54 =	1.85%

When capacity remains consistently high and there are releases, EPR scores are higher - the pool of people to pick from has been repeatedly drawn from



Note the shift in average score when the change was made to only release pre-sentence offenders

Focus on Numbers Headed Out of Jail

- Focus on decreasing Length of Stay
- Arraignment decisions and options
- Pre-trial programs
- An effective Jail/Prison transportation system – The Shuttle System
  - Preparing and staging people for transport
- Good communication and relationship with the USM
- Careful monitoring of the population whose sentence is completed. Prepare for release ("1201" release or "0800" depending on available capacity).

Release Reason, Including Recog

Release Reason	2007
Sentence Completed	27.5%
Released on Recog	19.5%
Court	11.6%
Bail	6.3%
Pretrial Superv. Prog.	5.7%
Transport to US Marshal	4.3%
All Other Reasons	22.8%

MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST (short form)

Board Clerk Use Only	
Meeting Date:	01/22/09
Agenda Item #:	R-2
Est. Start Time:	9:45 AM
Date Submitted:	01/06/09

Agenda Title:	**Appointment of David Forman and Maggie Long to the City of PORTLAND/MULTNOMAH COUNTY SUSTAINABLE DEVELOPMENT COMMISSION**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Requested Meeting Date:	January 22, 2009	**Amount of Time Needed:**	5 min
Department:	Non-Departmental	**Division:**	Commissioner Cogen
Contact(s):	Karol Collymore		
Phone:	503-988-6786 **Ext.** 8-6786	**I/O Address:**	503/600
Presenter(s):			

General Information

1. What action are you requesting from the Board?

Approval of appointments of David Forman and Maggie Long to City of Portland/Multnomah County Sustainable Development Commission.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

The Portland/Multnomah County Sustainable Development Commission (SDC) is a citizen advisory panel reporting directly to Portland City Council and the Multnomah County Board of Commissioners. The Sustainable Development Commission (SDC) is a citizen advisory panel reporting directly to Portland City Council and the Multnomah County Board of Commissioners. Six of the eleven SDC Members are appointed by the City, and five are appointed by the County. The commission promotes programs and policies in three main areas:

- Promote sustainable internal government operations
- Create a sustainability education campaign based on a Sustainable Community Report Card
- Support sustainable economic development

3. Explain the fiscal impact (current year and ongoing).

No impact.

4. **Explain any legal and/or policy issues involved.**

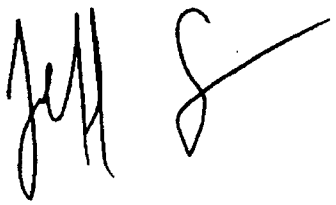
   Policy issues include recommendations on local purchasing preference policies economic development.

5. **Explain any citizen and/or other government participation that has or will take place.**

   N/A

Required Signature

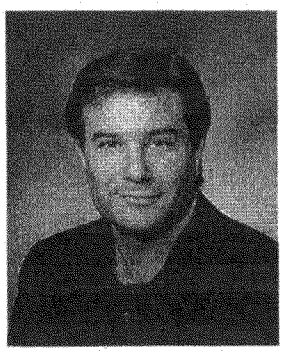
Elected Official or Department/ Agency Director:



Date: 01/06/09

TONKON TORP LLP
ATTORNEYS

1600 Pioneer Tower
888 SW Fifth Avenue
Portland, Oregon 97204
503.221.1440



Areas of Experience
Sustainability
Business
Corporate Finance
Mergers and Acquisitions

Education
J.D., University of Michigan
Law School, 1988
B.A., University of Michigan, 1985

Memberships
Oregon State Bar
New York State Bar
Washington State Bar
American Bar Association

Admitted to Practice
Oregon
New York
Washington
U.S. District Court, Southern and
Eastern Districts of New York

Professional Organizations
Association for Corporate Growth
Portland Business Alliance

Current Community Organizations
PDX Lounge
Cedar Sinai Park –
Immediate Past President, Board of Trustees
American Jewish Committee,
Oregon Chapter

DAVID COPLEY FORMAN
Partner

Direct Dial: 503-802-2023
Direct FAX: 503-972-3723
e-mail: david.forman@tonkon.com

David is co-chair of our Sustainability Practice Group and a member of the Corporate Finance Practice Group.

He works with investors and companies who use their resources to promote sustainable practices and products. He also advises emerging, small and mid-market private companies in their general corporate, financing and transactional matters and guides private business owners to recognize and achieve their strategic goals.

Areas of his legal experience include sustainability, corporate finance, mergers and acquisitions, and business counseling.

Recognized by The Portland Business Journal in 2004 as one of the forty most influential community and business leaders under the age of forty, David is an active civic volunteer. He has participated in numerous sustainability-related events and forums, including PDX Lounge, and served as moderator at the 2008 PSU sustainability conference. David is a frequent contributor to the Tonkon Torp sustainability law blog, www.sustainabilitylawblog.com.

Interest Form for City Board & Commission Appointments

The purpose of this form is to obtain information for use in making appointments to City boards, commissions, and committees, and to assist the Mayor in making inquiries concerning the qualifications of applicants for appointment. Please note that information provided in this document ***is public information,*** *with the exception of the confidential section. (Information in the confidential section will only be disclosed as required by law.) If you have a recently prepared biography or resumé, please attach it to this form. Thank you for your interest.*

Please return application, resumé and any additional information to:
Office of Neighborhood Involvement, 1221 SW 4th Ave, Room 110, Portland, Or 97204

To help ensure equal access to City programs, services and activities, the City of Portland will reasonably modify policies/procedures and provide auxiliary aids/services to persons with disabilities. Call 503-823-2030 or 503-823-4000 with such requests.

Name: David Copley Forman
First *Middle Initial* *Last*
Mailing Address: Tonkon Torp, LLP, 1600 Pioneer Tower, 888 SW Fifth Ave, Portland, OR 97204

Occupation: Attorney, Partner, Tonkon Torp LLP

Daytime Phone: 503-802-2023 Email: david.forman@tonkon.com

Biography/Resumé Attached? ☒ Yes ☐ No

CHECK UP TO THREE (3) GROUPS YOU ARE INTERESTED IN (descriptions are online):

☐ Adjustment Committee	☐ Housing Authority of Portland	☐ Portland Planning Commission
☐ Alternative Technology Adv Com	☐ Human Rights Commission	☐ Portland Utility Review Board
☐ Building Code Board of Appeal	☐ Independent Police - Citizen Review Com	☐ Private-for-Hire Board of Review
☐ Business License Appeals Board	☐ Investment Advisory Committee	☐ Public Involvement Advisory Council
☐ Citizen Campaign Committee	☐ Mechanical Code Board of Appeal	☐ Purchasing Board of Appeals
☐ Civil Service Board	☐ Metro Exposition Recreation Commission	☐ Regional Arts & Culture Council
☐ Community Budget Advisory Board	☐ Mt. Hood Cable Regulatory Comm	☐ River Community Advisory Committee
☐ Design Commission	☐ Noise Review Board	☐ Small Business Advisory Council
☐ Development Review Advisory Bd	☐ Plumbing Code Board of Appeal	☐ Special Inspections Advisory Board
☐ Elders in Action	☐ Portland Community Media	☐ Structural Engineering Adv Board
☐ Electrical Code Board of Appeals	☐ Portland Development Commission	☐ Time, Place, Manner Adv. Committee
☐ Fire Code Board of Appeal	☐ Portland Historical Landmarks Comm	☐ Towing Board of Review
☐ Floating Structures Board of Appeal	☐ Portland/Multnomah Food Policy Council	☐ Urban Forestry Commission
☐ Golf Advisory Committee	☒ Portland/Multnomah Sustainable Dev Com	☐ Workforce Investment Board
☐ Housing & Community Devel Com	☐ Portland Parks Board	☐ Children's Investm. Fund Alloc Com

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List education, including degree(s) earned:

J.D., University of Michigan Law School, Ann Arbor, 1988
Case Western Reserve School of Law, 1985-1986
B.A., University of Michigan, Ann Arbor, 1985
Institute for the Study of Economics and Politics, London, 1984
American University, Washington D.C., 1983 (Economics Semester Program)

1st Choice:
Name of Board/Commission/Committee: Sustainable Development Commission

A. Reasons for wanting to serve on this group:

I am particularly interested in the Commission's work to develop strategies that promote sustainable economic development. As a PDX Lounge participant and a panel moderator at this year's sustainability conference at PSU, I know first-hand that Portland has the credentials and opportunity to lead the nation in this endeavor. I would like to be part of that effort, and believe that my law practice and that of my colleagues has afforded me both experience and perspective that would serve the Commission in its work.

I am an avid bike commuter.

B. List skills or knowledge that would be relevant to this Board/Commission:

I co-chair Tonkon Torp's Sustainability Practice Group, which helps companies launch or expand businesses that create or sell sustainable products and services; site, acquire, finance and obtain permitting of renewable energy facilities; solve issues related to managing sustainable forestry and forest product enterprises; and develop green buildings.

In my practice, I advise clients on a range of corporate, financial and transactional matters that allow investors or businesses to use their resources to promote sustainable practices and products. I am committed to helping clients structure and operate in a manner that creates a sustainable future for their organizations, the community and the environment.

C. List work or volunteer experience that would add to your expertise for this Board/Commission

Dates	Employer or Volunteer Activity	Responsibilities
Current:	Cedar Sinai Park	Executive Committee (Immediate Past President)
	Oregon Area Jewish Committee	Executive Committee
	Living Yoga	Board Liason
	PDX Lounge	Sponsor/Participant
	Oregon Entrepreneurs Network	Sustainability Conference Committee
Previous:	Artists Repertory Theater	Board
	Children's Cancer Association	Board

2nd Choice:
Name of Board/Commission/Committee: _____

A. Reasons for wanting to serve on this group:

B. List skills or knowledge that would be relevant to this Board/Commission:

C. List work or volunteer experience that would add to your expertise for this Board/Commission:

Dates (from/to) Employer or Volunteer Activity Responsibilities

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3rd Choice:
Name of Board/Commission/Committee: _____

A. Reasons for wanting to serve on this group:

B. List skills or knowledge that would be relevant to this Board/Commission:

C. List work or volunteer experience that would add to your expertise for this Board/Commission

Dates (from/to) Employer or Volunteer Activity Responsibilities

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List your experience working on diverse teams or committees:

See the listing of my diverse volunteer experiences on page 2 of this Interest Form.

Describe your understanding of the services the City of Portland provides:

As it relates to sustainability, the City, through the Office of Sustainable Development, leads and facilitates discussion and planning about how to ensure Portland's long-term economic health and livability. Once policies are identified and approved, the City implements and enforces them through regulation, incentive programs and other municipal tools.

My signature affirms that all information contained herein is true to the best of my knowledge, and that I understand that any misstatement of fact or misrepresentation of credentials may result in this application being disqualified from further consideration.

Signature: _____ **Date:** 29 December 2008

Please note this optional information **must** remain on a separate page from the rest of the application.

OPTIONAL INFORMATION

The City asks that you voluntarily provide the following information. The City will use this information for statistical purposes, such as tracking the geographical diversity of board and commission appointees. By providing this information, you will help us ensure that appointments represent a broad cross-section of the community. You are under no legal obligation to provide this information. State and federal law prohibit the use of this information to discriminate against you. The City will treat this information as confidential to the fullest extent allowed by law.

Age:	☐ **Under 18**	☒ **18-64**	☐ **65+**
Race:	☐ **African-American** ☐ **Hispanic**	☐ **Asian** ☐ **Native American**	☒ **Caucasian**
Gender:	☐ **Female**	☒ **Male**	
Disability:	☒ **No**	☐ **Yes**	

If yes, please specify: _____

"A green movement strong enough to pull people out of poverty"
-Van Jones, Green for All

To Whom It May Concern:

I am interested in applying for a seat on the Portland/Multnomah Sustainable Development Commission. I believe the principles of sustainability, and sustainable economic development, have the power to transform communities and the Portland/Multnomah Sustainability commission is one way to help ensure that Portlanders are able to engage around those issues.

I believe strongly it is critical that we take a comprehensive look at what sustainability means, not only the economic and environmental components of sustainability but also the third component as well, social equity.

To help address the third component of social equity it is important that workers have a voice at the table. Sustainable economic development, in particular green job creation, is one of the keys to the success of our City. For truly successful sustainable development we must ensure that when jobs are created, that they are good jobs, jobs that provide financial stability, provide benefits, and that help foster a strong local economy.

I have been working for the past seven years in the labor movement and the past five with SEIU Local 49, an organization that works hard fighting for social and economic justice for working people. I look forward to an opportunity to bring my skills and experience to the Sustainable Development Commission.

Thank you,

Maggie Long

Maggie Long

41 NE Tillamook #C
Portland, Oregon 97212
Phone: (206) 240-1457 Email:maggie41279@yahoo.com

Experience

Director of Property Services

January 2004-Present SEIU Local 49, Portland, Oregon

I currently work in varying capacities at SEIU Local 49, including strategic research, labor relations and new organizing. My work consistently requires multitasking and prioritizing multiple urgent tasks, problem solving, independent initiative, extensive use of Spanish Language and other communication skills.

- Experience in all aspects of comprehensive campaigns (research, field, community, political and corporate)
- Extensive experience leading the field component of a comprehensive campaign including experience in filing ULPs, moving a class action lawsuit forward, and moving workers to strike
- Experience in training and developing staff, with direct supervision of three staff
- Experience in developing and implementing a budget
- Experience in event and campaign management-Coordinated logistics, data management, planning and messaging for large public events, substantive meetings, field blitzes and press conferences in new organizing, political and other campaigns
- Experience in Labor Relations-Building relationships with employer's of various sizes, case handling, and working productively with employers
- Experience in coalition building-Working with janitors, other low-wage workers, community supporters, organizations and volunteers in multiple capacities including recruiting leaders, enforcing contracts and agreements, resolving disputes , political activities and planning and executing events

AFL-CIO Organizing Institute NW Region Recruiter and Trainer

October 2002-November 2003 AFL-CIO Organizing Institute

- Experience building and maintaining strategic relationships with faculty and staff at Universities throughout the NW region to meet recruiting goals
- Experience coordinating large group trainings
- Experience screening interested candidates and assessing the skills and abilities of program participants

External Organizer

September 2001-October 2002, H.E.R.E Local 8, Seattle, Washington

- Experience in identifying, recruiting and developing worksite leaders
- Experience in coalition building-Community, faith and Labor
- Experience helping to coordinate comprehensive campaigns to secure a majority sign up agreement and subsequent card signing
- Experience in building and developing an internal organizing program to meet external organizing goals
- Experience working with H.E.R.E Locals in Los Angeles, San Diego, and Missoula, Montana

Education

2001 Graduate, University of Oregon

BA, Political Science, Minor in communications

- Spanish Immersion Program, Seville, Spain , January 2000-June 2000

References

David Ayala: Lead Organizer, SEIU Local 503 (503) 896-7110

Secky Fascione: SEIU Property Services International (206) 954-4677

Felisa Hagins: Political Director, SEIU Local 49 (503) 236-4949

*Additional references available upon request

MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST (revised 09/22/08)

Board Clerk Use Only	
Meeting Date:	01/22/09
Agenda Item #:	R-3
Est. Start Time:	9:50 AM
Date Submitted:	01/07/09

Agenda Title:	**PUBLIC HEARING on the Appeal of a Hearings Officer Decision to Deny Land Use Permits for a 45 Boat Marina, Related Accessory Uses, and a Floating Home at 12950 NW Marina Way**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.

Requested Meeting Date:	January 22, 2009	**Amount of Time Needed:**	30 min (9:45 time certain)
Department:	Community Services	**Division:**	Land Use & Transportation
Contact(s):	Derrick Tokos, Karen Schilling		
Phone:	503-988-3043 **Ext.** 22682	**I/O Address:**	455/116
Presenter(s):	Derrick Tokos		

General Information

1. What action are you requesting from the Board?

The Planning Director is asking the Board to issue a decision approving the Conditional Use, Community Service, and Adjustment permits requested by the applicant and to affirm the Hearings Officer's denial of the Willamette River Greenway and Design Review permits.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

On December 8, 2008 a Multnomah County Hearings Officer issued a land use decision denying an application submitted on behalf of owner Daniel Gulbrandson to construct a 45-boat marina (20 in-water boat slips and 25 upland storage spaces) with marine related construction and repair and one floating residence on property located at 12950 NW Marina Way. A pre-existing log salvage business is part of the proposal as well. The application includes Conditional Use, Community Service, Willamette River Greenway, Design Review and Variance Permits. The Variance was changed to an Adjustment prior to the Hearings Officer rendering the decision.

The Hearings Officer denied the Conditional Use and Community Service Use Permits for the

marina uses because she found that most of the property is within the 100 year floodplain of the Multnomah Channel and therefore, not suitable for the proposed improvements. To support her decision, the Hearings Officer used a City of Portland Flood Insurance Rate Map (FIRM) from the FEMA website. The map, which happens to show the subject property because of its close proximity to the City, does not apply to unincorporated areas. Further, the flood elevation depicted on the City map is based upon a different datum (i.e. starting point for measuring elevation) than the official County FIRM maps. This means that a 100 year flood elevation of 31' feet on the City map is essentially the same as the 27' elevation depicted upon the applicant's survey document, which is based upon the County FIRM map. The Hearings Officer did not catch this distinction.

The County Code allows the Planning Director to appeal a Hearings Officer decision. An appeal was filed with the Chair on December 15, 2008. The Director recommends the Board modify the Hearings Officer decision and find that the applicant has shown that it is feasible for the owner to establish a marina use that includes 1 floating home slip; 25 upland "dry" boat spaces; 20 in-water boat slips (10 covered, 7 open, and 3 boat houses); 32 automobile parking stalls; boat ramp and lift; marine construction and boat repair; conversion of the pole barn to marine accessory use; and limited log salvage. The Director further recommends that the Board approve the applicant's request for an adjustment to remove a portion of the pole barn so that it meets setbacks.

The Director recommends that the Board affirm the Hearings Officer's decision to deny the Willamette River Greenway Permit and the Design Review Permit. The applicant failed to demonstrate in their Willamette River Greenway Permit how they will enhance and protect natural areas along the Channel or provide separation between the waterway and proposed uses. Likewise, the Design Review Permit lacked an adequate site plan and information about all of the improvements. The applicant's final hand drawn plans are difficult to understand. In resubmitting for these permits the owner will have an opportunity to clarify the drawings to show how the standards are met. A draft order (attached) includes the necessary findings and conditions from the staff report and Hearings Officer decision.

Findings in the Hearings Officer decision raises legitimate concerns about ensuring that construction within the 100 year floodplain is safe. Those concerns are best addressed through application of the County Grading and Erosion Control and Flood Hazard regulations. The applicant is aware that they will need to apply to the County for these permits. The permits will address issues such as erosion control, stormwater management, and floodproofing of structures and utilities.

Mr. Gulbrandson entered into a Voluntary Compliance Agreement with the County to correct land use violations and has taken steps to clean up the property. Remaining compliance issues, including removal of a damaged houseboat and permitting of the pole barn for commercial use, will occur in phases. Deadlines for each phase are included in the draft order. Copies of the applicant's survey, site plans, and a recent aerial photograph of the property are enclosed.

3. Explain the fiscal impact (current year and ongoing).

There are no fiscal impacts.

4. Explain any legal and/or policy issues involved.

When the County applies its land use requirements to individual properties, the decisions it makes must be based upon findings of fact that are substantiated by evidence in the record. The Hearings Officer's misunderstanding of the location of the floodplain on this property compromised the findings in her decision. Had the Director not filed this appeal, it is possible that the County's decision would be remanded by LUBA following an appeal by the applicant. It is unfair to place the

burden on the applicant of filing with LUBA when the issue can be resolved through this appeal.

5. Explain any citizen and/or other government participation that has or will take place.

Chapter 37 of the County code outlines a procedure for the review of land use applications to ensure due process for the applicant and neighboring property owners. These applications followed a Type III review process, where the Hearings Officer makes a decision after conducting a public hearing. A public hearing was conducted on October 17th, 2008 at which interested parties were invited to testify on the application. The applicant could also submit testimony or modify their application. Notice of the hearing was published in the Oregonian newspaper. Advance mail notice was sent to property owners within 750 feet of the property. Mr. Gulbrandson attended the hearing and was represented by Mark Hess and Lee Buckley. Alan Garren and Marilyn Zornado from the neighboring Marina Way Moorage testified in opposition, and submitted letters from Thomas Magruder, Mark Valeske, Dwight James, and Jean Adams, residents of the same moorage that share their concerns. Their comments were largely directed at what they view to be a junkyard that Mr. Gulbrandson has maintained on the property and their lack of confidence in his ability to properly implement the new uses. A letter was submitted by the owners of Multnomah Yacht Harbor immediately upstream of the property. While they are not opposed to Mr. Gulbrandson developing a marina they want him to clean up the site and adhere to the same rules as everyone else. ESCO Corporation submitted a letter to point out that they operate a landfill across the channel and that the applicant should be aware that they intend to operate the landfill for several years. Copies of the letters are enclosed.

This hearing before the Board is limited to the existing record. Only the applicant and staff can testify and no new information can be submitted. Persons who testified at the original hearing or submitted comments will receive notice of the Board meeting and may attend to observe the proceedings.

Any person who has participated in the process will have a right to appeal to LUBA once the Board renders a decision.

Required Signature

Elected Official or Department/ Agency Director: M. Cecilia Johnson **Date: 01/06/09**

BOGSTAD Deborah L

From: SCHILLING Karen C
Sent: Wednesday, December 17, 2008 11:18 AM
To: BOGSTAD Deborah L
Cc: ISLEY Sheila L
Subject: FW: Notice of Planning Director appeal to BCC

Deb,
Can you please schedule a Land Use hearing for January 22, per the email below. We will need 30-45 minutes for the hearing. It should be called Planning Director Appeal of T3-008-02.
Please let me know as soon as possible if it can not be scheduled on this date as we have to notice property owners 14 days in advance. If the 22nd is not available we will need to schedule for January 15.
Thanks and let me know if you have questions.
Karen

-----Original Message-----
From: SCHILLING Karen C
Sent: Monday, December 15, 2008 4:00 PM
To: WHEELER Ted
Cc: JOHNSON Cecilia; TOMKINS Jed; TOKOS Derrick I; RINEHART Tom; ROCHE Hector R
Subject: Notice of Planning Director appeal to BCC

Ted,
This email serves as my appeal of Land Use Planning decision T3-08-002 to the Board of County Commissioners as provided in MCC 37.0640 (B)(1). This provision exists so that in the rare occasion that the Planning Director feels that a Hearings Officer (HO) decision needs to be appealed the County can take action without appealing the decision to the Land Use Board of Appeals (LUBA).

In T3-08-002, the HO denied Mr. Daniel Gulbrandson the following permits: Conditional Use, Community Service Use, Greenway, Design Review and a Variance. The HO used a floodplain map to base her decision that is different from the map applicable to this matter. The HO also misinterpreted the location of 100 year flood elevation, identifying more of the property to be within the floodplain than what is shown on a survey submitted by the applicant that is based upon our maps. Using the appropriate information would result in approval of the Conditional Use, Community Service and Variance permits.

We will need to notice the surrounding property owners 14 days prior to the hearing. The hearing needs to be held within the 150-day clock of the decision which ends on January 25, 2009. The hearing is on-the-record so no new evidence is presented. The Planning Director has 10 minutes to present our case as well as the applicant has 10 minutes to present any information. The applicant is not appealing to the BCC; if he chooses to appeal the County's decision he would appeal to LUBA following the Board's decision. Our code provides that the Board must deliberate and deliver a decision at the hearing so by holding the hearing as late as January 22 we could meet the 150-day timeline.

By appealing this decision with the hopes that the BCC agrees with the Planning Director, we will be showing a good faith effort to the applicant that his permits can be approved and he will then only have to reapply for two of the permits. This will ultimately save the applicant money. In addition, appealing to the BCC will cost the Planning staff and attorneys less time as well.

I will work with Deb Bogstad to schedule this hearing for January 22. We can also provide you and the commissioners with more information after the beginning of the year prior to the hearing date.
Karen

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. _____

Order Affirming In Part and Reversing In Part the Decision of the Hearings Officer Relating to Marina and Marina-Related Uses of Property Located at 12950 NW Marina Way, Multnomah County, Oregon

The Multnomah County Board of Commissioners Finds:

a. Applicant, Mr. Mark Hess, on behalf of owner Daniel Gulbrandson, is requesting a Conditional Use permit, Community Service permit, an Adjustment permit, Willamette River Greenway permit, and a Design Review permit for a 45-boat marina (20 in-water boat slips and 25 boat spaces on-land) with accessory marine-related construction and repair, and one floating residence. The proposal includes: 1 floating home slip, 2 houseboat 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.

b. In accordance with MCC 37.0510 *et seq.*, the application was processed as and subject to the procedures for a Type III land use decision.

c. This matter was heard by Liz Fancher, Multnomah County Hearings Officer, on Friday, October 17, 2008, at 1:00 p.m. in Room 103 at the Land Use Planning Division, 1600 SE 190th Avenue, Portland, OR 97233.

d. Multnomah County Land Use Planning staff prepared a staff report with findings recommending the Hearings Officer approve all permits sought by the applicant.

e. After reviewing the record, the Hearings Officer issued a Decision denying all permits on December 8, 2008.

f. As reflected in the Decision, determination of the boundary of the 100-year floodplain on the subject property is critical to approval of the Conditional Use and Community Service permits.

g. The survey map submitted by the applicant and set forth in exhibit A.25 properly establishes the boundary of the 100-year floodplain on the subject property. Exhibit A.25 derives from the more general Federal Emergency Management Agency's (FEMA) Flood Rate Insurance Map (FIRM) panel 135 of 550 (Community Panel Number 4101790135 B, March 18, 1986), which is FEMA's map for unincorporated Multnomah County covering the subject property (exhibit

A.10). This FIRM is part of the set of maps produced by FEMA for use in the National Flood Insurance Program in which the County participates. Exhibit A.25 is a site specific survey indicating the location of the 100-year floodplain on the subject property.

h. The 100-year floodplain boundary established by the applicant covers less than half of the upland portions of the subject property whereas the boundary determined by the Hearings Officer covered almost all of the property. The Hearings Officer relied on 2004 maps developed by FEMA for incorporated, rather than unincorporated, portions of Multnomah County (exhibit J.6). These maps use a datum (i.e. starting point) for measuring elevation that is different from the maps submitted by the applicant, which are based upon the 1986 FIRM. This difference renders the differing map sets incomparable. In the alternative, the Hearings Officer found that the applicant's survey was inconsistent with the 1986 FIRM map that similarly shows more of the property inside the floodplain than the applicant's survey. Firm maps show the general location of the floodplain. They are not survey accurate. The applicant's site specific survey, which is based upon the FIRM, best indicates the location of flood boundary on the property. Accordingly, the Decision by the Hearings Officer relying on a different location of the 100-year floodplain boundary than that established by the applicant requires revision.

i. Pursuant to MCC 37.0640 (B)(1), Karen Schilling, Director of the Multnomah County Division of Transportation and Land Use Planning, timely appealed the Hearings Officer's Decision on December 15, 2008.

j. With respect to the application for a Conditional Use permit:

   i. Exhibits A.22 and A.25 show the location of the 100-year floodplain, topography of the site, the project site plan, and establish that the lot may be large enough to meet the needs of the proposed use for purposes of MCC 34.2875 (A) and (B), and MCC 34.6315(A)(2) (site size needs of the proposed use, impact to nearby properties, and impact to natural resources). Site and building plan deficiencies identified by the Hearings Officer can be corrected with new Willamette River Greenway and Design Review permits and through those permits the applicant will have an opportunity to demonstrate that the full density can be achieved on the property. Any concern over the satisfaction of the above criterion is resolved by requiring these permits, along with Grading and Erosion Control and Flood Development permits as a condition of approval. Accordingly, the criteria set forth in MCC 34.2875 (A) and (B), MCC 34.6315(A)(2) have been met.

   ii. Service provider forms (Exhibit A.13) have been reviewed and submitted for water service (Burlington Water District), on-site sewage disposal system, and fire flow and access demonstrating that services are available that will

not require public services other than those existing or programmed for the area for purposes of MCC 34.6315 (A)(4) and related Comprehensive Framework Plan Policies 2 and 37. Given our findings in paragraphs g–h above, any remaining concern over the satisfaction of the criterion in MCC 34.6315 (A)(4) is resolved by requiring Grading and erosion Control and Flood Development permits as a condition of approval Accordingly, the criterion set forth in MCC 34.6315 (A)(4) and associated plan policies has been met.

iii. Given our findings in paragraphs g–h above, any concern over the satisfaction of the criterion in MCC 34.6315(A)(6) (project will not create hazardous conditions) and related Comprehensive Plan Policy 14 is resolved by requiring Grading and Erosion Control and Flood Development permits as a condition of approval. Accordingly, the criterion set forth in MCC 34.6315(A)(6) and Policy 14 has been met.

k. With respect to the application for a Community Service permit:

i. Our findings in paragraph j.ii above apply equally to the criterion set forth in MCC 34.6010 (D) (project will not require public services other than those existing or programmed for the area) for Community Service permits. Accordingly, the criterion set forth in MCC 34.6010 (D) has been met.

ii. Given our findings in paragraphs g–h above, any concern over the satisfaction of the criterion in MCC 34.6010 (F) (project will not create hazardous conditions) is resolved by requiring Grading and Erosion Control and Flood Development permits as conditions of approval. Accordingly, the criterion set forth in MCC 34.6010 (F) has been met.

l. With respect to the application for an Adjustment permit, staff findings pertaining to MCC 34.7611 (A) and (B) are adopted as set forth in the staff report, along with a modified version of staff condition of approval #8. In relevant part, the purpose of the setback standards sought to be adjusted is to provide separation between properties for privacy. As conditioned, the proposed adjustment will preserve privacy through placement of a 5-foot wide landscape strip planted along the north, south and west property lines which will screen and buffer the development. Accordingly, the criteria set forth in MCC 34.7611 (A) and (B) have been met.

m. Phasing of this approval and the Voluntary Compliance Agreement entered between Mr. Gulbrandson and the County adequately addresses Hearings Officer concerns about the number of violations and timing of corrective actions. The County has verified the removal of most of the scrap material stored on the property and Mr. Gulbrandson will be removing the burned out floating home. Compliance issues related to the in-water structures (i.e. piers, slips, and

walkways) and the pole barn will be addressed with the marina work, as outlined in the phasing plan.

n. Placing a houseboat on this property is not inconsistent with Comprehensive Plan Policy 13, which seeks to minimize conflicts between noise sensitive and noise generating uses. Marine repair and related uses are commonly found along the Channel, so the related noise is typical to the area. Most noise generating activities will occur in upland areas; whereas the houseboat will be located on the water. This satisfies the policy objective of locating the residence on the portion of the site where noise levels will be minimized.

The Multnomah County Board of Commissioners Orders:

1. The Conditional Use, Community Service, and Adjustment permits are approved subject to the following conditions:

   a. Approval of this Permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other that which is specified within these documents or within subsequent land use permits. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.

   b. Prior to land use sign off of any building permits, a Willamette River Greenway, Design Review, Flood Development and Grading and Erosion Control permits must be applied for and approved.

   c. A 5-foot landscaping strip shall be planted along the north, south, and west property lines to further screen the pole building from view. Planting details shall be provided with the Willamette River Greenway and Design Review permits. Required landscaping shall be continuously maintained.

   d. All proposed development shall occur as described in the below Phasing Plan, and all necessary building permits shall be obtained by November 1, 2013.

Year One 11/01/2009	Structural/Code Evaluation of pole barn/warehouse Remove crane equipment near gangway Obtain DSL lease renewal and amendment per plan
Year Two 11/01/2010	Remove encroaching portion of pole barn/warehouse Install driveway approaches and logs per ODOT permit Reconfigure in-water walkways, covered slips per plan Install planter islands, landscaping, and parking spaces
Year Three	Remodel pole barn for accessory marina use

11/01/2011	Install bathroom and new drain field per plan
Year Four 11/01/2012	Install finger piers and Boat Lift system
Year Five 11/01/2013	Construct floating home per plan

e. Portions of the pole barn that encroach more than 40% into the required setback shall be removed and completed by year two of the phasing plan (by 11/01/2010). The applicant shall submit building plans for review and approval to the county, and applicable building permits shall be successfully obtained for use of the pole barn as accessory to the marina.

f. All applicable Federal, State and Local permits shall be obtained as applicable to the project.

2. Except as revised by this Order and the foregoing findings, the Hearing's Officer's Decision is otherwise affirmed.

ADOPTED this 22nd day of January, 2009.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

_____
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By_____
Sandra N. Duffy, Assistant County Attorney

SUBMITTED BY:
Sandra N. Duffy, Assistant County Attorney

Land Use Appeal before the Board of County Commissioners
Gulbrandson – T3-08-002
January 22, 2009

DENOVO HEARING PROCESS

I. INTRODUCTORY COMMENTS (Read comments in bold)

1) **I am Ted Wheeler, Chair of the Multnomah County Board of County Commissioners. The Board members present today are:**
   a) **Jeff Cogan**
   b) **Judy Shiprack**
   c) **Diane McKeel**
   d) **Deborah Kafoury**

2) **This is an appeal by the Director of the Land Use Planning Division of a Hearings Officer's decision.**

3) **The County representative for this hearing is Derrick Tokos, Principal Planner.**

4) **The Applicant is represented by Mark Hess.**

5) **This is a quasi-judicial proceeding. Our duty is to apply the law, not revise it. At this hearing we sit as a tribunal, not as law makers. Our review is *de novo*, which means we can substitute our judgment in deciding the matter. However, this hearing is limited to the existing evidence on the Record before the Hearings Officer. No new evidence may be submitted.**

6) **Only the Appellant-County representative and the Applicant can make presentations. Persons who testified at the original hearing or submitted comments will have a right to appeal this Board decision to LUBA.**

7) **The parties' presentations are limited to 10 minutes each and the Appellant – County representative may reserve up to 3 minutes from that 10 minutes for rebuttal.**

8) **The parties are entitled to an impartial hearings board. This is the time for the Board to declare any of the following:**

- **Bias or Pre-judgmental of this case**
- **Potential or actual conflicts of interest**
- **Ex parte contacts with Board members or Board staff**
- **Site visits**

9) **Does any Board member wish to disclose any of these matters?** (Whether or not any disclosures are made: **Does anyone at this hearing wish to challenge any member of the Board on any of these grounds?)**

10) **Does anyone want to challenge this hearing on any procedural grounds?**

II. HEARING

1) **The parties should identify the criteria applicable to the land use application, by stating the section of the Zoning Ordinance, County Comprehensive Plan, State statute or other legal authority to which their arguments are directed.**

2) **The burden of proof for compliance with all applicable land use approval criteria is on the Applicant.**

3) **During the hearing, we ask those in the audience to refrain from demonstrations in support or opposition.**

4) **Appellant may present. [Derrick Tokos]**

5) **Applicant may present. [Mark Hess]**

6) **Staff may respond to any matters raised by Applicant. [Derrick Tokos]**

7) **Board members may ask questions or seek clarification from the parties.**

8) **Does anyone want to raise any objection to any aspect of this hearing?**

III. MOTION AT CONCLUSION OF LAND USE APPEAL HEARING:

COMMISSIONER _____:

I move that the Board approve the Conditional Use, Community Service and Adjustment permits requested by the applicant and I further move that the Board affirm the Hearings Officer's denial of the Willamette River Greenway and Design Review permits.

COMMISSIONER _____:

I second the motion.

IV. DELIBERATION

V. VOTE

VI. APPEALS RIGHTS

The parties and anyone who submitted written comment, requested the decision in writing or provided oral testimony at a hearing on the matter will receive a copy of our written decision. Our decision may be appealed to LUBA.

MULTNOMAH COUNTY
LAND USE AND TRANSPORTATION PROGRAM
1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
http://www.co.multnomah.or.us/landuse

Staff Report

Application for a Conditional Use, Community Service, Willamette River Greenway, Design Review, and Variance Permit

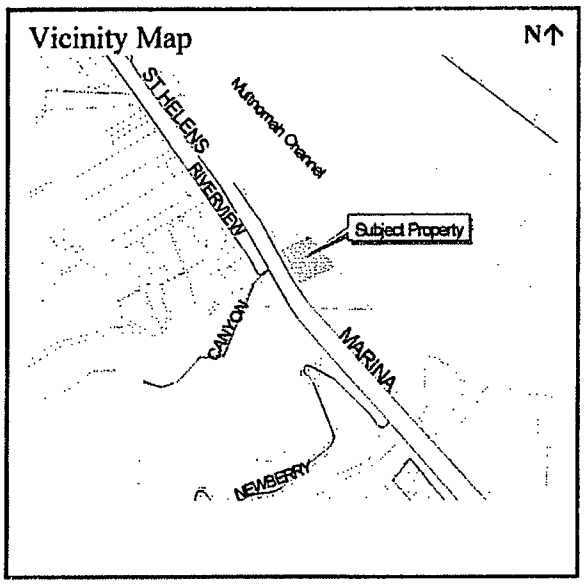
Case File: T3-08-002

Scheduled Before one of the following County Hearings Officer's:

Joan Chambers
Liz Fancher
Chris Cook
Bruce White

Hearing Date, Time, & Place:

Friday, October 17, 2008, at 1:00 pm or soon thereafter, in Room 103 at the Land Use Planning Division office located at 1600 SE 190th Avenue, Portland, OR 97233



Location: 12950 NW Marina Way
TL 700, Sec 28D, T 2N, R 1W, W.M.
Tax Account # R97128-0500

Applicant: Mark Hess **Owners:** Daniel Gulbrandson

Summary: Applicant is requesting a Conditional Use permit, Community Service approval, Willamette River Greenway permit, Design Review, and a Variance permit for a 45-boat marina (20 in-water boat slips and 25 boat spaces on-land) with accessory marine-related construction and repair, and one floating residence. The proposal includes: 1 floating home slip, 2 boathouse 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.

Zoning: Multiple Use Agriculture - 20 (MUA-20)

Overlay Zone: 100 Year Floodplain, Willamette River Greenway

Site Size: 2.13 upland acres and an associated 1.3-acres in submerged land lease area

Applicable Approval Criteria: Multnomah County Code (MCC):
Multiple Use Agricultulture-20 (MUA-20) Zoning District: MCC 34.2830 Conditional Uses; MCC 34.2855 Dimensional Requirements; MCC 34.2870 Lot of Record; MCC 34.2875 Lot Sizes for Conditional Uses; MCC 34.2880 Off-Street Parking and Loading; MCC 34.2885 Access
Conditional Use Permits: MCC 34.6315 Conditional Use Approval Criteria
Community Service: MCC 34.6010 Community Service Approval Criteria; MCC 34.6020 Restrictions
Willamette River Greenway: MCC 34.5855 Greenway Design Plan
Waterfront Uses: 34.6750 Houseboats and Houseboat Moorage; 34.6760 Parking; 34.6765 Other Requirements
Design Review: MCC 34.7030 Design Review Plan Contents; MCC 34.7040 Final Design Review Plan; MCC 34.7050 Design Review Criteria; 34.7055 Required Minimum Standards
Variance and Adjustments: MCC 34.7616 Variance Approval Criteria; MCC 34.7611 Adjustment Approval Criteria
Administration and Procedures: MCC Chapter 37
Comprehensive Framework Plan Policy 14 (Development Standards)
Comprehensive Framework Plan Policy 37 (Utilities)
Comprehensive Framework Plan 10 (Multiple Use Agricultural Land)
Comprehensive Framework Plan 13 (Air, Water and Noise Quality)
Comprehensive Framework Plan 15 (Willamette River Greenway)
Comprehensive Framework Plan 16 (Natural Resources)
Comprehensive Framework Plan 26 (Houseboats)
Comprehensive Framework Plan 34 (Traffic Ways)
Comprehensive Framework Plan 38 (Facilities)
Statewide Planning Goal 14 (Urbanization)

Recommended Hearing Officer Decision:

Staff recommends that the Hearings Officer approve the Conditional Use permit, Community Service approval, Willamette River Greenway permit, Design Review, and deny the Variance permit for a 45-boat marina, with accessory marine-related construction and repair, and one floating residence. The proposal includes: 1 floating home slip, 2 boathouse parking spaces, 20 in-water boat slips, 25 boat spaces on-land, 30 automobile parking stalls, a boat ramp and lift, log salvage yard, and construction and repair activities related to the marina and moorage.

It should be noted that on October 6, 2008, the use of the Pole Barn and the request for a Variance was further clarified by the client in response to correspondence sent by staff on October 3, 2008 regarding the variance criteria. The applicant clarified the use of the pole barn to be for accessory marina use and that the applicant will pursue appropriate building, electrical, and plumbing permits to remodel the pole barn for accessory marina use. In addition, the applicant has agreed to removal of portions of the pole barn that encroach more than 40% into the 30-foot front yard setback, with the removal of the encroaching portion of the pole barn to be completed in year two of the phasing plan. The removal of the encroachment and limitation to 40% encroachment, removes the requirement of a Variance Permit for the project. Multnomah County Code (MCC) 34.7601(C) provides for the Adjustment review process by which certain dimensional standards may be modified no more than 40 percent. The Adjustment approval criteria are identified in MCC 34.7611 and are addressed in Section 10.00 in the Findings Below. Staff recommends that the Hearing's Officer approve the Adjustment for setback encroachment for the Pole Barn.

Recommended Conditions of Approval:

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

3. Prior to land use sign off for the building permit, the property owner shall record a copy of this decision (cover page through conditions of approval and final site plan) in the records of the Multnomah County Recorder and submit a copy of the recorded copy to the Land Use Planning section. [MCC 37.0670]

4. Prior to land use sign off of any building permits, the applicant shall provide a Stormwater Certificate demonstrating that the stormwater run-off attributed from all new development created from a 10-year, 24-hour storm event can be handled on site. [MCC 34.6010(B)]

5. Prior to land use sign off of any building permits, a Flood Development Permit and Grading and Erosion Control/Minimal Impact Permit must be applied for and approved. [MCC 34.6010(F)]

6. Within 90 days of the final County decision, the applicant shall submit a redrawn site plan showing the approved project and compliance with the following standards:

    a. MCC 34.4170 Access provided an unobstructed paved drive not less than 20 feet in width for two-way traffic through the site, leading to a public street.

    b. MCC 34.4175 Dimensional Standards (B) Aisle width between automobile parking spaces shall be not less than: (1) 25 feet for 90 degree parking,

    c. MCC 34.4180 Improvements –

    (A) Surfacing - (1) All areas used for parking, loading or maneuvering of vehicles shall be surfaced with two inches of blacktop on a four inch crushed rock base or six inches of Portland cement or other material providing a durable and dustless surface capable of carrying a wheel load of 4,000 pounds.

    (B) Curbs and Bumper Rails - (1) All areas used for parking, loading, and maneuvering of vehicles shall be physically separated from public streets or adjoining property by required landscaped strips or yards or in those cases where no landscaped area is required, by curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress.

    (2) The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height and at least three feet from the lot line or any required fence.

    (C) Marking – All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC 34.4120, and such marking shall be continually maintained.

    (D) Drainage – All areas for the parking and maneuvering of vehicles shall be graded and drained to provide for the disposal of all surface water on the lot.

7. Any artificial lighting which may be provided shall be shielded or deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street. [MCC 34.4185 Lighting]

8. A 5-foot landscaping strip shall be planted along north, south and west property lines of the subject property to enhance the riparian corridor and provide for screening and buffering of the development. The proposed vegetation plantings along the channel shall be designed by a biologist or the Soil Conservation Service to ensure that it will enhance the channel. A minimum 15% gross landscaped area and 25 square feet minimum landscaping per parking space shall be provided on-site. Prior to authorization of any building permits, a copy of the vegetation/landscaping plan shall be submitted to the County for review and approval. Required landscaping shall be continuously maintained [MCC 34.7055 (C) (5)]. Provision shall be made for watering planting areas where such care is required to maintain the plants in a living condition [MCC 34.7055 (C) (4)]. All landscaping and irrigation shall be in place prior to final building permit inspection for the project.

9. All proposed development shall occur as described in the below Phasing Plan, and all necessary building permits shall be obtained by November 1, 2013.

Year One	Structural/Code Evaluation of pole barn/warehouse
11/01/2009	Remove crane equipment near gangway
	Obtain DSL lease renewal and amendment per plan

Year Two 11/01/2010	Remove encroaching portion of pole barn/warehouse Install driveway approaches and logs per ODOT permit Reconfigure in-water walkways, covered slips per plan Install planter islands, landscaping, and parking spaces
Year Three 11/01/2011	Remodel pole barn for accessory marina use Install bathroom and new drain field per plan
Year Four 11/01/2012	Install finger piers and Boat Lift system
Year Five 11/01/2013	Construct floating home per plan

10. Portions of the pole barn that encroach more than 40% into the required setback shall be removed and completed by year two of the phasing plan (by 11/01/2010). The applicant shall submit building plans for review and approval to the county, and applicable building permits shall be successfully obtained for use of the pole barn as accessory to the marina.
11. Architectural drawings of the floating home or boathouses, and pole barn will need to be submitted as part of the building plan review consistent with permit approvals. In addition, drawings of docks, ramps, and piers shall be submitted for the in-water development for review and approval. The submitted drawings shall demonstrate ADA compliance. [MCC 34.7030(B)(3) and (12)]
12. A public restroom shall be provided and located with the pole barn structure and shall be compliant with ADA standards. [MCC 34.7030(B)(12)]
13. All applicable Federal, State and Local permits shall be obtained as applicable to the project.
14. All ramps, walkways and moorage spaces shall be designed, constructed and maintained to provide maximum safety in all weather conditions. [MCC 34.6765]

Note: When ready to have building plans signed-off; the applicant shall call the Staff Planner, Joanna Valencia, at (503)988-3043 extension 29637, for an appointment for review and approval of the conditions and to sign the building plans. Multnomah County must review and sign off building permit applications before they are submitted to the City of Portland. Five (5) sets each of the site plan and building plan sign off.

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Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code criteria and Comprehensive Plan Policies are in **bold** font. The applicants statements are identified below as '**Applicant:**'. Staff comments and analysis are identified as '**Staff:**' and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

Land Use History & Current Conditions:

Applicant: A-1 Marina is an existing boat storage and repair enterprise located at 12950 NW Marina Way, just outside the Portland City limits, approximately ¼ mile upstream from the Sauvie Island Bridge.

The marina's owner and operator, Daniel C. Gulbrandson, initially sought permits in 1977 "... to construct a commercial moorage, boat launching ramp, and boat repair facilities along the Multnomah Channel..." (Reference: Corps of Engineers Public Notice 071-OYA-2-002743 dated November 23, 1977).

The National Marine Fisheries Service and the Columbia Region Association of Governments (CRAG) both issued favorable review letters in December 1977 (attached). The Port of Portland issued permit 78-06 in January 1978 authorizing the work described in the Corps notice. The Port of Portland issued permit 80-20 in May 1980, again authorizing the work described in the Corps notice cited above. That same year, Multnomah County issued Willamette River Greenway permit WRG 4-80, which authorized "log salvage". Since 1980, the property has been used for marina-related activities, with docks and pilings extending along Multnomah Channel's west bank.

A 20-year submerged land lease (ML 7112) was secured from the Division of State Lands in 1989. The waterway lease area, along approximately 310-feet of shoreline, extends 180-feet riverward from the channel's ordinary high water line. The lease area encompasses approximately 1.3 acres of water surface abutting the 2.13-acre upland property. The applicant has contacted the DSL concerning the process to renew and modify the waterway lease that will expire in June 2009.

These 2008 applications seek Multnomah County permits to authorize the current marina and its associated activities. The applications include a phased master site plan that would reconfigure the docks, boat slips and other improvements onsite and within the adjacent submerged land lease area.

The applications, together with the plans, maps, narrative, and support materials, demonstrates that the proposed master plan for a marina, boat repair, and associated uses is appropriate for the site, compatible with the area character, and consistent with County plans and zoning provisions if developed and operated as detailed herein. These applications also fulfill terms of the Voluntary Compliance Agreement in County case file UR-06-007.

Staff: The 2.13 acre subject property is zoned Multiple Use Agriculture-20 with zoning overlays for Willamette River Greenway and for the 100-year floodplain. The property is located between Highway 30 to the southwest and Multnomah Channel to the northeast. A heavy rail line is also located between the subject property and Highway 30 to the southwest. More specifically, the subject property lies between the Lucky Landing and Marina Way Moorages, roughly 0.4-miles upstream from the Sauvie Island Bridge.

Although the owner has approached the County in the past requesting a similar range of uses, previous land use applications were withdrawn by the applicant (cases MC 7-98, CS -03 and WRG 0-1). The owner received County approval in 1980 to establish a private boat ramp for the purpose of providing river access for a log processing operation (WRG 4-80). A zoning complaint was received last year in association with an unpermitted boat salvage operation (case UR-06-007). The applicant is attempting to rectify this complaint as part of this land use review.

Project Description:

Applicant: A1 Marina Site

Conditional Use, Community Service Use, Willamette River Greenway, Design Review, Floodplain Development, Health Hardship Mobile Home, and Grading and Erosion Control Permits for current and planned marina/boat repair uses and phased master plan with 20 wet slips, 25 dry slips, one floating home, a boat lift; 30 parking spaces, and greenway plantings. A variance request would reduce the 30-front yard to 16-feet and allow the pole barn in its current location.

These applications propose a CU for a single floating home moorage and a CS Permit for the marina that would contain 20 "wet" slips (10 covered; 7 open, 3 boathouses) and 25 "dry" slips or upland boat spaces. An existing boat ramp and a proposed travel lift would facilitate the upland boat storage and launches; boat repair activities accessory to the marina would be conducted primarily on the upland site and would be generally confined to daylight hours, Monday through Saturday.

An existing log salvage operation authorized under WRG 4-80 would continue within the waterway lease area in the channel. Logs from damaged or older floating structures and from other sources -- suitable for floatation -- are reused for new or repaired swim float platforms, floating walkways, boathouses, and other marina and moorage purposes. These in-water salvage and construction activities are generally confined to daylight hours, Monday through Saturday, with exceptions for emergency purposes.

The above described log salvage and related construction activities have been conducted at the A-1 Marina site under County Permit WRG 4-80 for almost 30-years. The 2008 CU and CS Permit applications seek authorization to continue marina and moorage related construction and repair activities within the waterway lease area, limited to the days and hours of operation noted above. Further, the in-water construction and repair activities would employ best management practices to protect ground, air, and water qualities, and are limited in scale, accessory to the requested marina and moorage uses, and would have minimal external effects in terms of noise, fumes, odors, vibration, or other off-site impacts. The accessory log salvage, boat repair, and float construction would occasionally involve hiring or contracting with no more than 6 employees on a temporary, seasonal, or project-duration basis. Typical projects include repair or salvage of a damaged boat, construction or repair of a boathouse or houseboat, and building or repairing swim-float platforms or floating walkways.

(Below responses taken from Applicant response letter received October 6, 2008)
The log salvage consists of securing floating logs in the water lease area immediately upstream and downstream of the center gangway, between the floating walks and the shoreline. Logs are individually brought ashore via the boat ramp. The logs are evaluated, trimmed and cut, and returned to the river for reuse in floating walkways, swim floats, and other structures which use logs for floatation.

(Below responses taken from Applicant response letter received August 7, 2008)
This letter supplements and modifies the above-cited applications and specifically responds to your letter dated July 18, 2008, which identified County Staff's issues, questions, and specific code criterion that should be further addressed in the applications concerning property located at 12950 NW Marina Way.

The application for a Health Hardship Permit is hereby withdrawn; any text or plan references to the Temporary Health Hardship Mobile Home should be disregarded during the review of the other requested permits.

The existing pole barn is used for storing the owner's personal private property, including his personal tools, motor vehicles, and other possessions. The pole barn and the personal items stored therein are not associated with the marina and associated business activities proposed with these CU/CS/WRG/DR applications, except to the extent that the Variance request seeks to authorize the reduced front yard setback that would allow the storage building to remain in its current location on the site.

(Below responses taken from Applicant response letter received October 6, 2008)
The applicant will pursue appropriate building, electrical, and plumbing permits to remodel the pole barn for accessory marina use. In year one, the building will be evaluated to determine what modifications are needed for the change of occupancy. The phasing plan proposes to obtain the permits and initiate the remodel in year three, which concludes 11/01/2011.

The revised site plan and parking detail sheet identifies the location of the 25 upland "dry slips". Boat repair activities accessory to the marina would be conducted primarily on the upland site and would be confined to daylight hours, Monday through Saturday.

(Below responses taken from Applicant response letter received October 6, 2008)
The boat repair is a minor incidental activity to the boat storage. After the pole barn has been remodeled for accessory marina use (Year three) the building will provide a protected and discreet location for more elaborate boat repairs. In the interim, minor boat repairs are performed outside in the boat yard, with temporary tarps for weather protection as needed.

The existing log salvage operation authorized under WRG 4-80 would continue within the waterway lease area in the channel. Logs from damaged or older floating structures and from other sources -- suitable for floatation -- are reused for new or repaired swim float platforms, floating walkways, boathouses, and other marina and moorage purposes. These in-water salvage and construction activities would be confined to daylight hours, Monday through Saturday, with exceptions only for emergency purposes.

The above described log salvage and marine-related construction activities have been conducted at the A-1 Marina site under County Permit WRG 4-80 for almost 30-years. The 2008 CU and CS Permit applications seek authorization to continue marina and moorage related construction and repair activities within the waterway lease area, limited to the days and hours of operation noted above. Further, the in-water construction and repair activities would employ best management practices to protect ground, air, and water qualities, and are limited in scale, accessory to the requested marina and moorage uses, and would have minimal external effects in terms of noise, fumes, odors, vibration, or other off-site impacts. The accessory log salvage, boat repair, and float construction would occasionally involve hiring or contracting with no more than 6 employees on a temporary, seasonal, or project-duration basis. Typical projects include repair or salvage of a damaged boat, construction or repair of a boathouse or houseboat, and building or repairing swim-float platforms or floating walkways.

(Below response taken from email from applicant dated August 15, 2008, RE: A1 Marina and Use of Pole Barn)
This email supplements the Conditional Use, Community Service Use and related applications for the A-1-Marina site located at 12950 NW Marina Way. The purpose of the email is to further explain and clarify the use of the pole barn building on the site, which, as the record for the property indicates, was constructed in approximately 1980 as an exempt agricultural building.

The pole barn today continues to be used to store agricultural implements, tools, feed and to house chickens which the owner raises for his own personal consumption (of eggs primarily). The dozen or so chickens raised on the premises (and their eggs) are not used for commercial processing and are not for sale at wholesale or retail, and therefore are not subject to MCC 34.2830(B)(3), which requires a conditional use permit for commercial fowl operations. The pole barn remains permissible under MCC 34.2820(A)(3) and MCC 34.2820(F)(4).

(Below response taken from response from applicant dated October 6, 2008)
The Proposed Phasing Timeline is below:

Year One	Structural/Code Evaluation of pole barn/warehouse
11/01/2009	Remove crane equipment near gangway
	Obtain DSL lease renewal and amendment per plan
Year Two	Remove encroaching portion of pole barn/warehouse
11/01/2010	Install driveway approaches and logs per ODOT permit
	Reconfigure in-water walkways, covered slips per plan
	Install planter islands, landscaping, parking spaces
Year Three	Remodel pole barn for accessory marina use
11/01/2011	Install bathroom and new drain field per plan
Year Four	Install finger piers and Boat Lift system

11/01/2012

Year Five Construct floating home per plan
11/01/2013

Staff: Applicant is requesting a Conditional Use permit, Community Service approval, Willamette River Greenway permit, Design Review, and a Variance permit for a 45-boat marina, with accessory marine-related construction and repair, and one floating residence. The proposal includes: 1 floating home slip, 2 boathouse parking spaces, 20 in-water boat slips, 25 boat spaces on-land, 30 automobile parking stalls, a boat ramp and lift, log salvage yard, and construction and repair activities related to the marina and moorage.

It should be noted that the request for a Health Hardship Mobile Home was withdrawn on August 7, 2008. On October 6, 2008, the use of the Pole Barn and the request for a variance was further clarified by the client in response to correspondence sent by staff on October 3, 2008 regarding the variance criteria. The applicant clarified the use of the pole barn to be for accessory marina use and that the applicant will pursue appropriate building, electrical, and plumbing permits to remodel the pole barn for accessory marina use. In addition, the applicant has agreed to removal of portions of the pole barn that encroach more than 40% into the 30-foot front yard setback, with the removal of the encroaching portion of the pole barn to be completed in year two of the phasing plan. The removal of the encroachment and limitation to 40% encroachment, removes the requirement of a Variance Permit for the project. Multnomah County Code (MCC) 34.7601(C)), provides for the Adjustment review process by which certain dimensional standards may be modified no more than 40 percent. The Adjustment approval criteria are identified in MCC 34.7611 and are addressed in Section 10.00 in the Findings Below.

It should be noted that the provision in the County Code 34.6755 allowing up to one floating home per 50-feet of waterfront frontage is in conflict with Oregon Administrative Rules (OARs) implementing Statewide Planning Goal 14 because it fails to limit development to one single family dwelling per lot or parcel. The application is proposing only one single family dwelling in the form of one floating residence as identified in the submitted plans.

MCC 37.0560 allows the County to authorize a new land use on properties that contain violations of Multnomah County code if all problems are resolved. A number of other issues must also be addressed as part of this permit. It should be noted that the landowner has entered into a Voluntary Compliance Agreement for the subject property, Case No. UR-06-007 (Exhibit A.30), to address the code violations. The specific violations are for the current configuration of the marina (covered boat docks and piers) on-site, the use of the marina (covered docks/piers) as commercial boat storage spaces, and the storage of burned out two story floating structures at the marina.

These compliance issues must be considered and approved as part of the proposed development or found to be lawfully established prior to the authorization of the proposed development. Based on the evidence in the historical record, planning staff cannot find that the existing extent of the marina is lawful.

1.00 ***Administration and Procedures***

1.01 **Proof of Ownership**

MCC 37.0550 Initiation of Action

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

Staff: The proposed project is located on Tax Lot 700, Section 28D, Township: 2 North, Range: 1 West. Assessment & Taxation records show that the land is owned by Daniel C. Gulbrandson who has signed the submitted General Application from authorizing Mark R. Hess to be his applicant. Mr. Hess has signed the General Application form and is the applicant for the proposal (Exhibit A.1). This criterion has been

met.

1.02 **MCC 37.0560 Code Compliance And Applications.**

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

(A) A permit or other approval, including building permit applications, may be authorized if:

(1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or

(2) It is necessary to protect public safety; or

(3) It is for work related to and within a valid easement over, on or under an affected property.

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: The following uses must be found by the Hearings officer to be lawfully existing to the extent that they exist today or consider them as part of the proposed A1 Marina: the current configuration of the marina (covered boat docks and piers) on site, and the use of the marina (covered docks/piers) as commercial boat storage spaces. In order to comply with MCC 37.0560, the landowners must resolve these outstanding issues.

1.03 **MCC 37.0530(C): Type III decisions involve the greatest amount of discretion and evaluation of subjective approval criteria yet are not required to be heard by the Board. Applications evaluated through this process primarily involve conditional uses and some land divisions applications. The process for these decisions is controlled by ORS 197.763. Notice of the application and Hearings Officer hearing is published and mailed to the applicant, recognized neighborhood association and property owners 750 feet of the subject tract. Notice must be issued at least 20 days pre-hearing, and the staff report must be available at least 7 days pre-hearing. The Hearings Officer shall accept into the record all testimony and evidence relevant to the matter, prior to the close of the hearing. The Hearings Officer decision is the County's final decision and is appealable to LUBA within 21 days of when the decision is final. The decision is final the day the signed Hearings Officer decision is mailed pursuant to 37.0660(D).**

Staff: The application has followed the procedures for a Type III land use decision. The application was received on June 6, 2008 (Exhibit A.1). A completeness review was completed by the staff and a letter of incomplete application was sent on July 18, 2008. The applicant on July 21, 2008 acknowledged the letter of incomplete application and indicated to staff the applicant's intent to supplement the application to address items to make the application complete. The applicant supplied the information identified in the July 18, 2008 letter of incomplete application by August 20, 2008. The application was declared complete on August 29, 2008. (C.3) On September 25, 2008 a Notice of Public Hearing was mailed to all property owners within 750 feet, recognized neighborhood associations, the applicant and the property owners (Exhibit C.4). On September 26, 2008 notice was published in the Oregonian.

1.04 **MCC 37.0700 Expiration and Extension of Type II or Type III Decisions in Exception Areas and Lands within the UGB.**

(B) Notwithstanding Subsection (A) of this section, on exception lands the decision maker may set forth in the written decision, specific instances or time periods when a permit expires.

Staff: It is recognized that the proposed project is not typical and may take longer than two years of the date of the final decision to obtain all necessary building permits and/or initiate the development action or activity approved in the decision. The applicant has identified a 5-year phasing plan for the project as follows. Staff concurs with the phasing plan and all development shall occur as described in the below Phasing Plan, and all necessary building permits shall be obtained by November 1, 2013. A condition of approval has been recommended to the Hearings Officer that the phasing plan and all development shall occur as described in the below Phasing Plan, and all necessary building permits shall be obtained by November 1, 2013. *As conditioned, this criterion has been met*

Year One 11/01/2009	Structural/Code Evaluation of pole barn/warehouse Remove crane equipment near gangway Obtain DSL lease renewal and amendment per plan
Year Two 11/01/2010	Remove encroaching portion of pole barn/warehouse Install driveway approaches and logs per ODOT permit Reconfigure in-water walkways, covered slips per plan Install planter islands, landscaping, parking spaces
Year Three 11/01/2011	Remodel pole barn for accessory marina use Install bathroom and new drain field per plan
Year Four 11/01/2012	Install finger piers and Boat Lift system
Year Five 11/01/2013	Construct floating home per plan

2.00 ***Multiple Use Agriculture - 20 (MUA-20) Criteria***

2.01 **MCC 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;

MCC 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. ...

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

(22) Waste collection, transfer, processing, or recovery facility.

(29) Accessory uses to the above.

Applicant: Multnomah County designates the subject A-1 Marina property as Multiple Use Agricultural in both the County Comprehensive Plan and the Sauvie Island and Multnomah Channel Rural Area Plan. The zoning for the site and environs is MUA-20 (Multiple Use Agricultural, 20-acre minimum lot area). The entire west (mainland) side of Multnomah Channel is zoned MUA-20. Houseboats and houseboat moorages are listed as a Conditional Use in the Multiple Use Agriculture zoning district. Boat moorages,

marinas, and boathouse moorages are considered as Community Service uses, which also require a Conditional Use permit in the MUA-20 zoning district.

Staff: The applicant is proposing to lawfully establish a marina and its related accessory uses. The applicant has applied for a Conditional Use permit, Community Service approval, Willamette River Greenway permit, Design Review, and a Variance permit for a 45-boat marina, with accessory marine-related construction and repair, and one floating residence. The proposal includes: 1 floating home slip, 2 boathouse parking spaces, 20 in-water boat slips, 25 boat spaces on-land, 30 automobile parking stalls, a boat ramp and lift, log salvage yard, and construction and repair activities related to the marina and moorage.

2.02 **MCC 34.2855 Dimensional Requirements**

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.

Applicant: Applicant requests a 14-foot variance to the front yard minimum dimension to allow the existing pole barn to remain in its current location and configuration. The front yard area west of the pole barn abuts the NW Marina Way right-of-way, which abuts the Burlington Northern (BN) railroad right-of-way. Both Marina Way and BN rights-of-way abut the US-30 Right-of-way. The three transportation corridors have a combined Right-of-way width in excess of 200'. The nearest non-right-of-way properties west of the subject site would not be adversely affected by the proposed reduction to the front yard dimension. Neighboring lands west of US 30 are separated from the A-1 Marina site by the 200-foot right-of-way as well as by topography.

Staff: The Multnomah County Transportation Program has reviewed the proposal and provided comments. (Exhibit B.7) The subject property is adjacent to NW Marina Way, which is not a county road at this location. The Right-of-Way is sufficient; therefore there is no need for an increase in the front yard setback. It should be noted that MCC 34.6020(A) requires setbacks specific to Community Service Uses and is addressed in Section 4.02 of the Findings.

The proposed development meets all minimum yard dimensions, except for the pole barn building located in the southwest corner of the property. (Exhibit A.24) The applicant has submitted a variance application requesting a 14-foot variance to the 30-foot minimum front yard requirement for the pole barn. The maximum height of the structures shall be 35 feet. *This criterion has not been met, but a Variance to this front yard standard for the pole barn has been requested as part of this proposal. The Variance Criteria is addressed in Section 10.00 of the Findings.*

2.03 **MCC 34.2870 Lot of Record**

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

(1) July 10, 1958, SR zone applied;

(2) July 10, 1958, F-2 zone applied;

(3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;

(4) October 6, 1977, MUA-20 zone applied, Ord. 148 & 149;

(5) October 13, 1983, zone change from EFU to MUA-20 for some properties, Ord. 395;

(6) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.

(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 34.2885, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(C) Except as otherwise provided by MCC 34.2860, 34.2875, and 34.4300 through 34.4360, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be a Lot of Record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest.

(3) An area of land created by court decree.

Applicant: The subject 2.13-acre property was created in 1975 through a contract recorded in Book 1060, Page 38 by Nicholas and Louise Calcagno.

At that time (1975), the property was zoned M-1, Heavy Manufacturing District as provided by Multnomah County Code (MCC) 5.40 – 5.430. Except for certain conditional or community service uses (i.e., schools, churches), the former M-1 zoning did not specify an explicit minimum site size. The subject 2.13-acre parcel, with more than 300-feet of frontage on a public road, appears consistent with the M-1 zoning provisions in effect at the time it was created. The M-1 zoning remained in effect until 1977, when Multiple Use Agricultural MUA-20 zoning was applied to the area.

It is interesting to note that repealed MCC 5.412 indicates the former M-1 zone district would have allowed, among other uses, an auto wrecking yard, a junk yard, and ship building on the subject A-1 Marina site. Although MCC 7.30 suggests a moorage or marina use would have required a Community Service Use approval, even in the M-1 district. The former M-1 and CS zoning provisions included various building setback (yard area) requirements and other standards that could affect the site size needed to satisfy applicable design criteria to accommodate various uses or developments. Although a CS Permit for a moorage or marina was not obtained under the former zoning provisions, the almost 30-year de facto use of the site and the plans and support materials provided with the 2008 permit applications, demonstrates that the 2.13 acre upland site together with the approximately 1.3 acre waterway lease area provide adequate land and water areas and other physical characteristics needed to accommodate the marina and related uses on the site.

Staff: The subject property is 2.13 acres and was in its current configuration as of 1975 through a recorded survey. Staff finds the parcel is a Lot of Record.

2.04 **MCC 34.2875 Lot Sizes for Conditional Uses**

The minimum lot size for a Conditional Use permitted pursuant to MCC 34.2830, except subpart (C)(1) thereof, shall be based upon:

(A) The site size needs of the proposed use;

(B) The nature of the proposed use in relation to its impact on nearby properties;

(C) Consideration of the purposes of this district; and

(D) A finding that the lot or parcel is at least two acres in area.

Staff: (A) The subject property to be used for the A1 Marina is approximately 2.13 acres. The applicant has provided evidence that water, on-site sewage disposal, on-site parking and other accessory uses can be provided within the subject property and meet the applicable code criteria. *This criterion has not been met.*

(B) The applicant has demonstrated that the proposed development is consistent with the character of the area and as such, the nature of the proposed use will not impact nearby properties in the area. *This criterion has been met. See Section 3.00 of the Findings.*

(C) The purposes of the Multiple Use Agriculture District are to conserve those agricultural lands not suited to full-time commercial farming for diversified or part-time agriculture uses; to encourage the use of non-agricultural lands for other purposes, such as forestry, outdoor recreation, open space, low density residential development and appropriate conditional uses, when these uses are shown to be compatible with the natural resource base, the character of the area and the applicable County policies [MCC 34.2800 - Purpose].

The proposed marina is located on the Multnomah Channel where a number of moorages and marinas of similar nature are located. This area has a number of recreational opportunities that includes boating, fishing, and other water related recreation. The proposed development requires the review and approval of a conditional use permit. The proposed marina will support the various outdoor recreational opportunities in the area. This proposal also includes the location of only one permanent floating home dwelling consistent with the allowed density for the subject property. *This criterion has been met.*

(D) The site is at least 2 acres in area. *This criterion has been met.*

2.05 **MCC 34.2880 Off Street Parking and Loading**

Off-Street parking and loading shall be provided as required by MCC 34.4100 through 34.4220.

Staff: It should be noted that although the current code does not specify the required number of parking spaces required for a marina, a prior Hearings Office determined that a ratio of 1 parking space per 2 boat slips is an appropriate starting point for development review. Multnomah County Code (MCC) 34.6760 requires two automotive parking spaces per houseboat (floating dwelling). The proposed project is proposing one houseboat (floating dwelling) with two parking spaces to be located in the carport identified on the site plan. 20 in-water boat slips are proposed with 30 automobile parking stalls identified on the site plan. *See the Findings under Section 8.00 below.*

2.06 **MCC 34.2885 Access**

Any lot in this district shall abut a street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles.

Staff: The subject property is adjacent to NW Marina Way, which is not a county road at this location. The applicant has obtained Conditional Approval for a State Highway Approach from the Oregon Department of Transportation for the subject property. (Exhibit A.16) *This criterion has been met.*

3.00 ***Conditional Use Criteria***

3.01 **MCC 34.6305 GENERAL PROVISIONS**

(A) Application for approval of a Conditional Use shall be subject to the provisions for Type III decisions in MCC Chapter 37.

(B) A Conditional Use permit shall be issued only for the specific use or uses, together with the limitations or conditions as determined by the Approval Authority.

(C) The findings and conclusions made by the approval authority and the conditions, modifications or restrictions of approval, if any, shall specifically address the relationships between the proposal and the approval criteria listed in MCC 34.6315 and in the district provisions.

Staff: This application is being processed and is subject to the provisions for Type III decisions in MCC Chapter 27. All recommended findings and conditions are justified with the corresponding criteria.

3.02 **MCC 34.6315 CONDITIONAL USE APPROVAL CRITERIA**

(A) A Conditional Use shall be governed by the approval criteria listed in the district under which the conditional use is allowed. If no such criteria are provided, the approval criteria listed in this section shall apply. In approving a Conditional Use listed in this section, the approval authority shall find that the proposal:

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

Applicant: There are seven (7) marinas and moorages along this reach of Multnomah Channel:

1. Fred's Marina
2. Multnomah Yacht Harbor (formerly Lucky Landing)
3. A-1 Moorage (subject property)
4. Marina Way Moorage (formerly Cassidy's Moorage)
5. Larson's Marina
6. Channel Island Moorage
7. Bridgeview Moorage

Fred's Marina -- located about 900-feet upstream from the subject A-1 Marina -- contains both in-water and upland boat storage facilities similar to that proposed for the A-1 Marina site.

Multnomah Yacht Harbor abuts the A-1 Marina site to the southeast and includes floating homes (houseboats), boathouses, boat slips, and a boatlift similar to the A-1 Marina proposal. The upland property is used extensively for open (outdoor) boat storage. The Oregon State Marine Board's online records for marina facilities indicates the Multnomah Yacht Harbor has facilities for 200 boats.

Marina Way Moorage abuts the A-1 Marina site to the northwest and includes floating homes (houseboats), boat slips, and a boat ramp.

Larson's Marina -- located about 600-feet downstream from the subject A-1 Marina -- contains both in-water and upland boat storage facilities as well as boathouses and marine related repair and construction (in-water) similar to that proposed for the A-1 Marina site.

Channel Island Moorage — located immediately downstream of the Sauvie Island Bridge -- includes floating homes (houseboats), boathouses, boat slips, and a boat ramp.

Bridgeview Moorage — located about 1000-feet downstream of the Sauvie Island Bridge -- includes floating homes (houseboats), boathouses and boat slips.

The proposed A-1 Marina -- with its associated boat repair activities and marine related repair and construction (in-water), wet and dry boat storage areas, a new travel-lift for launching boats in the boatyard, and a single floating home -- is similar to and consistent with adjacent moorage and marina uses.

Staff: As mentioned by the applicant there is a number of marinas/marinas located adjacent or near the

subject property located along the Multnomah Channel. The applicant proposes uses consistent with what can already be found in the surrounding area. The proposal also includes provisions to maintain significant trees and shrubs on the site, and provide supplemental planting and re-vegetation along the riverbank to enhance the natural scenic qualities of the riverbank. *This criterion has been met.*

3.03 **(2) Will not adversely affect natural resources;**

Applicant: Trees, shrubs, ornamental and natural landscape plants along the perimeter property lines have been allowed to grow and now provide an effective landscape screen to the adjacent properties. The natural vegetation in the central areas of the site has not been retained, as they would conflict with the marina and boatyard operations.

Staff: As identified in the submitted Greenway Plan the applicant is proposing to maintain all significant trees and shrubs on the site and to plant supplemental trees and shrubs to enhance the natural scenic qualities within the Greenway. In addition, disturbed areas along the riverbank resulting from installation of proposed finger piers for the travel lift and a new gangway near the upstream lease boundary will be replanted and restored within a brief period of time, and vegetation retained along the riverbank will be supplemented with evergreen and deciduous trees to reduce potential erosion, and partially screen the upland boatyard activities from the river and from adjacent floating homes. In addition, a 150-foot Greenway Building Setback from the Ordinary Low Water Mark has been implemented in the design to prevent additional encroachment of structures towards the Multnomah Channel. *This criterion has been met.*

3.04 **(3) Will not conflict with farm or forest uses in the area:**
(a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
(b) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

Applicant: Response to (3)(a) and (b) above: The proposed use of the applicant's property for a marina will not force any change in, or increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands. The subject marina property is separated from farmlands to the northeast by the approximate 800-foot wide river channel and the approximately 150-foot width levee/earthen berm on the opposite bank. The rights-of-way for US Highway 30, the Burlington Northern Rail line and NW Marina Way provide more than 200-feet of separation between the A-1 Marina property and the adjacent forestlands that occupy higher elevations to the southwest. Nearby farming practices on Sauvie Island and forest practices in the west hills may have some offsite impacts such as dust, noise, chemical drift in the wind, and similar effects. The proposed single floating residence and boat marina uses are sufficiently separated and buffered from these adjacent farming and forest activities by the above noted natural and built features. And conversely, the adjacent farm and forest areas are similarly separated and buffered from any noise, fumes, lights, traffic, or other offsite effects that may be generated from the proposed marina activities and the single floating residence.

Vehicular access to the marina site is through the entry gate from NW Marina Way; the access point is more than 2 miles from the nearest access to farms on Sauvie Island. No interference by traffic entering the applicant's property should be experienced by nearby farmers or timber operators because NW Marina Way does not provide access to those nearby farm or forestlands.

The applicant is willing to sign and record a statement that the owners and the successors in interest in the A-1 Marina property acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices, consistent with State law. Given the property owner's acceptance of this acknowledgement, the proposed use will not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands.

Staff: As stated by the applicant the proposed use will not force any change in, or increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands. The proposed project is not adjacent to any farm or forest use, with farmlands being located across the Multnomah Channel, and forestlands being located across US Highway 30 and the railroad southwest of the subject property in higher elevations. As stated in the application, the landowner is willing to sign and record a statement that the owners and the successors in interest in the A-1 Marina Property acknowledge the rights of owners nearby property to conduct forest operations and farming practices. *This criterion is met.*

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

Applicant: The subject property is served by Burlington Water District and an on-site sewage disposal system has been authorized under Building Permit 2008-130825-000-00-SE. The land feasibility study concluded that: "SOILS APPROVED FOR 360SF SAND FILTER FOR MARINA AND DWELLING EQUAL TO 6 BEDROOMS."

The proposed marina, with accessory boat repair and storage for 45-boats, one single residence and a temporary health hardship dwelling will have a negligible effect on public services in terms of schools, roads, utilities, police or fire suppression.

Staff: Service provider forms (Exhibit A.13) have been reviewed and submitted for water service (Burlington Water District), on-site sewage disposal system, and fire flow and access demonstrating that services are available that will not require public services other than those existing or programmed for the area. *This criterion has been met.*

3.06 **(5) 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;**

Applicant: The project site is not within a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife. This criterion is met.

Staff: Staff concurs.

3.07 **(6) Will not create hazardous conditions; and**

Applicant: The proposed boat lift and reconfigured docks and slips have been designed to provide adequate upland and water areas for safe maneuvering of boats being stored, repaired or launched. The marina docks and other in-water structures are designed and arranged to maintain sight visibility near the riverward corners of the lease area, providing clear lines of sight from the lease area out to the main river channel to reduce potential boating conflicts in adjacent waters.

In response the zoning compliance case UR-06-003, the owner has removed a significant quantity of scrap materials and unsightly equipment. Several inoperable vehicles have also been removed or repaired. A perimeter security fence discourages trespassers from entering the boatyard.

There are no public boat launches or day-use marina activities proposed. The marina will remain gated and available only to those persons leasing boat storage space. There are no gas pumps or other fuel tanks proposed. An above ground water tank already on the site would remain. The tank is used for storing rainwater that is used for landscape irrigation and dust control.

Staff: First, it should be noted that the code compliance case number for the subject property is UR-06-007, not as referenced by the applicant to be UR-06-003. The applicant has submitted a Greenway and Design Review Plan verifying that hazardous conditions aren't being created addressing traffic circulation,

security, access, and services. No gas pumps or other fuel tanks are proposed and the marina will be gated with access only available for persons leasing boat storage spaces. Service provider forms (Exhibit A.13) have been reviewed and submitted for water service (Burlington Water District), on-site sewage disposal system, and fire flow and access. In addition the applicant has received conditional approval from ODOT for access (Exhibit A.16). A Grading and Erosion Control Permit and Flood Development Permit will be required and approved prior to building plan sign-off. Retroactive building permits could also be required for existing structures that are being proposed to remain as part of this permit, and shall be required as applicable. *As conditioned, this criterion has been met.*

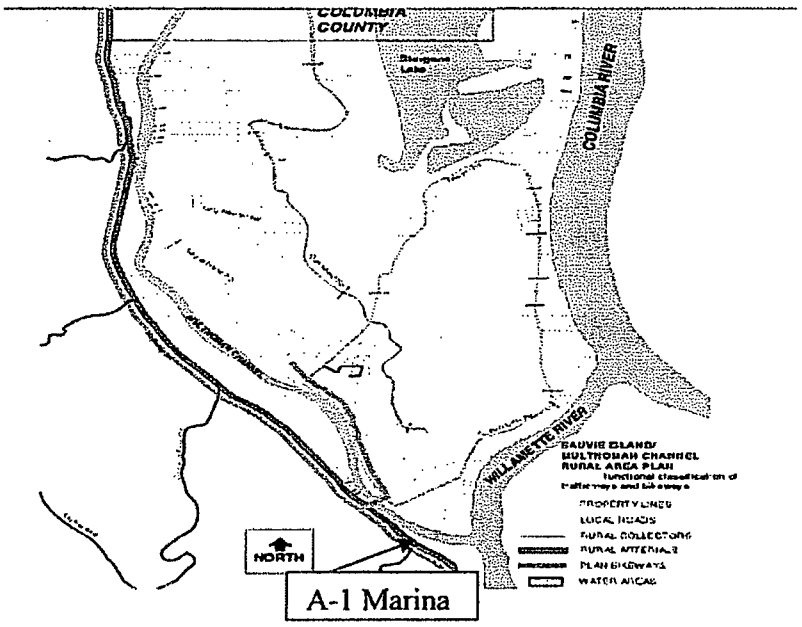
3.08 **(7) Will satisfy the applicable policies of the Comprehensive Plan.**

Applicant:
The proposed marina with associated boat repair and storage, a single floating home, a temporary health hardship mobile home, are consistent with the County's plans and policies listed below:

Policy 2: Off-site Effects
Policy 10: Multiple Use Agricultural Land
Policy 13: Air, Water, and Noise Quality
Policy 14: Development Limitations
Policy 15: Willamette River Greenway
Policy 16: Housing Choices
Policy 21: Housing Location
Policy 26: Houseboats
Policy 27: Commercial Location
Policy 31: Community Facilities and Uses
Policy 34: Traffic Ways
Policy 37: Utilities
Policy 38: Facilities
Policy 39: Parks and Recreation
Statewide Goal 14: Urbanization

The proposed marina with accessory boat repair and storage, one floating home, and a temporary health hardship mobile home, will not create adverse or excessive off-site effects. The scale of the boat repair and storage has been limited to 45-boats (20-in-water; 25-upland) to demonstrate compatibility with the MUA-20 environs. The upland boat storage is rural in character; all boats are stored at grade and not within large or multi-level buildings. There are no stacked boat racks nor any multi-level (urban style) boat warehouses proposed. The plan includes one single residence (floating home) and a temporary health hardship dwelling to provide the owner with daily assistance necessary to operate the marina. The site will have on-site sewage disposal to protect water qualities in the area. The mobile home and existing pole barn/storage building are situated outside the flood hazard area, and the floating home will be designed to float above any floodwaters that may affect the site. The mobile home and existing barn/storage building exceed the 150-foot Greenway Setback required from the top of the bank. The proposed single floating home will have a negligible effect on demand for public services such as schools, roads, utilities, police or fire suppression. The floating home proposed is located within the areas identified in Policy 26 as suitable for houseboats, and the site plan and topography survey indicates that 2 parking spaces elevated at least 2-feet above the 100-year flood (and access thereto) can be provided for the floating home. The proposed marina with a boat ramp and lift, and in-water and upland boat storage, provides additional recreational boating facilities to the area, consistent with community service use and recreation planning policies.

The map below depicts County Road Classifications in the area



The site accesses to NW Marina Way, which is a frontage road parallel to US 30, an Arterial classified roadway.

Staff: Compliance with this standard is addressed in Section 7.00 of the Findings below.

4.00 *Community Service Criteria*

4.01 **MCC 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.

Staff: The applicant has applied for a Design Review approval as part of this application.

4.02 **MCC 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;

Applicant: The A-1 Marina site is located on the mainland (west) side of Multnomah Channel, and within the southern section of the channel that is characterized by houseboat moorages and boat marinas. There are seven (7) marinas and moorages along this reach of Multnomah Channel:

1. Fred's Marina
2. Multnomah Yacht Harbor (formerly Lucky Landing)
3. A-1 Moorage (subject property)
4. Marina Way Moorage (formerly Cassidy's Moorage)
5. Larson's Marina
6. Channel Island Moorage
7. Bridgeview Moorage

Fred's Marina -- located about 900-feet upstream from the subject A-1 Marina -- contains both in-water and upland boat storage facilities similar to that proposed for the A-1 Marina site.

Multnomah Yacht Harbor abuts the A-1 Marina site to the southeast and includes floating homes (houseboats), boathouses, boat slips, and a boatlift similar to the A-1 Marina proposal. The upland property is used extensively for boat storage. The State Marine Board records indicate the site has facilities for 200 boats.

Marina Way Moorage abuts the A-1 Marina site to the northwest and includes floating homes (houseboats), boat slips, and a boat ramp.

Larson's Marina -- located about 600-feet downstream from the subject A-1 Marina -- contains both in-water and upland boat storage facilities as well as marine related repair and construction similar to that proposed for the A-1 Marina site.

Channel Island Moorage — located downstream of the Sauvie Island Bridge -- includes floating homes (houseboats), boathouses, boat slips, and a boat ramp.

Bridgeview Moorage — located about 1000-feet downstream of the Sauvie Island Bridge -- includes floating homes (houseboats), boathouses and boat slips

The proposed A-1 Marina -- with its associated boat repair activities, wet and dry boat storage areas, a new travel-lift for launching boats in the boatyard, and a single floating home -- is similar to and consistent with adjacent moorage and marina uses.

Staff: The character of the area is a rural setting with recreation areas and marinas/moorages along the Multnomah Channel. The subject property currently contains a lawful log salvage operation authorized under Permit No.WRG 4-80. As mentioned by the applicant there is a number of marinas/marinas located adjacent or near the subject property located along the Multnomah Channel. The proposed development is proposing uses consistent with what can already be found in the surrounding area. The subject property is outside the Portland City limits, approximately ¼ mile upstream from the Sauvie Island Bridge. Houseboat moorages and marinas are located along Multnomah Channel's west bank. There are floating homes, boat slips, and docks developed on abutting and adjacent properties upstream and downstream from the A-1 Marina site. The proposal also includes provisions to maintain significant trees and shrubs on the site, and proposes to do supplemental planting and re-vegetation along the riverbank to enhance the natural scenic qualities of the riverbank. *This criterion has been met.*

4.03 **(B) Will not adversely affect natural resources;**

Applicant: Trees, shrubs, ornamental and natural landscape plants along the perimeter property lines have been allowed to grow and now provide an effective landscape screen to the adjacent properties. The natural vegetation in the central areas of the site has not been retained, as they would conflict with the marina and boatyard operations.

A new sand filter sewage disposal system will be installed to protect ground and surface water qualities.

Staff: Multnomah Channel is located along the eastern boundary for the subject property and has approximately 310 feet of water frontage. As identified in the submitted Greenway Plan the applicant is proposing to maintain all significant trees and shrubs on the site and to plant supplemental trees and shrubs to enhance the natural scenic qualities within the Greenway. In addition, disturbed areas along the riverbank resulting from installation of proposed finger piers for the travel lift and a new gangway near the upstream lease boundary will be replanted and restored within a brief period of time, and vegetation retained along the riverbank will be supplemented with evergreen and deciduous trees to reduce potential erosion, and partially screen the upland boatyard activities from the river and from adjacent floating homes. In addition, a 150-foot Greenway Building Setback from the Ordinary Low Water Mark has been implemented in the design to prevent additional encroachment of buildings towards the Multnomah

Channel. The applicant has also submitted a Certificate of On-Septic demonstrating that the site is capable of providing this service within the subject property and will not impact natural resources. A stormwater certificate will need to be submitted as part of a Grading and Erosion Control Permit review. *This criterion has been met.*

4.04 **(C) Will not conflict with farm or forest uses in the area;**

Applicant: The subject property is separated from farmlands to the northeast by the river and levee on the opposite bank. US Highway 30, Burlington Northern Rail line and NW Marina Way rights-of-way separate the marina site from the adjacent forestlands that occupy higher elevations to the southwest. Nearby farming practices on Sauvie Island may have some offsite impacts such as dust, noise, chemical drift in the wind, and similar effects. The proposed single floating residence and boat marina uses are sufficiently separated and buffered from adjacent farming and forest activities by the above noted natural and built features.

If required, the property owner will sign and record a statement acknowledging that the A-1 Marina owners and successors in interest recognize the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices.

Staff: As stated by the applicant the proposed use will not force any change in, or increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands. The proposed project is not adjacent to any farm or forest use, with farmlands being located across the Multnomah Channel, and forestlands being located across US Highway 30 and the railroad southwest of the subject property in higher elevations. As stated in the application, the landowner is willing to sign and record a statement that the owners and the successors in interest in the A-1 Marina Property acknowledge the rights of owners nearby property to conduct forest operations and farming practices. *This criterion is met.*

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

Applicant: The subject property is served by Burlington Water District for potable water and water for fire protection. An on-site sewage disposal system has been authorized under Building Permit 2008-130825-000-00-SE. The land feasibility study concluded that: *"SOILS APPROVED FOR 360SF SAND FILTER FOR MARINA AND DWELLING EQUAL TO 6 BEDROOMS."*

The proposed 45-boat marina, with accessory marine-related construction and repair and one floating residence, will have negligible effects on demands for public services in terms of schools, roads, utilities, police or fire suppression.

Staff: Service provider forms (Exhibit A.13) have been reviewed and submitted for water service (Burlington Water District), on-site sewage disposal system, and fire flow and access demonstrating that services are available that will not require public services other than those existing or programmed for the area. *This criterion has been met.*

4.06 **(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;**

Applicant: The project site is not within a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife.

Staff: Staff concurs.

4.07 **(F) Will not create hazardous conditions;**

Applicant: The proposed boat lift and reconfigured docks and slips have been designed to provide adequate upland and water areas for safe maneuvering of boats being stored, repaired or launched. The

marina docks and other in-water structures are designed and arranged to maintain sight visibility near the riverward corners of the lease area, providing clear lines of sight from the lease area out to the main river channel to reduce potential boating conflicts in adjacent waters.

In response the zoning compliance case UR-006-003, the owner has removed a significant quantity of scrap materials and unsightly equipment. Several inoperable vehicles have also been removed or repaired. A perimeter security fence discourages trespassers from entering the boatyard.

Staff: The subject site is located adjacent to the Multnomah Channel. The subject site is mapped as being in the 100-Year Floodplain (Exhibits A.10 and B.6) for the Columbia River. The applicant has submitted a survey indicating that that the elevation of 27.00 feet NGVD shown on the survey (Exhibit A.25) is the boundary for the 100-Year Flood (Exhibit A.10). This information indicates that some of the improvements are located outside of the flood hazard area.

A Flood Development permit pursuant to MCC 29.603 will be required prior to construction of the project. The Flood Hazard regulations require that the septic system and private water system and well be designed to withstand infiltration of floodwaters into the system, discharge of materials into floodwater, and be designed to avoid impairment by flood damage. The electrical system must be designed or located to prevent water from entering or accumulating during flood stage. To ensure compliance with the Flood Hazard regulation, staff has proposed a condition of approval requiring a Flood Hazard permit be obtained. The proposed On-Site Sewage System is located outside of the flood hazard area. In addition, parking, ingress and egress serving the houseboat (singular floating dwelling) is located outside of the flood hazard area and are also otherwise elevated at least 2-feet above the 100-year flood.

The applicant has submitted a Greenway and Design Review Plan indicating that hazardous conditions aren't being created addressing traffic circulation, security, access, and services. No gas pumps or other fuel tanks are proposed and the marina will be gated with access only available for persons leasing boat storage spaces. *This criterion has been met.*

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

Applicant: The proposed 45-boat marina, with accessory marine-related construction and repair and one floating residence, is consistent with the County's plans and policies listed below:

Policy 2: Off-site Effects
Policy 10: Multiple Use Agricultural Land
Policy 13: Air, Water, and Noise Quality
Policy 14: Development Limitations
Policy 15: Willamette River Greenway
Policy 16: Housing Choices
Policy 21: Housing Location
Policy 26: Houseboats
Policy 27: Commercial Location
Policy 31: Community Facilities and Uses
Policy 34: Traffic Ways
Policy 37: Utilities
Policy 38: Facilities
Policy 39: Parks and Recreation
Statewide Goal 14: Urbanization

The proposed 45-boat marina, with accessory marine-related construction and repair and one floating residence, would not create adverse or excessive off-site effects. The scale of the boat repair and storage has been limited to 45-boats (20-in-water; 25-upland) to demonstrate compatibility with the MUA-20 environs. The upland boat storage is rural in character; all boats are stored at grade and not within large or multi-level buildings. There are no stacked boat racks or multi-level (urban style) boat warehouses

proposed. The plan includes one single residence (floating home). The site will have on-site sewage disposal to protect water qualities in the area. The existing pole barn/storage building is situated outside the flood hazard area, and the floating home will be designed to float above any floodwaters that may affect the site. The existing barn/storage building exceeds the 150-foot Greenway Setback required from the top of the bank. The proposed single floating home will have a negligible effect on demand for public services such as schools, roads, utilities, and police or fire suppression. The floating home proposed is located within the areas identified in Policy 26 as suitable for houseboats, and the site plan and topography survey indicates that 2 parking spaces elevated at least 2-feet above the 100-year flood (and access thereto) can be provided for the floating home. The proposed marina with a boat ramp and lift, and in-water and upland boat storage, provides additional recreational boating facilities to the area, consistent with community service use and recreation planning policies.

The map below depicts County Road Classifications in the area

Staff: Compliance with this standard is addressed in Section 7.00 of the Findings below.

4.09 **(H) Will satisfy such other applicable approval criteria as are stated in this Section.**

Applicant: In addition to the Conditional Use criteria of the Zoning Code, all proposed individual houseboats and houseboat moorages must meet Waterfront Uses criteria in Section 11.15.7500 of the Zoning Ordinance. The Waterfront Uses section defines Houseboats to mean "any floating structure designed as a dwelling for occupancy by one family and having only one cooking facility." This definition does not include other types of living quarters such as live-aboard boats, and boathouse "combos".

In the 1970's, the County established a maximum density of one houseboat for each 50 feet of waterfront frontage. However, the state since determined that permitting multiple dwellings (floating or otherwise) on a single rural-zoned parcel is contrary to Goal 14, Urbanization.

Therefore, this application proposes only one floating home for this 310-foot reach of the channel. The floating home would be the single permanent residence on the A-1 Marina site, which is comprised of the upland 2.13 acres parcel and its associated 1.3-acre submerged land lease area. The other floating structures depicted on the site plan are for non-residential boat storage. The temporary health hardship mobile home has been deleted from the proposal.

The proposed permits are not in conflict with Statewide Goal 14 (Urbanization) because the limited scale of the proposal is compatible with the rural and water-related residential and recreational uses on abutting and adjacent properties. The proposal will not adversely affect the east (island) side of Multnomah Channel, which is predominantly zoned Exclusive Farm Use (EFU). As mandated by state law, the EFU district does not allow houseboat moorages, marinas, or new private boat docks.

Staff: No other applicable community service criteria have been identified. It should be noted that the provision in the County Code 34.6755 allowing up to one floating home per 50-feet of waterfront frontage is in conflict with Oregon Administrative Rules (OARs) implementing Statewide Planning Goal 14 because it fails to limit development to one single family dwelling per lot or parcel. The application is proposing only one single family dwelling in the form of one floating residence as identified in the submitted plans and is not proposing live aboard boat slips or boathouse combos that could be used as a residence.

4.10 **MCC 34.6020 RESTRICTIONS**

A building or use approved under MCC 34.6015 through 34.6050 shall meet the following requirements:

(A) Minimum yards in EFU, MUA-20, RR, and RC, Districts:

(1) Front yards shall be 30 feet.

(2) Side yards for one-story buildings shall be 20 feet; for two-story buildings, 25 feet.

(3) Rear yards shall be as required in the district.

Applicant: Applicant requests a 14-foot variance to the front yard minimum dimension to allow the existing pole barn to remain in its current location and configuration. The front yard area west of the pole barn abuts the NW Marina Way right-of-way, which abuts the Burlington Northern (BN) railroad right-of-way. Both Marina Way and BN rights-of-way abut the US-30 Right-of-way. The three transportation corridors have a combined Right-of-way width in excess of 200'. The nearest non-right-of-way properties west of the subject site would not be adversely affected by the proposed reduction to the front yard dimension. Neighboring lands west of US 30 are separated from the A-1 Marina site by the 200-foot right-of-way as well as by topography.

Staff: The proposed development meets all minimum yard dimensions, except for the pole barn building located in the southwest corner of the property. (Exhibit A.24) The applicant has submitted a variance application requesting a 14-foot variance to the 30-foot minimum front yard requirement for the pole barn. The maximum height of the structures shall be 35 feet. *This criterion has not been met, but a Variance to this front yard standard has been requested as part of this proposal. The Variance Criteria is addressed in Section 10.00 of the Findings.*

5.00 ***Willamette River Greenway***

5.01 **34.5855 GREENWAY DESIGN PLAN (MCC 34.5800-34.5865)**

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.

Applicant: The revised site plan depicts the location of existing and proposed landscaping and addresses proposed plantings, maintenance of the landscaping, and areas of restoration of disturbed areas and existing landscaping along the riverbank. The Greenway Design Plan for the proposed marina would maintain and enhance the landscaped area along the riverbank. Significant site clean up already conducted (refer to attached photographic exhibits) provides scenic and aesthetic enhancement and open spaces between the upland boat storage and repair uses and the river.

Staff: The applicant has submitted a Greenway and Design Review Plan showing the maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation being provided between the proposed use and the river. The applicant has indicated a 150-foot Greenway building setback from the Ordinary Low Water Mark. Vegetation along the river will be supplemented with evergreen and deciduous trees to reduce potential erosion, and partially screen the upland boatyard activities from the river and from adjacent floating homes. Disturbed areas along the riverbank resulting from installation of proposed finger piers for the travel lift and a new gangway near the upstream boundary will be replanted and restored. The Design Review Plan indicates that parking or loading areas will be separated from any lot line adjacent to a street by a landscaped strip at least 10 feet in width, and from any other lot line by a landscaped strip at least 5 feet in width. *This criterion has been met.*

5.02 **(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 urbanizable areas.**

Applicant: The proposed marina will provide additional private accesses to the river. Public access is maintained along the river within NW Marina Way and US Highway 30, which is a designated bicycle route for the region. These routes generally parallel to and near the river are adequate given the rural character of the area.

Security fencing along the south, west and north property boundaries discourages vandalism and trespass. The proposal will not adversely affect areas of annual flooding, flood plains, or water areas. Areas of erosion or potential erosion will be protected from loss by appropriate means. The Greenway Design Plan exceeds the 150-foot minimum building setback line from the river, except for structures in conjunction with a water-related or a water dependent use.

Staff: The proposed development is proposing a marina consistent with existing marinas and moorages located along the banks of the Multnomah Channel. The proposal includes: 1 floating home slip, 2 boathouse parking spaces, 20 in-water boat slips, 25 boat spaces on-land, 30 automobile parking stalls, a boat ramp and lift, log salvage yard, and construction and repair activities related to the marina and moorage. The marina will be available for persons leasing boat storage space, providing for additional access, amenities and services for the members of the public leasing marina space to utilize the recreational opportunity of the Multnomah Channel. River access through the site is neither proposed nor required for the general public. *This criterion has been met.*

5.03 **(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.**

Applicant: The existing boat ramp and proposed travel lift directs the boat repair and upland boat storage away from the river.

Staff: Development has been directed as from the river to greatest possible extent. A 150-foot building setback is in place to locate buildings away from the river. Vegetation along the river will be supplemented with evergreen and deciduous trees to reduce potential erosion, and partially screen the upland boatyard activities from the river and from adjacent floating homes. Disturbed areas along the riverbank resulting from installation of proposed finger piers for the travel lift and a new gangway near the upstream boundary will be replanted and restored. A setback has been established between the Ordinary High Water Mark and the start of parking spaces in order to preserve the encroachment of development from the river. Customary in-water uses are proposed consistent with marinas/moorages located along the Multnomah Channel. *This criterion is met.*

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

Applicant: The site size and adjacent water and rights-of-way buffer the boat repair/storage from adjacent agricultural or forest resource lands. There are no agricultural lands on the subject 2.13-acre site.

Staff: The site is not being used for farm purposes. As stated by the applicant the proposed use will not force any change in, or increase the cost of accepted farming practices on surrounding agricultural lands. The proposed project is not adjacent to any farm use, with farmlands being located across the Multnomah Channel. As stated in the application, the landowner is willing to sign and record a statement that the owners and the successors in interest in the A-1 Marina Property acknowledge the rights of owners nearby property to conduct forest operations and farming practices. *This criterion is met.*

5.05 **(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.**

Applicant: The Greenway Design Plan maintains all significant trees and shrubs on the site; supplemental trees and shrubs indicated on the plan will enhance natural scenic qualities within the Greenway. There is no timber harvest proposed as part of this project.

Staff: No commercial harvesting of timber is proposed. *This criterion has been met.*

5.06 **(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.**

Applicant: The proposed marina provides recreational facilities in a manner and scale consistent with the carrying capacity of the land and without adverse effects to farm uses. The site has adequate areas for parking, boat storage, and landscaping and buffers sufficient to ensure minimum conflicts with the closest farm uses across the river on Sauvie Island.

Staff: The proposed project is in the vicinity of, but not technically adjacent to any farm use, with farmlands being located across the Multnomah Channel. The proposed project addresses recreational opportunities available in the Multnomah Channel and provides services and amenities consistent with the carrying capacity of the land with minimal conflicts with farm uses. Both in-water and in-land development that serves the recreation needs. The applicant has submitted service provider forms (Exhibit A.13) indicating that the land can support the services necessary for the development. *This criterion has been met.*

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

Applicant: The new pilings, docks, and floating walkways will be installed pursuant to Corps and DSL permits and reviews and utilizing best management practices to avoid adverse effects to fish habitats within the channel. There are no wildlife habitats identified or affected by the proposed project.

Staff: Staff concurs that there are no significant wildlife habitats identified or affected by the proposed project. All in-water work will be required to be installed with best management practices and will be reviewed by other agencies consistent with those permitting agencies requirements. A condition is recommended to the Hearings Officer that the applicant be required to obtain all applicable Federal, State and Local permits for the project. *As conditioned, this criterion has been met.*

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

Applicant: The applicant has performed extensive site clean up as documented in the photographic exhibits submitted with the applications. The site clean up provides scenic and aesthetic enhancement and open spaces between the upland boat storage and repair uses and the river. There are no significant natural and scenic areas or viewpoints and vistas affected by the proposed marina or floating home uses.

Staff: The subject property is not located within significant scenic areas and viewpoints and vistas. Natural areas are being preserved and are addressed in plantings and re-vegetation of disturbed areas as identified in the submitted site plans. The applicant has entered signed a Voluntary Compliance Agreement addressing the use of the property as a junkyard. Significant clean-up efforts have occurred enhancing the visual aesthetic of the subject property. The proposal includes significant landscaping and structural improvements as well to improve the natural area. *This criterion has been met.*

5.09 **(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.**

Applicant: Security fencing along the south, west and north property boundaries discourage vandalism and trespass.

(Below responses taken from Applicant response letter received October 6, 2008)
The marina is not open after dark. Night time illumination of the boatyard is provided by three wall-mounted lights on the pole barn; one light is mounted at the two northerly building corners and the third light is in the center of the long-side wall. Each wall-mount light is 18-feet above grade and directed towards the boat yard areas onsite to allow surveillance. The lights are high-pressure sodium vapor, which

have an amber hue. The existing 100-foot gangway has 10 low level (15-watt) lights spaced 10-feet apart to illuminate the walk while minimizing excessive or bright lighting directed towards the river. The two new gangways proposed on the plan would have similar low scale lighting.

Staff: As indicated by the applicant a security fence along the south, west and north of the property currently exists and provide for public safety and protection of public and private property. The marina will also be gated with access only available for persons leasing boat storage spaces. The marina is not open in the dark. As mentioned by the applicant, night time illumination of the boatyard is provided by three wall-mounted lights on the pole barn; one light is mounted at the two northerly building corners and the third light is in the center of the long-side wall. Each wall-mount light is 18-feet above grade and directed towards the boat yard areas onsite to allow surveillance. The existing 100-foot gangway has 10 low level (15-watt) lights spaced 10-feet apart to illuminate the walk while minimizing excessive or bright lighting directed towards the river. The two new gangways proposed on the plan would have similar low scale lighting. *This criterion has been met.*

5.10 **(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.**

Applicant: The Greenway Design Plan maintains all significant trees and shrubs on the site; supplemental trees and shrubs indicated on the plan will enhance natural scenic qualities within the Greenway. Disturbed areas along the riverbank resulting from installation of proposed finger piers for the travel lift and a new gangway near the upstream lease boundary will be replanted and restored within a brief period of time. Vegetation retained along the riverbank will be supplemented with evergreen and deciduous trees to reduce potential erosion, and partially screen the upland boatyard activities from the river and from adjacent floating homes.

Staff: Multnomah Channel is located along the eastern boundary of the subject property and has approximately 310 feet of water frontage. As identified in the submitted Greenway Plan the applicant is proposing to maintain all significant trees and shrubs on the site and to plant supplemental trees and shrubs to enhance the natural scenic qualities within the Greenway. In addition, disturbed areas along the riverbank resulting from installation of proposed finger piers for the travel lift and a new gangway near the upstream lease boundary will be replanted and restored within a brief period of time, and vegetation retained along the riverbank will be supplemented with evergreen and deciduous trees to reduce potential erosion, and partially screen the upland boatyard activities from the river and from adjacent floating homes. The proposed vegetation plantings along the riverbank of the channel shall be designed by a biologist or the Soil Conservation Service to ensure that it will enhance the channel. A condition has been recommended to the Hearings Office, that prior to authorization of any building permits, a copy of the vegetation/landscaping plan shall be submitted to the County for review and approval. *As conditioned, this criterion has been met.*

5.11 **(K) (*** Extraction of Aggregated Deposits. Not applicable)**

5.12 **(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.**

Applicant: The proposal will not adversely affect areas of annual flooding, flood plains, or water areas. The 100-year floodplain boundary is noted on the submitted survey as the 27-foot elevation contour line. The only new structures proposed are the floating home and boathouse structures that will be moored within the waterway lease area and will float above the floodwaters during such events. The carport structure on land indicated on the survey contains covered parking for five (5) vehicles, two (2) of which would be designated for the single floating home. The carport structure is located between the 30-foot and 31-foot elevation contour lines depicted on the submitted survey and therefore the two (2) parking spaces

designated for the floating home are three (3) to four (4) feet above the 27-foot elevation contour line, which is the 100-year flood elevation. Therefore, the survey demonstrates that the 2 houseboat parking spaces within the carport and access to said parking spaces from NW Marina Way is entirely on those areas of the site above the 29-foot contour line and therefore 2-or-more-feet above the 100-year flood elevation.

Staff: The subject site is located adjacent to the Multnomah Channel. There are no identified wetlands on the subject property. The subject site is mapped as being in the 100-Year Floodplain (Exhibit A.10) for the Columbia River. The applicant has submitted a survey indicating that that the elevation of 27.00 feet NGVD shown on the survey (Exhibit A.25) is the boundary for the 100-Year Flood (Exhibit A.22). This information indicates that some of the improvements are located outside of the flood hazard area. It should be noted that this request includes in-water development, which must be located in the floodplain.

A Flood Development permit will be required pursuant to MCC 29.603 will be required prior to construction of the project. The Flood Hazard regulations require that the septic system and private water system and well be designed to withstand infiltration of floodwaters into the system, discharge of materials into floodwater, and be designed to avoid impairment by flood damage. The electrical system must be designed or located to prevent water from entering or accumulating during flood stage. To ensure compliance with the Flood Hazard regulations, staff has proposed a condition of approval requiring a Flood Hazard permit be obtained. The proposed On-Site Sewage System is located outside of the flood hazard area. In addition, automobile parking, ingress and egress serving the houseboat (singular floating dwelling) is located outside of the flood hazard area and are also otherwise elevate at least 2-feet above the 100-year flood. *As conditioned, this criterion has been met.*

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

Applicant: There are no significant wetlands on the site.

Staff: Staff concurs. *This criterion has been met.*

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

Applicant: There are no known areas of ecological, scientific, historical or archaeological significance on the site.

Staff: Staff concurs. *This criterion has been met.*

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

Applicant: Areas of erosion or potential erosion will be protected from loss by appropriate means.

Staff: The applicant has submitted a Greenway and Design Review plan indicating that disturbed areas along the riverbank resulting from installation of proposed finger piers for the travel lift and a new gangway near the upstream lease boundary will be replanted and restored within a brief period of time, and vegetation retained along the riverbank will be supplemented with evergreen and deciduous trees to reduce potential erosion. *This criterion has been met.*

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

Applicant: The proposed 45-boat marina, with limited accessory marine-related construction and repair and one floating residence, will not create adverse or excessive off-site effects to air, water, or land resources in and adjacent to the Greenway. The scale of the marine-related construction and repair and boat storage has been limited to 45-boats (20-in-water; 25-upland) to demonstrate compatibility with the Greenway environs. The upland boat storage is rural in character with all boats are stored at grade and not within multi-level racks or buildings. The plan includes one single residence (floating home) and on-site sewage disposal to protect water qualities in the area.

Staff: The proposed development is consistent with uses found along the Multnomah Channel. The proposal provides amenities and services for the recreation opportunities available in the area including boat storage and repair. The development is proposing to enhance the current site with landscaping and installation of in-water uses consistent with requirements of jurisdictional agencies. The site plan reflects consideration of traffic circulation, access, and services while maintaining the air, water and land resources in and adjacent to the Greenway. *This criterion has been met.*

5.17 **(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 resource districts, except for non-dwellings provided in conjunction with farm use and except for buildings and structures in conjunction with a water-related or a water dependent use.**

Applicant: The only new structures proposed on the site are the floating home and non-residential boathouse structures that will be moored within the waterway lease area. These water-related and water-dependent uses/structures are not subject to the 150-foot greenway setback from the ordinary low waterline of the Willamette River. The 150-foot building setback line has been added to the site plan.

Staff: A 150-foot building setback from the Ordinary Low Water Mark has been provided and identified for in the site plan. There is one floating home proposed with the rest of the in-water uses for non-residential boathouse structures being moored. *This criterion has been met.*

5.18 **(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.**

Applicant: The application includes a Design Review Permit request.

Staff: A Design Review request has been submitted and is addressed in Section 9.00 in the Findings below. *This criterion has been met.*

5.19 **(S) The applicable policies of the Comprehensive Plan are satisfied.**

Applicant: The proposed 45-boat marina, with limited accessory marine-related construction and repair and one floating residence, is consistent with the County's plans and policies listed below:

Policy 2: Off-site Effects
Policy 10: Multiple Use Agricultural Land
Policy 13: Air, Water, and Noise Quality
Policy 14: Development Limitations
Policy 15: Willamette River Greenway
Policy 16: Housing Choices
Policy 21: Housing Location
Policy 26: Houseboats
Policy 27: Commercial Location
Policy 31: Community Facilities and Uses

Policy 34: Traffic Ways
Policy 37: Utilities
Policy 38: Facilities
Policy 39: Parks and Recreation
Statewide Goal 14: Urbanization

The Greenway Design Plan for the A-1 Marina applications is consistent with the Sauvie Island Rural Area Plan as paraphrased and discussed below.

The Multnomah Channel area is outside of the Portland Metropolitan Area's Urban Growth Boundary; it is supposed to remain rural in nature. County Comprehensive Plan Policies affecting Multnomah Channel include:

POLICY 15 Willamette River Greenway

The Comprehensive Framework Plan states that Multnomah County is to protect the natural scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River. It is also the County's policy to require special procedures for review of certain types of development allowed in the underlying base zone in order to ensure the minimum impact on the values identified within the various areas.

POLICY 26 Houseboats

The Comprehensive Framework Plan states that Multnomah County's policy on houseboats is to assist in providing a broad range of housing options that conforms with other County policies concerning off-site effects, air, water and noise quality, the Willamette River Greenway, natural resources, housing choice, housing location, capital improvements, traffic ways, transportation system development, utilities and facilities; and any other applicable federal, state or local policies that regulate waterway area development.

The proposed floating home is consistent with location criteria regarding the mean low water line, protection from siltation, wind, wave action, icy conditions and other hazards, adequate land area to accommodate related facilities, ensuring proper maintenance of dikes, preservation of upland recreational, ecological or wildlife habitat values and exclusion from Exclusive Farm Use zoned uplands.

The areas identified in Policy 26 of the Multnomah County Comprehensive Plan includes the existing A-1 Marina site. The proposed single floating home is consistent with the County's plan policies.

Staff: This is addressed in Section 7.00 of the Findings below.

6.00 *Waterfront Uses*

6.01 **MCC 34.6750- HOUSEBOATS AND HOUSEBOAT MOORAGE**

(* * *)

(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;

Applicant: The A-1 Marina site is located on the mainland (west) side of Multnomah Channel, and within a section of the channel that is characterized by houseboat moorages and boat marinas. There are seven (7) marinas and moorages along this reach of Multnomah Channel:

1. Fred's Marina -- located about 900-feet upstream from the subject A-1 Marina -- contains both in-water and upland boat storage facilities similar to that proposed for the A-1 Marina site.

2. Multnomah Yacht Harbor abuts the A-1 Marina site to the southeast and includes floating homes (houseboats), boathouses, boat slips, and a boat lift similar to the A-1 Marina proposal. The upland property is used extensively for boat storage. The State Marine Board records indicate the site has facilities for 200 boats

3. A-1 Marina/Moorage (subject property)

4. Marina Way Moorage abuts the A-1 Marina site to the northwest and includes floating homes (houseboats), boat slips, and a boat ramp.

5. Larson's Marina -- located about 600-feet downstream from the subject A-1 Marina -- contains both in-water and upland boat storage facilities as well as marine related repair and construction similar to that proposed for the A-1 Marina site.

6. Channel Island Moorage — located downstream of the Sauvie Island Bridge -- includes floating homes (houseboats), boathouses, boat slips, and a boat ramp.

7. Bridgeview Moorage — located about 1000-feet downstream of the Sauvie Island Bridge -- includes floating homes (houseboats), boathouses and boat slips

The proposed A-1 Marina -- with its associated boat repair activities, wet and dry boat storage areas, a new travel-lift for launching boats in the boatyard, and a single floating home -- is similar to and consistent with adjacent moorage and marina uses.

Staff: The proposed development is proposing a marina consistent with existing marinas and moorages located along the banks of the Multnomah Channel. The proposal includes: 1 floating home slip, 2 boathouse parking spaces, 20 in-water boat slips, 25 boat spaces on-land, 30 automobile parking stalls, a boat ramp and lift, log salvage yard, and construction and repair activities related to the marina and moorage. The marina will be available for persons leasing boat storage space, providing for additional access, amenities and services for the public to utilize the recreational opportunity of the Multnomah Channel. In addition, the proposal will be located between two similar uses on the same side of the Multnomah Channel. *This criterion has been met.*

6.02 **(2) The development will not adversely impact, or be adversely affected by normal fluvial processes;**

Applicant: The proposed A-1 Marina -- with its associated boat repair activities, wet and dry boat storage areas, a new travel-lift for launching boats in the boatyard, and a single floating home -- is similar to the de facto use of the property for the past quarter century. The site has sufficient channel width and depth to support the proposed marina and single floating home.

Staff: The proposed development is proposed to be located on a subject property that should not be adversely affected by normal fluvial processes with the docks being able to rise and fall with the river, and the ramps being able to pivot naturally with the water. The site has been operating as a log salvage yard with existing in-water use. *This criterion has been met.*

6.03 **(3) All other applicable governmental regulations have, or can be satisfied; and**

Applicant: The applicant initially sought permits in 1977 "... to construct a commercial moorage, boat launching ramp, and boat repair facilities along the Multnomah Channel..." (Reference: Corps of Engineers Public Notice 071-OYA-2-002743 dated November 23, 1977). The Port of Portland issued

permit 78-06 in January 1978 and permit 80-20 in May 1980 authorizing the work described in the Corps notice cited above. In 1980, Multnomah County issued Willamette River Greenway permit WRG 4-80, which authorized "log salvage" and a 20-year submerged land lease (ML 7112) was secured from the Division of State Lands in 1989. The applicant has contacted the DSL concerning the process to renew and modify the waterway lease that will expire in June 2009.

The Oregon Department of Transportation approved the driveway approaches on June 17, 2008 (ODOT Application #7837). The ODOT approval requires the drive approaches to be paved and striped and marked to indicate the entrance and exit.

The applicant has a Site Evaluation Report completed by Michael Ebling, City of Portland Sanitarian (Permit#08-130825-SE), which authorizes a sand filter septic system on the site.

The project is exempt from the Storm Water Certificate because the new pavement required for the driveway approaches is pervious/porous material per ODOT specifications and removal of the temporary mobile home has reduced new impervious surfaces necessitating a storm water certificate below the 500-square foot threshold.

Staff: Service provider forms (Exhibit A.13) have been reviewed and submitted for water service (Burlington Water District), on-site sewage disposal system, and fire flow and access. In addition the applicant has received conditional approval from ODOT for access (Exhibit A.16). The applicant is also working with the Division of State Lands to renew and modify the waterway lease set to expire in June 2009. *This criterion has been met.*

6.04 **(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.**

Applicant: The subject property is served by Burlington Water District and an on-site sewage disposal system has been authorized under Building Permit 2008-130825-000-00-SE. The land feasibility study concluded that: *"SOILS APPROVED FOR 360SF SAND FILTER FOR MARINA AND DWELLING EQUAL TO 6 BEDROOMS."*

The proposed marina, with accessory boat repair and storage for 45-boats, and one single residence will have a negligible effect on public services in terms of schools, roads, utilities, police or fire suppression.

Staff: Service provider forms (Exhibit A.13) have been reviewed and submitted for water service (Burlington Water District), on-site sewage disposal system, and fire flow and access demonstrating that services are available that will not require public services other than those existing or programmed for the area. *This criterion has been met.*

6.05 **MCC 34.6760 PARKING**

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

Applicant: The revised site plan identifies the location of two parking spaces in the carport for the houseboat, one parking space per two boat slips (23-spaces for 45 boats), and seven (7) parking spaces to accommodate the accessory marina uses proposed on site.

Staff: One houseboat is allowed and is proposed for the project. Two automobile spaces are identified on the site-plan and are located within the carport. *This criterion is met.*

(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.

Applicant: The 100-year floodplain boundary is noted on the submitted survey as the 27-foot elevation contour line. The carport structure on land indicated on the survey contains covered parking for five (5) vehicles, two (2) of which would be designated for the single floating home. The carport structure is located between the 30-foot and 31-foot elevation contour lines depicted on the submitted survey and therefore the two (2) parking spaces for the floating home are three (3) to four (4) feet above the 27-foot elevation contour line, which is the 100-year flood elevation. Therefore, the survey demonstrates that the 2 houseboat parking spaces within the carport and access to said parking spaces from NW Marina Way is entirely on areas of the site above the 29-foot contour line and therefore 2-or-more-feet above the 100-year flood elevation. The criterion is met.

Staff: The subject site is located adjacent to the Multnomah Channel. The subject site is mapped as being in the 100-Year Floodplain (Exhibits A.10 and B.6) for the Columbia River. The applicant has submitted a survey indicating that that the elevation of 27.00 feet NGVD shown on the survey (Exhibit A.25) is the boundary for the 100-Year Flood (Exhibit A.22). This information indicates that some of the improvements are located outside of the flood hazard area.

A Flood Development permit will be required pursuant to MCC 29.603 will be required prior to construction of the project. The Flood Hazard regulations require that the septic system and private water system and well be designed to withstand infiltration of floodwaters into the system, discharge of materials into floodwater, and be designed to avoid impairment by flood damage. The electrical system must be designed or located to prevent water from entering or accumulating during flood stage. To ensure compliance with the Flood Hazard regulation, staff has proposed a condition of approval requiring a Flood Hazard permit be obtained. The proposed On-Site Sewage System is located outside of the flood hazard area. In addition, parking, ingress and egress serving the houseboat (singular floating dwelling) is located outside of the flood hazard area and are also otherwise elevate at least 2-feet above the 100-year flood. *As conditioned, this criterion has been met.*

6.06 **MCC 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.

Applicant: Acknowledged.

(Below responses taken from Applicant response letter received October 6, 2008)
The existing 100-foot gangway has 10 low level (15-watt) lights spaced 10-feet apart to illuminate the walk while minimizing excessive or bright lighting directed towards the river. The two new gangways proposed on the plan would have similar low scale lighting.

Staff: All ramps, walkways and moorage spaces shall be designed, constructed and maintained to provide maximum safety in all weather conditions. Staff recommends a condition of approval be applied reflecting this requirement for the installing the improvements for the proposal. *As conditioned, this criterion has been met.*

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

Applicant: The lighting plans for the single floating home are not known at this time. Applicant suggests that specific lighting requirements may be attached as conditions to the requested conditional use permit.

(Below responses taken from Applicant response letter received October 6, 2008)
The marina is not open after dark. Night time illumination of the boatyard is provided by three wall-mounted lights on the pole barn; one light is mounted at the two northerly building corners and the third

light is in the center of the long-side wall. Each wall-mount light is 18-feet above grade and directed towards the boat yard areas onsite to allow surveillance. The lights are high-pressure sodium vapor, which have an amber hue. The existing 100-foot gangway has 10 low level (15-watt) lights spaced 10-feet apart to illuminate the walk while minimizing excessive or bright lighting directed towards the river. The two new gangways proposed on the plan would have similar low scale lighting.

Staff: Adequate lighting shall be provided for the safety of residents and visitors. Staff recommends that a condition of approval be that a lighting plan shall be submitted as part of the Building Permit Review for review and approval. Any artificial lighting which may be provided shall be shielded or deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street. *As conditioned, this criterion is met.*

6.08 **(C) Siting and design of all pickup and delivery facilities shall insure maximum convenience with minimum adverse visual impacts.**

Applicant: The loading and boat launching areas are indicated on the design review plan and described in the narrative. The existing and proposed landscaping will ensure minimum adverse visual impacts from these activities, which are sited for maximum convenience.

Staff: The applicant has identified an area for loading and launching of boats consistent with the proposed use. In-water activities are consistent with recreation offerings and in-land re-vegetation and landscaping is proposed to minimize adverse visual impacts. *This criterion is met.*

7.00 ***Comprehensive Plan Policies***

7.01 **Statewide Planning Goal 14 (Urbanization)**

Applicant: The proposed permits are not in conflict with Statewide Goal 14 (Urbanization) because the limited scale of the proposal is compatible with the rural and water-related residential and recreational uses on abutting and adjacent properties.

The proposal will not adversely affect the east (island) side of Multnomah Channel, which is predominantly zoned Exclusive Farm Use (EFU). As mandated by state law, the EFU district does not allow houseboat moorages, marinas, or new private boat docks. In the 1970's, the County established a maximum density of one houseboat for each 50 feet of waterfront frontage. However, the state since determined that permitting multiple dwellings (floating or otherwise) on a single rural-zoned parcel is contrary to Goal 14, Urbanization.

Therefore, this application proposes only one floating home for this 310-foot reach of the channel. The floating home would be the single permanent residence on the A-1 Marina site, which is comprised of the upland 2.13 acres parcel and its associated 1.3-acre submerged land lease area. The other floating structures depicted on the site plan are for non-residential boat storage.

Staff: The provision in the County Code 34.6755 allowing up to one floating home per 50-feet of waterfront frontage is in conflict with Oregon Administrative Rules (OARs) implementing Statewide Planning Goal 14 because it fails to limit development to one single family dwelling per lot or parcel. The application is proposing only one single family dwelling in the form of one floating residence as identified in the submitted plans. *This policy has been met.*

7.02 **Policy 2 Off-Site Effects**

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.

Applicant: The subject property is served by Burlington Water District for potable water and water for fire protection. An on-site sewage disposal system has been authorized under Building Permit 2008-130825-000-00-SE. The land feasibility study concluded that: *"SOILS APPROVED FOR 360SF SAND FILTER FOR MARINA AND DWELLING EQUAL TO 6 BEDROOMS."*

Staff: Service provider forms (Exhibit A.13) have been reviewed and submitted for water service (Burlington Water District), on-site sewage disposal system, and fire flow and access demonstrating that services are available that will not require public services other than those existing or programmed for the area. Conditions of approval have been applied to address this policy. *This policy is met.*

7.03 **Policy 10 Multiple Use Agricultural Land**

The County's policy is to designate and maintain as multiple use agriculture land, areas which are:

A. Generally agricultural in nature, with soils, slope and other physical factors indicative of past or present small scale farm use;

B. Parcelized to a degree where the average lot size, separate ownerships, and non-farm uses are not conducive to commercial agricultural use;

C. Provided with a higher level of services than a commercial agricultural area has; or

D. In agricultural or micro-climates which reduce the growing season or affect plant growth in a detrimental manner (flooding, frost, etc.).

The County's policy, in recognition of the necessity to protect adjacent exclusive farm use areas, is to restrict multiple use agricultural uses to those compatible with exclusive farm use areas.

Applicant: The proposed 45-boat marina, with accessory marine-related construction and repair and one floating residence, would not create adverse or excessive off-site effects. The scale of the boat repair and storage has been limited to 45-boats (20-in-water; 25-upland) to demonstrate compatibility with the MUA-20 environs. The upland boat storage is rural in character; all boats are stored at grade and not within large or multi-level buildings. There are no stacked boat racks or multi-level (urban style) boat warehouses proposed. The plan includes one single residence (floating home). The site will have on-site sewage disposal to protect water qualities in the area. The existing pole barn/storage building is situated outside the flood hazard area, and the floating home will be designed to float above any floodwaters that may affect the site. The existing barn/storage building exceeds the 150-foot Greenway Setback required from the top of the bank. The proposed single floating home will have a negligible effect on demand for public services such as schools, roads, utilities, and police or fire suppression. The floating home proposed is located within the areas identified in Policy 26 as suitable for houseboats, and the site plan and topography survey indicates that 2 parking spaces elevated at least 2-feet above the 100-year flood (and access thereto) can be provided for the floating home. The proposed marina with a boat ramp and lift, and in-water and upland boat storage, provides additional recreational boating facilities to the area, consistent with community service use and recreation planning policies. The proposal will not adversely affect the east (island) side of Multnomah Channel, which is predominantly zoned Exclusive Farm Use (EFU). As mandated by state law, the EFU district does not allow houseboat moorages, marinas, or new private boat docks.

Staff: The subject property is located in the Multiple Use Agriculture-20 zoning district. The subject property is not adjacent to agricultural and forestlands and impacts to are not anticipated. The proposed development is listed as a conditional use in the zoning district. This proposal does not involve a rezone. *This policy is met.*

7.04 **Policy 13 Air, Water and Noise Quality**

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: ***[Amended 1999, Ord. 933 § III]***

1. **Building placement on the site in an area having minimal noise level disruptions.**

2. **Insulation or other construction techniques to lower interior noise levels in noise-impacted areas.** ***[Amended 1999, Ord. 933 § III]***

Applicant: The above described log salvage and marine-related construction activities have been conducted at the A-1 Marina site under County Permit WRG 4-80 for almost 30-years. The 2008 CU and CS Permit applications seek authorization to continue marina and moorage related construction and repair activities within the waterway lease area, limited to the days and hours of operation noted above. Further, the in-water construction and repair activities would employ best management practices to protect ground, air, and water qualities, and are limited in scale, accessory to the requested marina and moorage uses, and would have minimal external effects in terms of noise, fumes, odors, vibration, or other off-site impacts.

Staff: The proposed development is consistent with uses found along the Multnomah Channel. The proposal provides amenities and services for the recreation opportunities available in the area including boat storage and repair. The development is proposing to enhance the current site with landscaping and installation of in-water uses consistent with requirements of jurisdictional agencies. The site plan reflects consideration of traffic circulation, access, and services while maintaining the air, water and land resources in and adjacent to the Greenway. *This policy is met.*

7.05 **Policy 15 Willamette River Greenway**

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.

Applicant: The Comprehensive Framework Plan states that Multnomah County is to protect the natural scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River. It is also the County's policy to require special procedures for review of certain types of development allowed in the underlying base zone in order to ensure the minimum impact on the values identified within the various areas.

Staff: The subject property is located in the Multiple Use Agriculture-20 zoning district. The subject property is not adjacent to agricultural and forestlands and impacts to such lands are not anticipated. The proposed development is listed as a conditional use in the zoning district, and has been reviewed for consistency with applicable zoning criteria to ensure that minimum impact on the values identified within the area occurs. *As the project is conditioned, this policy is met.*

7.06 **Policy 26 Houseboats**

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 (Willamette River Greenway), 16 (Natural Resources), 21 (Housing Choice), 24 (Housing Location), 32 (Capital Improvements), 34 (Trafficways), 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, ice 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:

1. **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).
2. **Oregon Slough.**

* * *

Houseboats and moorages existing outside these areas shall be limited to existing sites and levels of development.

No houseboats shall be located on the Columbia River east of the Sandy River, or in violation of Federal Aviation Administration clear zone standards, or in violation of any other applicable federal, state or local standards.

Applicant: The Comprehensive Framework Plan states that Multnomah County's policy on houseboats is to assist in providing a broad range of housing options that conforms with other County policies concerning off-site effects, air, water and noise quality, the Willamette River Greenway, natural resources, housing choice, housing location, capital improvements, traffic ways, transportation system development, utilities and facilities; and any other applicable federal, state or local policies that regulate waterway area development.

The proposed floating home is consistent with location criteria regarding the mean low water line, protection from siltation, wind, wave action, icy conditions and other hazards, adequate land area to accommodate related facilities, ensuring proper maintenance of dikes, preservation of upland recreational, ecological or wildlife habitat values and exclusion from Exclusive Farm Use zoned uplands.

The areas identified in Policy 26 of the Multnomah County Comprehensive Plan includes the existing A-1 Marina site. The proposed single floating home is consistent with the County's plan policies.

Staff: Staff concurs with the applicant in that the subject property is located in area suitable for houseboats as identified in the policy. It should be noted that the provision in the County Code 34.6755 allowing up to one floating home per 50-feet of waterfront frontage is in conflict with Oregon Administrative Rules (OARs) implementing Statewide Planning Goal 14 because it fails to limit development to one single family dwelling per lot or parcel. The application is proposing only one single family dwelling in the form of one floating residence as identified in the submitted plans. *This policy is met.*

7.07 **Policy 34 Traffic Ways**

The purpose of this policy is to direct the County to develop the existing trafficway system to maximize efficiency, and to consider the mobility of pedestrians by providing safe crossings.

The County's policy is to develop a safe and efficient trafficway system using the existing road network, and by:

A. Maintaining a trafficway classification system;
B. Improving streets to the standards established by the classification system, where necessary and/or appropriate, to mitigate identified transportation problems;
C. Placing priority on maintaining the existing trafficways;
D. Developing additional transportation facilities to meet community and regional transportation needs where capacity of the existing system has been maximized through transportation system management and demand management measures;
E. Providing a safe and convenient pedestrian environment with road crossings and sidewalk network designed for pedestrian travel;
F. Limiting the number of, and consolidating ingress and egress points, on arterials and major collectors to preserve traffic flow;
G. Reducing reliance on the automobile and assuring that the planned transportation system supports patterns of travel and land use which will avoid or mitigate problems of air pollution, traffic congestion and community livability;
H. Encouraging ride-share and flextime programs to help meet the projected increase in travel demand. The County will work with METRO and Tri-Met to develop ride-share programs, flextime and other transportation demand strategies to achieve the ride-share goal given in the Regional Transportation Plan; and
I. Implementing the Street Standards Chapter 11.60 and street standards codes and rules, including adherence to access control and intersection design guideline criteria, and establishing a procedure for allowing variances from that ordinance.
J. Considering and allowing for implementation of regional street design elements (as shown in "Creating Livable Streets: Street Design for 2040" (1997) when planning for improvements to facilities designated on Metro's Regional Street Design Map. ***[Added 1999, Ord. 926 § 2]***
K. Improving local circulation by keeping through trips on arterial streets and minimizing local trip lengths by increasing street connectivity. ***[Added 1999, Ord. 926 § 2]***

Excluding that portion of Multnomah County included in the Columbia River Gorge National Scenic Area, this policy, and the functional classification of trafficways map accompanying this policy, shall control over conflicting provisions of community plans or other preexisting plans in determining the functional classification of trafficways. Trafficways located within the Columbia River Gorge National Scenic Area are subject to, and superceded by, provisions of the Columbia River Gorge Scenic Area Management Plan.

Staff: The applicant has obtained Conditional Approval for a State Highway Approach from the Oregon Department of Transportation for the subject property that provides for one entry point and one exit point off NW Marina Way. The on-site circulation pattern allows for two way traffic and allows traffic to circulate on the site without needing to access NW Marina Way. A separate sidewalk system is not proposed. The increase of the accessway between the parking and boat storage stall will allow traffic and space available for pedestrians on the pavement. *This policy has been met.*

7.08 **Policy 14 Development Limitations**

The County's policy is to direct development and land form alterations away from areas with development limitations except upon a showing that design and construction techniques can mitigate any public harm or associated public cost and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:

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

Staff: Access is not proposed via a county road. The soils in the area of development are Sauvie silt loam unit (44) (Exhibit B.6). The Multnomah County Soil Survey indicates that Sauvie silt loam is a poorly drained soil on broad flood plains. Slopes are 0 to 2 percent. Permeability is moderately slow. Run-off is slow and the hazard of erosion is slight. There is no indication of a high seasonal water table or fragipan with this soil. The site is not identified as a slope hazard area, and doesn't have severe soil erosion potential. In addition with the subject property being fairly flat, slumping, earth slides and movement is not prone for the property. The property is located within the flood hazard area, and a condition has been placed requiring the obtaining a Flood Development Permit. *Provided the development is located as proposed, this policy has been met.*

7.09 **Policy 37 Utilities**

Water and Disposal Systems

- **A. Shall be connected to a public sewer and water system, both of which have adequate capacity; or**
- **B. Shall be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or**
- **C. Shall have an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or**
- **D. Shall have an adequate private water system, and a public sewer with adequate capacity.**

Drainage

- **E. Shall have adequate capacity in the storm water system to handle the run-off; or**
- **F. The water run-off shall be handled on the site or adequate provisions shall be made; and**
- **G. The run-off from the site shall not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjoining lands.**

Energy and Communications

- **H. There shall be an adequate energy supply to handle the needs of the proposal and the development level projected by the plan; and**
- **I. Communications facilities are available.**

Applicant: The subject property is served by Burlington Water District for potable water and water for fire protection. An on-site sewage disposal system has been authorized under Building Permit 2008-130825-000-00-SE. The land feasibility study concluded that: *"SOILS APPROVED FOR 360SF SAND FILTER FOR MARINA AND DWELLING EQUAL TO 6 BEDROOMS."*

The proposed 45-boat marina, with accessory marine-related construction and repair and one floating residence, will have negligible effects on demands for public services in terms of schools, roads, utilities,

police or fire suppression. The floating home is anticipated to equal at most 3 bedrooms of demand on the septic system, and a single bathroom for the private marina is the only other demand to be placed on the septic system, which the 3-bedrooms of remaining septic capacity would easily accommodate. Until a bathroom is constructed for the marina members, a portable toilet is provided, which is cleaned at least once per week by the provider of the portable facility.

There are no public boat launches or day-use marina activities proposed. The marina will remain gated and available only to those persons leasing boat storage space. There are no gas pumps or other fuel tanks proposed. An above ground water tank already on the site would remain. The tank is used for storing rainwater that is used for landscape irrigation and dust control.

The project is exempt from the Storm Water Certificate because the new pavement required for the driveway approaches is pervious/porous material per ODOT specifications and removal of the temporary mobile home has reduced new impervious surfaces necessitating a storm water certificate below the 500-square foot threshold.

Staff: Water & Disposal System: Service provider forms (Exhibit A.13) have been reviewed and submitted for water service (Burlington Water District), on-site sewage disposal system, demonstrating that services are available that will not require public services other than those existing or programmed for the area.

Drainage: A Grading and Erosion Control and Flood Development Permit are required to be obtained for this project.

Energy and Communications: The subject site currently has electricity and phone service.

This policy has been met.

7.10 **Policy 38 Facilities**

It is the County's Policy to coordinate and encourage involvement of applicable agencies and jurisdiction in the land use process to ensure:

Fire Protection

- **B. There is adequate water pressure and flow for fire fighting purposes; and**
- **C. The appropriate fire district has had an opportunity to review and comments on the proposal.**

Police Protection

- **D. The proposal can receive adequate local Police protection in accordance with the standards of the jurisdiction providing police protection.**

Applicant: The proposed single floating home will have a negligible effect on demand for public services such as schools, roads, utilities, police or fire suppression.

Staff: Service provider forms (Exhibit A.13) have been reviewed and submitted for water service (Burlington Water District), on-site sewage disposal system, and fire flow and access demonstrating that services are available that will not require public services other than those existing or programmed for the area. The proposal is located in unincorporated Multnomah County that is serviced by the County Sheriff's Department. *This policy has been met.*

8.00 ***Off-Street Parking and Loading Criteria***

8.01 **MCC 34.4105 GENERAL PROVISIONS**

In the event of the erection of a new building or an addition to an existing building, or any change in

the use of an existing building, structure or land which results in an intensified use by customers, occupants, employees or other persons, off-street parking and loading shall be provided according to the requirements of this Section.

Staff: The proposed improvements must meet the Off-Street Parking and Loading Ordinance as the expansion will intensify the use.

8.02 **MCC 34.4120 PLAN REQUIRED**

A plot plan showing the dimensions, legal description, access and circulation layout for vehicles and pedestrians, space markings, the grades, drainage, setbacks, landscaping and abutting land uses in respect to the off-street parking area and such other information as shall be required, shall be submitted in duplicate to the Planning Director with each application for approval of a building or other required permit, or for a change of classification to O-P.

Staff: The applicant has submitted a site plan and other detailed plans showing most of the required information. Staff has recommended Condition No. 6 to bring the proposed plans into conformance with these criteria. *As conditioned, this criterion has been met.*

8.03 **MCC 34.4130 LOCATION OF PARKING AND LOADING SPACES**

(A) Parking spaces required by this Section shall be provided on the lot of the use served by such spaces.

(B) Exception – The Planning Director may authorize the location of required parking spaces other than on the site of the primary use, upon a written finding by the Director that:

Staff: It should be noted that although the current code does not specify the required number of parking spaces required for a marina, a prior Hearings Office determined that a ratio of 1 parking space per 2 boat slips is an appropriate starting point for development review. Multnomah County Code (MCC) 34.6760 requires two automotive parking spaces per houseboat (floating dwelling). The proposed project is proposing one houseboat (floating dwelling) with two parking spaces to be located in the carport identified on the site plan. 20 in-water boat slips are proposed with 30 automobile parking stalls identified on the site plan. Staff recommends to the Hearing's Officer that a condition be placed identifying the required parking spaces for the uses. *As conditioned, the criterion is met.*

8.04 **MCC 34.4135 IMPROVEMENTS REQUIRED**

(A) Required parking and loading areas shall be improved and placed in condition for use before the grant of a Certificate of Occupancy under MCC 34.0525, or a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director.

Staff: The proposed project is proposing one houseboat (floating dwelling) with two parking spaces to be located in the carport identified on the site plan. 20 in-water boat slips are proposed with 30 automobile parking stalls identified on the site plan. Staff recommends a condition of approval be applied setting a deadline for the installing the improvements for these existing uses. Staff has recommended Condition No. 9 consistent with the Phasing Plan to address this. *As conditioned, this standard is met.*

8.05 **MCC 34.4140 CHANGE OF USE**

(A) Any alteration of the use of any land or structure under which an increase in the number of parking or loading spaces is required by this Section shall be unlawful unless the additional spaces are provided.

(B) In case of enlargement or change of use, the number of parking or loading spaces required shall be based on the total area involved in the enlargement or change in use.

MCC 34.4165DESIGN STANDARDS: SCOPE

(A) The design standards of this section shall apply to all parking, loading, and maneuvering areas except those serving a single or two-family residential dwelling or mobile home on an individual lot.

(B) All parking and loading areas shall provide for the turning, maneuvering and parking of all vehicles on the lot. After July 26, 1979 it shall be unlawful to locate or construct any parking or loading space so that use of the space requires a vehicle to back into the right-of-way of a public street.

Staff: The expansion of the number of spaces for the proposed development requires that parking and vehicle circulation be improved to the County's Off-Street Parking Ordinance. All parking and loading areas for the turning, maneuvering, and parking of all vehicles are provided on the lot. *As conditioned, the proposed development can meet the off-street parking requirements.*

8.06 **MCC 34.4170 ACCESS**

(A) Where a parking or loading area does not abut directly on a public street or private street approved under MCC 34.7700 et seq., the Land Division Chapter, there shall be provided an unobstructed paved drive not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.

(B) Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this section. Required spaces may be located in a private street when authorized in the approval of such private street.

Staff: The revised site plan (Exhibit A.23) shows the location of proposed parking and traffic circulation. A condition of approval has been recommended that the plan be redrawn showing all improvements meeting the various zoning regulations including this standard. No off-site parking is proposed along the public right-of-way of NW Marina Way. *As conditioned, this criterion has been met.*

8.07 **MCC 34.4175 DIMENSIONAL STANDARDS**

(A) Parking spaces shall meet the following requirements:

(1) At least 70% of the required off-street parking spaces shall have a minimum width of nine feet, a minimum length of 18 feet, and a minimum vertical clearance of six feet, six inches.

(2) Up to 30% of the required off-street parking spaces may have a minimum width of eight-and-one-half feet, a minimum length of 16 feet, and a vertical clearance of six feet if such spaces are clearly marked for compact car use.

(3) For parallel parking, the length of the parking space shall be 23 feet.

(4) Space dimensions shall be exclusive of access drives, aisles, ramps or columns.

(B) Aisle width shall be not less than:

(1) 25 feet for 90 degree parking,

(2) 20 feet for less than 90 degree parking, and

(3) 12 feet for parallel parking.

(4) Angle measurements shall be between the center line of the parking space and the center line of the aisle.

Staff: The proposed automobile parking stalls have dimensions of 10 feet by 20 feet. The proposed Site Plan Detail: Parking, Boat Storage and Landscape (Exhibit A.23) shows these parking areas clear of utility connections, columns, aisles or ramps

There is adequate area on the site to maintain the setbacks and meet the aisle width standard. A condition

of approval has been recommended to the Hearings Officer that the plan be redrawn showing all improvements meeting the various zoning regulations including this standard. *As conditioned, this criterion has been met*

8.08 **MCC 34.4180 IMPROVEMENTS**

(A) Surfacing

(1) All areas used for parking, loading or maneuvering of vehicles shall be surfaced with two inches of blacktop on a four inch crushed rock base or six inches of portland cement or other material providing a durable and dustless surface capable of carrying a wheel load of 4,000 pounds.

(B) Curbs and Bumper Rails

(1) All areas used for parking, loading, and maneuvering of vehicles shall be physically separated from public streets or adjoining property by required landscaped strips or yards or in those cases where no landscaped area is required, by curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress.

(2) The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height and at least three feet from the lot line or any required fence.

(C) Marking – All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC 34.4120, and such marking shall be continually maintained.

(D) Drainage – All areas for the parking and maneuvering of vehicles shall be graded and drained to provide for the disposal of all surface water on the lot.

Applicant: (A)(1) The boat maneuvering and storage areas depicted on the site plan and the perimeter vehicle parking spaces are located on a base of 18-inches to 24-inches of gravel, which is ..."material providing a durable and dustless surface capable of carrying a wheel load of 4,000 pounds".

(B) As noted above, the walkways, parking areas and boatyard maneuvering and storage areas are overlain with 18 to 24 inches of compacted gravel. The perimeter of the parking and maneuvering areas is or will be defined with logs or railroad ties to provide a curb-like barrier demarcating natural and landscaped areas, generally along the perimeter property lines and above the vegetated riverbank.

(C) The parking and maneuvering areas will be defined with logs or railroad ties and painted markings, reflective materials and colored rocks to provide visual direction to drivers.

(D) There are no new impervious areas proposed onsite in excess of 500-square feet. The existing 18-inches to 24-inches of gravel that covers most of the site receives rain and surface water run-off without affecting adjacent properties or streets.

Staff: The site currently has a gravel surface. All areas used for parking, loading or maneuvering of vehicles shall be surfaced with two inches of blacktop on a four inch crushed rock base or six inches of portland cement or other material providing a durable and dustless surface capable of carrying a wheel load of 4,000 pounds. A condition of approval has been recommended that the plan be redrawn showing all improvements meeting the various zoning regulations including this standard.

As shown on the submitted site plans railroad ties and landscaping boxes are being used to physically separate areas used for parking, loading, and maneuvering of vehicles public streets. There is currently an existing fence around the perimeter of the property and 5 foot landscaping strips, railroad ties are proposed to address unchanneled motor vehicle access or egress. All areas for the parking and maneuvering of vehicles are identified to be marked in the submitted parking plan. All such marking shall be continually maintained. A condition of approval has been recommended that the plan be redrawn showing all

improvements meeting the various zoning regulations including this standard.

A stormwater system is necessary for all newly created impervious surfaces. It appears that the site will be able to handle the generated stormwater run-off, but a Stormwater Certificate and study will need to be completed to verify this. A condition of approval has been recommended that the plan be redrawn showing all improvements meeting the various zoning regulations including this standard. *As conditioned, this criterion has been met*

8.09 MCC 34.4185 LIGHTING

Any artificial lighting which may be provided shall be shielded or deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street.

Applicant: (Below responses taken from Applicant response letter received October 6, 2008)
The marina is not open after dark. Night time illumination of the boatyard is provided by three wall-mounted lights on the pole barn; one light is mounted at the two northerly building corners and the third light is in the center of the long-side wall. Each wall-mount light is 18-feet above grade and directed towards the boat yard areas onsite to allow surveillance. The lights are high-pressure sodium vapor, which have an amber hue. The existing 100-foot gangway has 10 low level (15-watt) lights spaced 10-feet apart to illuminate the walk while minimizing excessive or bright lighting directed towards the river. The two new gangways proposed on the plan would have similar low scale lighting.

Staff: The application materials have not shown any lighting to be installed. Staff recommends the hearings officer include a condition of approval regarding this standard for future reference.

8.10 MCC 34.4190 SIGNS

Signs, pursuant to the provisions of MCC 34.7465.

Staff: No signs have been proposed at this time. If in the future a sign is desired, a sign permit will be required.

8.11 MCC 34.4195 DESIGN STANDARDS: SETBACKS

(A) Any required yard which abuts upon a street lot line shall not be used for a parking or loading space, vehicle maneuvering area or access drive other than a drive connecting directly to a street.

(B) A required yard which abuts a street lot line shall not be paved, except for walkways which do not exceed 12 feet in total width and not more than two driveways which do not exceed the width of their curb cuts for each 150 feet of street frontage of the lot.

Staff: The subject property is adjacent to NW Marina Way, which is not a county road at this location. The applicant has obtained Conditional Approval for a State Highway Approach from the Oregon Department of Transportation for the subject property. (Exhibit A.16) The 30 ft setback from the NW Marina right-of-way only has the driveway access proposed. No new improvements are shown within the setback *This criterion has been met.*

8.12 MCC 34.4200 LANDSCAPE AND SCREENING REQUIREMENTS

(A) The landscaped areas requirements of MCC 34.7055 (C) (3) to (7) shall apply to all parking, loading or maneuvering areas which are within the scope of design standards stated in MCC 34.4165 (A).

Staff: See Section 9.08 for discussion of this criterion. *This criterion has been met.*

9.00 *Design Review Criteria*

9.01 **MCC 34.7030 DESIGN REVIEW PLAN CONTENTS**

(A) Any preliminary or final design review plan shall be filed on forms provided by the Planning Director and shall be accompanied by such drawings, sketches and descriptions as are necessary to describe the proposed development.

(B) Contents:

(1) Preliminary Site Development Plan;

Applicant: The proposed 45-boat marina, with limited accessory marine-related construction and repair and one floating residence, will include a new boat lift consisting of two new finger piers 20-feet apart, immediately upstream of the existing boat ramp, with a concrete bulkhead between the two finger piers covering approximately 250-square feet. An engineered plan detail of the piers and bulkhead is included with this response letter. The other proposed development is a new gangway ramp near the southern lease area boundary and reconfigured docks and slips within the waterway lease area as depicted on the plan. The proposal would extend the lease area 15- feet on the upstream end, from 180-feet to 195-feet to add a triangular area to waterway lease and encompassing approximately 2,350 square feet of water surface. Discussions with the State's DSL staff have been initiated and the applicant intends to renew and amend the waterway lease ML 7112 pursuant to the proposed plan and before its expiration in June 2009.

Staff: The applicant has submitted a preliminary site development plan. *This criterion has been met.*

(2) Preliminary Site Analysis Diagram;

Applicant: A Preliminary Site Analysis Diagram is included with this response letter.

Staff: The applicant has submitted a Preliminary Site Analysis Diagram. *This criterion has been met.*

(3) Preliminary Architectural Drawings, indicating floor plans and elevations;

Applicant: Architectural drawings are not available for the floating home or boathouses at this time. No other buildings are proposed.

Staff: Architectural drawings of the floating home or boathouses will need to be submitted as part of the building plan review consistent with permit approvals. In addition, drawings of docks, ramps, and piers shall be submitted for the in-water development for review and approval. *As conditioned, this criterion is met.*

(4) Preliminary Landscape Plan;

Applicant: Preliminary landscape plans are indicated on the design review plan and described in the narrative. Applicant suggests that specific landscape requirements may be attached as conditions to the conditional or community service use permits requested.

Staff: The applicant has submitted a preliminary landscape plan. *This criterion has been met.*

(5) Proposed minor exceptions from yard, parking, and sign requirements; and

Applicant: No minor exceptions are proposed.

Staff: Staff concurs. *This criterion has been met.*

(6) (* Design Review Fee)** *This criterion has been met.*

(C) A preliminary site analysis diagram may be in freehand form and shall generally indicate the following characteristics:

(1) Relation to adjacent lands;

(2) Location and species of trees greater than six inches in diameter at five feet;

Applicant: A Preliminary Site Analysis Diagram is included with this response letter. The site plan and aerial photographs provided also identify existing landscaping and the location of trees and other plantings on and adjacent to the site.

Staff: The applicant has submitted a Preliminary Site Analysis Diagram. *This criterion has been met.*

(3) Topography;

(4) Natural drainage;

Applicant: The Preliminary Site Analysis Diagram included with this response letter indicates a stream is located off-site approximately 75-feet from the northerly property line.

Staff: The applicant has submitted a Preliminary Site Analysis Diagram and survey showing topography and the natural drainage of the site. *This criterion has been met.*

(5) Significant wildlife habitat;

Applicant: There are no significant wildlife habitats affected by the proposed marina.

Staff: Staff concurs. *This criterion has been met.*

(6) Information about significant climatic variables, including but not limited to, solar potential, wind direction and velocity; and

Applicant: The Preliminary Site Analysis Diagram included with the response letter indicates east winds often experienced during winter months.

Staff: The applicant has submitted a Preliminary Site Analysis Diagram. *This criterion has been met.*

(7) Natural features and structures having a visual or other significant relationship with the site.

Applicant: The Preliminary Site Analysis Diagram included with the response letter, the design review plan, and aerial photographs identify natural features and structures having a visual or other significant relationship with the site.

Staff: The applicant has submitted a Preliminary Site Analysis Diagram and other documents addressing this requirement. *This criterion has been met.*

(D) A preliminary site development plan may be in freehand form and shall generally indicate the following as appropriate to the nature of the use:

(1) Access to site from adjacent rights-of-way, streets, and arterials;

(2) Parking and circulation areas;

Applicant: Detailed information regarding parking and loading stalls placement and dimensions is depicted on the revised site plan. Applicant suggests that specific requirements regarding parking and circulation be addressed through conditions of approval attached to the requested conditional or community service use permits.

Staff: The applicant has submitted a Preliminary Site Development Plan. *This criterion has been met.*

(3) Location and design of buildings and signs;

Applicant: Applicant suggests that specific requirements regarding signage and buildings be addressed through conditions of approval attached to the conditional or community service use permits requested.

Staff: The applicant has submitted a Preliminary Site Development Plan. *This criterion has been met.*

(4) Orientation of windows and doors;

Applicant: The orientation of windows and doors is not known at this time.

Staff: Architectural drawings of the floating home or boathouses will need to be submitted as part of the building plan review consistent with permit approvals. *As conditioned, this criterion is met.*

(5) Entrances and exits;

Applicant: The entrance and exit gates are depicted on the design review plan.

Staff: The applicant has submitted a Preliminary Site Development Plan and Design Review Plan. *This criterion has been met.*

(6) Private and shared outdoor recreation spaces;

Applicant: This criterion is not applicable to the one single residence proposed.

Staff: The applicant has submitted a Preliminary Site Development Plan and Design Review Plan addressing recreation activities associated with the proposed marina. *This criterion has been met.*

(7) Pedestrian circulation;

Applicant: The site plan provides ample aisle widths in the parking area and gangways for pedestrian access to the docks and slips.

Staff: The applicant has submitted a Preliminary Site Development Plan and Design Review Plan. *This criterion has been met.*

(8) Outdoor play areas;

Applicant: The criterion is not applicable to the one single residence proposed.

Staff: The applicant has submitted a Preliminary Site Development Plan and Design Review Plan. *This criterion has been met.*

(9) Service areas for uses such as mail delivery, trash disposal, aboveground utilities, loading and delivery;

Applicant: The site plan indicates the locations for trash collection, loading and mail delivery.

Staff: The applicant has submitted a Preliminary Site Development Plan and Design Review Plan. *This criterion has been met.*

(10) Areas to be landscaped;

Applicant: The number of square feet minimum landscaping requirement is indicated in the narrative. Applicant suggests that specific landscape requirements may be attached as conditions to the conditional or community service use permits requested.

Staff: The applicant has submitted a Preliminary Site Development Plan and Design Review Plan. *This criterion has been met.*

(11) Exterior lighting;

Applicant: The Applicant suggests that specific requirements regarding lighting be addressed through conditions of approval attached to the requested conditional or community service use permits.

(Below responses taken from Applicant response letter received October 6, 2008)
The marina is not open after dark. Night time illumination of the boatyard is provided by three wall-mounted lights on the pole barn; one light is mounted at the two northerly building corners and the third light is in the center of the long-side wall. Each wall-mount light is 18-feet above grade and directed towards the boat yard areas onsite to allow surveillance. The lights are high-pressure sodium vapor, which have an amber hue. The existing 100-foot gangway has 10 low level (15-watt) lights spaced 10-feet apart to illuminate the walk while minimizing excessive or bright lighting directed towards the river. The two new gangways proposed on the plan would have similar low scale lighting.

Staff: The applicant has submitted a Preliminary Site Development Plan and Design Review Plan. *This criterion has been met.*

(12) Special provisions for handicapped persons; and

Applicant: The Applicant suggests that specific requirements regarding handicapped access be addressed through conditions of approval attached to the conditional or community service use permits requested.

(Below responses taken from Applicant response letter received October 6, 2008)
If required, a rest room for marina tenants and employees would be constructed within the barn/warehouse building. The restroom would be located near the northwest corner of the building with access and facilities compliant with ADA standards. For the interim period (2 – 3 years), a portable toilet is maintained on the site. Weekly pump-out and waste removal is provided by sanitary sewage tanker truck.

Staff: The applicant has submitted a Preliminary Site Development Plan and Design Review Plan. A public restroom shall be provided and located with the pole barn structure and shall be compliant with ADA standards. *As conditioned, this criterion has been met.*

(13) Other site elements and spaces which will assist in the evaluation of site development.

(E) The preliminary landscape plan shall indicate:

(1) The size, species, and approximate locations of plant materials to be retained or placed on the site; and

Applicant: The Landscape Plan indicates significant trees and shrubs on the site; and supplemental trees and shrubs to be planted.

Staff: The applicant has submitted a Preliminary Site Development Plan and Design Review Plan with

proposed landscaping. *This criterion has been met.*

(2) Proposed site contouring.

Applicant: There is no site contouring proposed.

Staff: Staff concurs. *This criterion has been met.*

9.02 **MCC 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.

Applicant: The proposed 45-boat marina, with limited accessory marine-related construction and repair and one floating residence, will include a new boat lift consisting of two new finger piers 20-feet apart, immediately upstream of the existing boat ramp, with a concrete bulkhead between the two finger piers covering approximately 250-square feet. An engineered plan detail of the piers and bulkhead is included with this response letter. The other proposed development is a new gangway near the southern lease area boundary and reconfigured docks and slips within the waterway lease area as depicted on the plan. The proposal would extend the lease area 15- feet on the upstream end, from 180-feet to 195-feet to add a triangular area to waterway lease and encompassing approximately 2,350 square feet of water surface. Discussions with the State's DSL staff have been initiated and the applicant intends to renew and amend the waterway lease ML 7112 pursuant to the proposed plan and before its expiration in June 2009.

Staff: The proposed development has submitted a Design Review Plan as well as a Landscaping Plan to address the harmonious relation of the natural environment and existing buildings and structures having a visual relationship with the site. As mentioned by the applicant there is a number of marinas/marinas located adjacent or near the subject property located along the Multnomah Channel. The proposed development is proposing uses consistent with what can already be found in the surrounding area. The proposal also includes provisions to maintain significant trees and shrubs on the site, and proposes to do supplemental planting and re-vegetation along the riverbank to enhance the natural scenic qualities of the riverbank. There are no new buildings proposed, and proposed in-water structures will be designed and constructed consistent with requirements for best management practices to avoid adverse effects to fish habitats within the channel. *This criterion is met.*

(b) The elements of the design review plan should promote energy conservation and provide protection from adverse climatic conditions, noise, and air pollution.

Applicant: The proposed floating home is consistent with location criteria regarding the mean low water line, protection from siltation, wind, wave action, icy conditions and other hazards, adequate land area to accommodate related facilities, ensuring proper maintenance of dikes, preservation of upland recreational, ecological or wildlife habitat values and exclusion from Exclusive Farm Use zoned uplands.

Staff: The proposal includes elements to promote energy conservation, and provide protection from adverse climatic conditions, noise and air pollution. Traffic circulation and the location of boat storage near the water and the addition of a boat lift provides amenities and services that helps minimize use of energy to access the channel. The project has been designed to address the flood hazard area, with access elevated above the 100-year floodplain. In-water amenities are proposed to protect and store boats from adverse climatic conditions. *This criterion is met.*

(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.

Applicant: The proposed plan utilizes a waterfront site for a boat marina with accessory boat repair and marine construction and a single floating home. The design groups the boat slips at the perimeter of the lease area, with the new boat lift adjacent to the existing boat ramp, allowing a shared boat turning basin. Marine construction activities are placed in the center of the lease area to minimize off-site effects to upstream and downstream floating homes on adjacent sites.

Staff: The submitted Design Review Plan addresses safety, access, and traffic circulation for both in-water and out of water uses in an effective, efficient and attractive manner. Traffic circulation has been considered consistent with the uses and provides for effective and efficient flow of traffic through the property. Landscaping is proposed throughout the site to address human scale and provide attractiveness to the site, while serving as a way to define parking and other uses on the site. The marina provides interrelated uses consistent with amenities available from surrounding marinas in the area, and provides spatial variety and order both for in-water and out of water activities. *This criterion is met.*

9.03 **(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.**

Applicant: The perimeter security fencing discourages vandalism and trespass. The design groups the boat slips at the perimeter of the lease area, with the new boat lift adjacent to the existing boat ramp, allowing a shared boat turning basin. Marine construction activities are placed in the center of the lease area to minimize off-site effects and maintain privacy for upstream and downstream floating homes on adjacent sites.

(Below responses taken from Applicant response letter received October 6, 2008)
As noted above, the walkways, parking areas and boatyard maneuvering and storage areas are overlain with 18 to 24 inches of compacted gravel. The perimeter of the parking and maneuvering areas is or will be defined with logs or railroad ties to provide a curb-like barrier demarcating natural and landscaped areas, generally along the perimeter property lines and above the vegetated riverbank. The parking and maneuvering areas will be defined with logs or railroad ties and painted markings, reflective materials and colored rocks to provide visual direction to drivers. The site plans provided demonstrate the proposed reconfigured docks, slips, lift, ramp, and upland parking and boat storage areas have adequate dimensions and placement for maneuvering boats and vehicles.

Staff: As indicated by the applicant a security fence along the south, west and north of the property currently exists and provide for public safety and protection of public and private property. The marina will also be gated with access only available for persons leasing boat storage spaces. In addition a 5 foot landscaping strip is proposed around the perimeter of the subject property to provide for additional screening and transition from public to private spaces. The applicant has further indicated that the marina will incorporate logs, railroad tires, colored rocks, and painted markings to define spaces and provide a safe environment throughout the marina. *This criterion has been met.*

9.04 **(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.**

Applicant: The site plan provides ample aisle widths in the parking area and gangways for pedestrians and handicapped persons to access to the docks and slips.

(Below responses taken from Applicant response letter received October 6, 2008)
A handicapped accessible parking space is proposed immediately northwest (downstream) from the gangway ramp. This space is not near the portable toilet that is maintained on the site because the temporary toilet is not ADA compliant.

Staff: As provided by the applicant, the Design Review Plan considers the Special Needs of the Handicap by providing spaces and uses that are accessible. The applicant shall submit building plans and final site plans indicating ADA compliance as part of the building plan review. *As conditioned, this criterion is met.*

9.05 **(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.**

Applicant: The landscape plans are indicated on the design review plan and described in the narrative. Applicant suggests that specific landscape requirements may be attached as conditions to the conditional or community service use permits requested. The plan would maintain significant trees and shrubs on the site and preserved trees will be protected during construction. The parking and landscape detail sheet depicts the locations and dimensions of new landscape areas in the parking areas. The landscaping includes Incense or Hogan Cedars, selected for their narrow, columnar growth habits and 20 to 40-foot heights at maturity.

Staff: Staff understands from the applicant that no trees are proposed for removal. Vegetation along the river will be supplemented with evergreen and deciduous trees to reduce potential erosion, and partially screen the upland boatyard activities from the river and from adjacent floating homes. Disturbed areas along the riverbank resulting from installation of proposed finger piers for the travel lift and a new gangway near the upstream boundary will be replanted and restored within a brief period of time. *This criterion is met.*

9.06 **(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 proposed and neighboring buildings and structures.**

Applicant: The site plan provides ample aisle widths in the parking area and gangways for pedestrians and handicapped persons to access to the docks and slips. The scale and nature of the parking facility (30-cars for a private marina) does not give rise to a need for separate pedestrian-only facilities.

(Below responses taken from Applicant response letter received October 6, 2008)
As noted above, the walkways, parking areas and boatyard maneuvering and storage areas are overlain with 18 to 24 inches of compacted gravel. The perimeter of the parking and maneuvering areas is or will be defined with logs or railroad ties to provide a curb-like barrier demarcating natural and landscaped areas, generally along the perimeter property lines and above the vegetated riverbank. The parking and maneuvering areas will be defined with logs or railroad ties and painted markings, reflective materials and colored rocks to provide visual direction to drivers. The site plans provided demonstrate the proposed reconfigured docks, slips, lift, ramp, and upland parking and boat storage areas have adequate dimensions and placement for maneuvering boats and vehicles.

Staff: The applicant has obtained Conditional Approval for a State Highway Approach from the Oregon Department of Transportation for the subject property that provides for one entry point and one exit point off NW Marina Way. The on-site circulation pattern allows for two way traffic and allows traffic to circulate on the site without needing to access NW Marina Way. A separate sidewalk system is not proposed. The increase of the accessway between the parking and boat storage stall will allow traffic and space available for pedestrians on the pavement. The applicant has further indicated that the marina will incorporate logs, railroad tires, colored rocks, and painted markings to define spaces and provide a safe environment throughout the marina. *This criterion has been met.*

9.07 **(6) Drainage – Surface drainage systems shall be designed so as not to adversely affect neighboring properties or streets.**

Applicant: There are no new impervious areas proposed onsite in excess of 500-square feet. The existing 18-inches to 24-inches of gravel that covers most of the site receives rain and surface water run-off without affecting adjacent properties or streets.

Staff: No new impervious areas greater than 500-square feet is proposed, and all surface drainage will remain on-site and not affect neighboring properties or streets. *This criterion is met.*

9.08 **(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.**

Applicant: The landscape plans are indicated on the design review plan and described in the narrative. Applicant suggests that specific landscape requirements may be attached as conditions to the conditional or community service use permits requested. The Design Review Plan would maintain significant trees and shrubs on the site and vegetation retained along the riverbank will be supplemented with evergreen and deciduous trees to reduce potential erosion, and partially screen the upland boatyard activities from the river.

Staff: Buffering and Screening is not only for neighboring properties but also for enjoyment and beautification of the site and for its users. As shown on the submitted site plans railroad ties and landscaping boxes are being used to physically separate areas used for parking, loading, and maneuvering of vehicles public streets. There is currently an existing fence around the perimeter of the property and 5 foot landscaping strips, railroad ties are proposed to address unchanneled motor vehicle access or egress. All areas for the parking and maneuvering of vehicles are identified to be marked in the submitted parking plan. *This criterion is met.*

9.09 **(8) Utilities – All utility installations above ground shall be located so as to minimize adverse impacts on the site and neighboring properties.**

Applicant: The existing above ground utilities indicated on the survey would remain.

Staff: Since the applicant has indicated that the utilities are existing and will be unchanged, this criterion is not applicable.

9.10 **(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.**

Applicant: Detailed sign plans are not known at this time. Applicant suggests that specific sign and graphic requirements may be attached as conditions to the requested conditional or community service use permits.

Staff: Since the applicant has indicated no proposed signage, this criterion is not applicable.

9.11 **MCC 34.7055 REQUIRED MINIMUM STANDARDS**

(C) Required Landscape Areas

The following landscape requirements are established for developments subject to design review plan approval:

(1) A minimum of 15% of the lot area shall be landscaped; provided, however, that computation of this minimum may include areas landscaped under subpart 3 of this

subsection.

(2) All areas subject to the final design review plan and not otherwise improved shall be landscaped.

(3) The following landscape requirements shall apply to parking and loading areas:

(a) A parking or loading area providing ten or more spaces shall be improved with defined landscaped areas totaling no less than 25 square feet per parking space.

(b) A parking or loading area shall be separated from any lot line adjacent to a street by a landscaped strip at least 10 feet in width, and any other lot line by a landscaped strip at least 5 feet in width.

(c) A landscaped strip separating a parking or loading area from a street shall contain:

1. Street trees spaces as appropriate to the species, not to exceed 50 feet apart, on the average;

2. Low shrubs, not to reach a height greater than 3'0", spaced no more than 5 feet apart, on the average; and

3. Vegetative ground cover.

(d) Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.

(e) A parking landscape area shall have a width of not less than 5 feet.

(4) Provision shall be made for watering planting areas where such care is required.

(5) Required landscaping shall be continuously maintained.

(6) Maximum height of tree species shall be considered when planting under overhead utility lines.

(7) Landscaped means the improvement of land by means such as contouring, planting, and the location of outdoor structures, furniture, walkways and similar features.

Applicant: The landscape plans are indicated on the design review plan and described in the narrative. Applicant suggests that specific landscape requirements may be attached as conditions to the requested conditional or community service use permits. The Design Review Plan would maintain all existing trees and shrubs on the site and vegetation retained along the riverbank will be supplemented with evergreen and deciduous trees to reduce potential erosion and partially screen the upland boatyard activities from the river. Applicant acknowledges his obligation to maintain all landscaped areas. Tree selections have taken into consideration overhead utility lines in relation to the landscaping. There is no use of contouring proposed, and applicant contends that the scale and nature of the parking facility (30-cars for a private marina plus 2-spaces for the houseboat) and generous 30-foot more-or-less drive-aisle widths obviates the need for separate pedestrian-only facilities throughout the site.

(c)(e) The parking and landscape detail sheet depicts the locations and dimensions of new landscape areas in the parking areas and elsewhere on the site. The new landscaped parking area islands and perimeter site buffers will be supplemented with several 5-foot to 6-foot height Incense or Hogan Cedar trees (subject to price and availability. These evergreen trees were selected because of their narrow, columnar growth habits, drought tolerance, and eventual 20 to 40-foot heights at maturity.

(4) The applicant manually waters site landscaping.

(7) The landscape plans are indicated on the design review plan and described in the narrative. Applicant suggests that specific landscape requirements may be attached as conditions to the requested conditional or community service use permits. The Design Review Plan would maintain all existing trees and shrubs on the site and vegetation retained will be supplemented with evergreen and deciduous trees to reduce potential erosion and partially screen the boatyard activities from off-site view. Applicant acknowledges

his obligation to maintain all landscaped areas. Tree selections have taken into consideration overhead utility lines in relation to the landscaping. There is no use of contouring proposed, and applicant contends that the scale and nature of the parking facility (30-cars for a private marina) and ample drive-aisle widths does not support a need for separate pedestrian-only facilities throughout the site.

Staff: Vegetation along the river will be supplemented with evergreen and deciduous trees to reduce potential erosion, and partially screen the upland boatyard activities from the river and from adjacent floating homes. Disturbed areas along the riverbank resulting from installation of proposed finger piers for the travel lift and a new gangway near the upstream boundary will be replanted and restored within a brief period of time. As shown on the submitted site plans railroad ties and landscaping boxes are being used to physically separate areas used for parking, loading, and maneuvering of vehicles public streets. An irrigation system is proposed to address watering and maintenance of the landscaping. Required landscaping shall be continuously maintained. The landscaping plan includes provisions for irrigation and maintenance. A condition of the project will be to maintain the landscaping. The maximum height of tree species has been considered for plantings under overhead utility lines. *As conditioned, this criterion has been met.*

10.00 ***Variance and Adjustment Review Criteria***

10.01 **MCC 34.7616 Variance Approval Criteria**

The Approval Authority may permit and authorize a variance from the dimensional standards given in MCC 34.7606 upon finding that all the following standards in (A) through (F) are met:

(A) A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or zoning district. The circumstance or condition may relate to:

(1) The size, shape, natural features and topography of the property, or
(2) The location or size of existing physical improvements on the site, or
(3) The nature of the use compared to surrounding uses, or
(4) The zoning requirement would substantially restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or district, or
(5) A circumstance or condition that was not anticipated at the time the Code requirement was adopted.
(6) The list of examples in (1) through (5) above shall not limit the consideration of other circumstances or conditions in the application of these approval criteria.

Applicant: A circumstance or condition applies to the property that does not apply generally to other property in the same vicinity or zoning district. The circumstance or condition relates to the size and topography of the property and the location of existing physical improvements on the site. The existing pole barn/storage building was sited 30-feet from the front fence line rather than 30-feet from the front property line. The placement of the building is near the southwest corner of the site, which is removed from adjacent floating home residences on adjoining moorage properties, and also places the building above the 100-year flood elevation and outside the flood hazard area.

Imposition of the 30-foot front setback requirement would substantially affect the use of the subject property to a greater degree than it restricts other properties in the vicinity or district because other properties in the area do not contain buildings constructed within the yard setback area.

(Below responses taken from Applicant response letter received October 6, 2008)
The applicant appreciates this consideration by staff (*From October 3, 2008 Email from Staff: Variance. In taking a look at the variance criteria, we're not sure the proposal can meet all criteria in regards to a unique circumstance/condition, owner's making or personal circumstance, etc. In taking a look at historical records, as best we can tell that Mr. Gulbrandson has been the landowner. In discussing things, we may be able to consider things under the adjustment criteria (MCC 34.7611), however the*

encroachment is limited to 40% of the required 30 feet setback limiting encroachment to 12 feet) and agrees to remove the portions of the pole barn that encroach more than 40% (12-feet) into the 30-foot front yard. The removal of the encroaching portion of pole barn/warehouse would be completed in year two of the phasing plan (by 11/01/2010).

Staff: The pole barn was constructed as part of the approved WRG 4-80 permit to operate a log salvage operation. The building is existing and has been part of the marina operation. There is no indication that a circumstance or condition applies to the property that does not apply generally to other property in the same vicinity or zoning district. The building was constructed was sited in the wrong place, and was sited 30-feet from the front fence line rather than 30-feet from the front property line. At the time of the siting of the building, the property was owned by the same landowner. *This criterion is not met.*

It should be noted that on October 6, 2008, the use of the Pole Barn and the request for a variance was further clarified by the client in response to correspondence sent by staff on October 3, 2008 regarding the variance criteria. The applicant clarified the use of the pole barn to be for accessory marina use and that the applicant will pursue appropriate building, electrical, and plumbing permits to remodel the pole barn for accessory marina use. In addition, the applicant has agreed to removal of portions of the pole barn that encroach more than 40% into the 30-foot front yard setback, with the removal of the encroaching portion of the pole barn to be completed in year two of the phasing plan. The removal of the encroachment and limitation to 40% encroachment, removes the requirement of a Variance Permit for the project. Multnomah County Code (MCC) 34.7601(C) provides for the Adjustment review process by which certain dimensional standards may be modified no more than 40 percent. The Adjustment approval criteria are identified in MCC 34.7611 and are addressed in Section 10.07 in the Findings below.

10.02 **(B) The circumstance or condition in (A) above that is found to satisfy the approval criteria is not of the applicant's or present property owner's making and does not result solely from personal circumstances of the applicant or property owner. Personal circumstances include, but are not limited to, financial circumstances.**

Applicant: The circumstance is not the present property owner's making and does not result solely from personal circumstances of the applicant or property owner.

Staff: As provided by the applicant, the existing pole barn/storage building was sited 30-feet from the front fence line rather than 30-feet from the front property line. In taking a look at historical records, Mr. Gulbrandson has been the landowner and was at the time of construction of the pole barn. *This criterion is not met.*

It should be noted that on October 6, 2008, the use of the Pole Barn and the request for a variance was further clarified by the client in response to correspondence sent by staff on October 3, 2008 regarding the variance criteria. The applicant clarified the use of the pole barn to be for accessory marina use and that the applicant will pursue appropriate building, electrical, and plumbing permits to remodel the pole barn for accessory marina use. In addition, the applicant has agreed to removal of portions of the pole barn that encroach more than 40% into the 30-foot front yard setback, with the removal of the encroaching portion of the pole barn to be completed in year two of the phasing plan. The removal of the encroachment and limitation to 40% encroachment, removes the requirement of a Variance Permit for the project. Multnomah County Code (MCC) 34.7601(C) provides for the Adjustment review process by which certain dimensional standards may be modified no more than 40 percent. The Adjustment approval criteria are identified in MCC 34.7611 and are addressed in Section 10.07 in the Findings below.

10.03 **(C) There is practical difficulty or unnecessary hardship to the property owner in the application of the dimensional standard.**

Applicant: There is practical difficulty and unnecessary hardship to the property owner if the 30-foot setback standard is applied retroactively and a 14-foot section of the building were required to be removed.

Staff: The structure is existing and has been in operation since 1980. The submitted development proposal considers the location of the pole barn and allows for the proposed uses to be sited on-site consistent with a marina use. *This criterion is met.*

It should be noted that on October 6, 2008, the use of the Pole Barn and the request for a variance was further clarified by the client in response to correspondence sent by staff on October 3, 2008 regarding the variance criteria. The applicant clarified the use of the pole barn to be for accessory marina use and that the applicant will pursue appropriate building, electrical, and plumbing permits to remodel the pole barn for accessory marina use. In addition, the applicant has agreed to removal of portions of the pole barn that encroach more than 40% into the 30-foot front yard setback, with the removal of the encroaching portion of the pole barn to be completed in year two of the phasing plan. The removal of the encroachment and limitation to 40% encroachment, removes the requirement of a Variance Permit for the project. Multnomah County Code (MCC) 34.7601(C) provides for the Adjustment review process by which certain dimensional standards may be modified no more than 40 percent. The Adjustment approval criteria are identified in MCC 34.7611 and are addressed in Section 10.07 in the Findings below.

10.04 **(D) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or zoning district in which the property is located, or adversely affects the appropriate development of adjoining properties.**

Applicant: The authorization of the variance will not harm the public or injure property in the vicinity or zoning district in which the property is located, nor adversely affect the appropriate development of adjoining properties. The abutting property immediately to the west is public and railroad rights-of-way for a distance exceeding 200-feet. The 14-foot reduction to the 30-foot minimum setback will not impair development on abutting or adjacent properties.

Staff: The pole barn has been in existence since 1980. There has been no indication of detrimental or injurious effects of the pole bard to property in the vicinity or zoning district. No comments have been received indicating adverse affects to adjoining properties. *This criterion is met.*

It should be noted that on October 6, 2008, the use of the Pole Barn and the request for a variance was further clarified by the client in response to correspondence sent by staff on October 3, 2008 regarding the variance criteria. The applicant clarified the use of the pole barn to be for accessory marina use and that the applicant will pursue appropriate building, electrical, and plumbing permits to remodel the pole barn for accessory marina use. In addition, the applicant has agreed to removal of portions of the pole barn that encroach more than 40% into the 30-foot front yard setback, with the removal of the encroaching portion of the pole barn to be completed in year two of the phasing plan. The removal of the encroachment and limitation to 40% encroachment, removes the requirement of a Variance Permit for the project. Multnomah County Code (MCC) 34.7601(C) provides for the Adjustment review process by which certain dimensional standards may be modified no more than 40 percent. The Adjustment approval criteria are identified in MCC 34.7611 and are addressed in Section 10.07 in the Findings below.

10.05 **(E) The Variance requested is the minimum necessary variation from the Code requirement which would alleviate the difficulty.**

Applicant: The Variance requested is the minimum necessary variation from the Code requirement to alleviate the difficulty.

Staff: The building is existing, therefore the requested variance is for the minimum necessary variation from the code requirement to alleviate the difficulty. *This criterion is met.*

It should be noted that on October 6, 2008, the use of the Pole Barn and the request for a variance was further clarified by the client in response to correspondence sent by staff on October 3, 2008 regarding the variance criteria. The applicant clarified the use of the pole barn to be for accessory marina use and that

the applicant will pursue appropriate building, electrical, and plumbing permits to remodel the pole barn for accessory marina use. In addition, the applicant has agreed to removal of portions of the pole barn that encroach more than 40% into the 30-foot front yard setback, with the removal of the encroaching portion of the pole barn to be completed in year two of the phasing plan. The removal of the encroachment and limitation to 40% encroachment, removes the requirement of a Variance Permit for the project. Multnomah County Code (MCC) 34.7601(C) provides for the Adjustment review process by which certain dimensional standards may be modified no more than 40 percent. The Adjustment approval criteria are identified in MCC 34.7611 and are addressed in Section 10.07 in the Findings below.

10.06 **(F) Any impacts resulting from the variance are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage.**

Applicant: The potential impacts resulting from the variance are mitigated to the extent practical through provision of landscaping and open space within the remaining 16-foot front yard and retention and maintenance of several trees and ornamental landscaping within the abutting Marina Way right-of-way, consistent with the ODOT Permit #7837.

Staff: Buffering and screening is proposed in the form of a perimeter fence and a 5 foot landscape planting strip around the subject property. In addition, landscaping and open space is proposed to buffer and screen the pole barn in the remaining 16-foot front property setback. There is existing vegetation in the side setback screening the pole barn from the nearest impacted neighbor to the south. *This criterion is met.*

It should be noted that on October 6, 2008, the use of the Pole Barn and the request for a variance was further clarified by the client in response to correspondence sent by staff on October 3, 2008 regarding the variance criteria. The applicant clarified the use of the pole barn to be for accessory marina use and that the applicant will pursue appropriate building, electrical, and plumbing permits to remodel the pole barn for accessory marina use. In addition, the applicant has agreed to removal of portions of the pole barn that encroach more than 40% into the 30-foot front yard setback, with the removal of the encroaching portion of the pole barn to be completed in year two of the phasing plan. The removal of the encroachment and limitation to 40% encroachment, removes the requirement of a Variance Permit for the project. Multnomah County Code (MCC) 34.7601(C) provides for the Adjustment review process by which certain dimensional standards may be modified no more than 40 percent. The Adjustment approval criteria are identified in MCC 34.7611 and are addressed in Section 10.07 in the Findings below.

10.07 **MCC 34.7611 Adjustment Approval Criteria**

The Approval Authority may permit and authorize a modification of no more than 40 percent of the dimensional standards given in MCC 34.7606 upon finding that all the following standards in (A) through (E) are met:

(A) Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Applicant:
(Below responses taken from Applicant response letter received October 6, 2008)
The applicant appreciates this consideration by staff (*From October 3, 2008 Email from Staff: Variance. In taking a look at the variance criteria, we're not sure the proposal can meet all criteria in regards to a unique circumstance/condition, owner's making or personal circumstance, etc. In taking a look at historical records, as best we can tell that Mr. Gulbrandson has been the landowner. In discussing things, we may be able to consider things under the adjustment criteria (MCC 34.7611), however the encroachment is limited to 40% of the required 30 feet setback limiting encroachment to 12 feet*) and agrees to remove the portions of the pole barn that encroach more than 40% (12-feet) into the 30-foot front yard. The removal of the encroaching portion of pole barn/warehouse would be completed in year two of

the phasing plan (by 11/01/2010).

Staff: MCC 34.7606 lists the types of dimensional standards eligible for adjustments. It includes front yard setbacks. Dimensional standards cannot be reduced more than 40 percent. The pole barn will be altered so that it will be located no closer than 18 feet from the front lot line. The front yard requirement is 30 feet. In order for the County to approve an Adjustment of the front yard requirement, the encroachment cannot exceed 12 feet. It shall be required that portions of the pole barn that encroach more than 40% into the required setback shall be removed and completed by year two of the phasing plan (by 11/01/2010). *As conditioned, this criterion has been met.*

(B) Any impacts resulting from the adjustment are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage; and

Applicant: The potential impacts resulting from the variance are mitigated to the extent practical through provision of landscaping and open space within the remaining 16-foot front yard and retention and maintenance of several trees and ornamental landscaping within the abutting Marina Way right-of-way, consistent with the ODOT Permit #7837.

Staff: The subject property and properties in the immediate vicinity have a mixture of mature trees, vegetation and landscaping that provide privacy between properties. The requested setback still provides for 18 feet in addition to a 200 foot right-of-way to the front property line. In addition the setbacks to the side and rear property line meet or exceed requirements providing for continued privacy and light for the property and surrounding properties. As indicated by the applicant, a security fence along the south, west and north of the property currently exists and provide for public safety and protection of public and private property. Further as indicated in the site plan, birch trees and big leaf maples screens and provides a buffer to the closest and adjacent property to the southwest corner. A five foot landscape strip a long the south, west, and north property lines will be provided to further screen the property. It is appropriate to point out, with a condition of approval, vegetation along the south, west and north of the property must be maintained and that the decision be recorded so that future owners are aware of this requirement. *As conditioned, this criterion has been met.*

(C) If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zoning district; and

Staff: Only one adjustment is being requested. *This criterion is not applicable.*

(D) If the properties are zoned farm (EFU) or forest (CFU), the proposal will not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on the subject property and adjoining lands; and

Staff: The subject property is not zoned farm (EFU) or forest (CFU). *This criterion is not applicable.*

(E) If in a Rural Residential (RR) or Rural Center (RC) zone, the proposal will not significantly detract from the livability or appearance of the residential area.

Staff: The subject property is not zoned Rural Residential (RR) or Rural Center (RC). *This criterion is not applicable.*

11.00 ***Conclusion***

Staff: In conclusion, staff finds that as conditioned, all approval standards for the proposed A1 Marina project can be met. Staff recommends approval of the development request to the Hearings Officer as

follows.

Staff recommends approval of the Conditional Use, Community Service, Willamette River Greenway, Design Review, and Adjustment Permits. Staff recommends denial of the Variance Permit.

12.00 *Case Timeline*

Application Submitted: June 6, 2008

Application Deemed Incomplete: July 18, 2008

Application acknowledgement form to submit materials addressed in Letter of Incompleteness received: July 21, 2008

Application Deemed Complete: August 29, 2008 (Day 1)

Notice of Public Hearing: September 23, 2008

Notice of Public Hearing Publishing in Oregonian: September 26, 2008

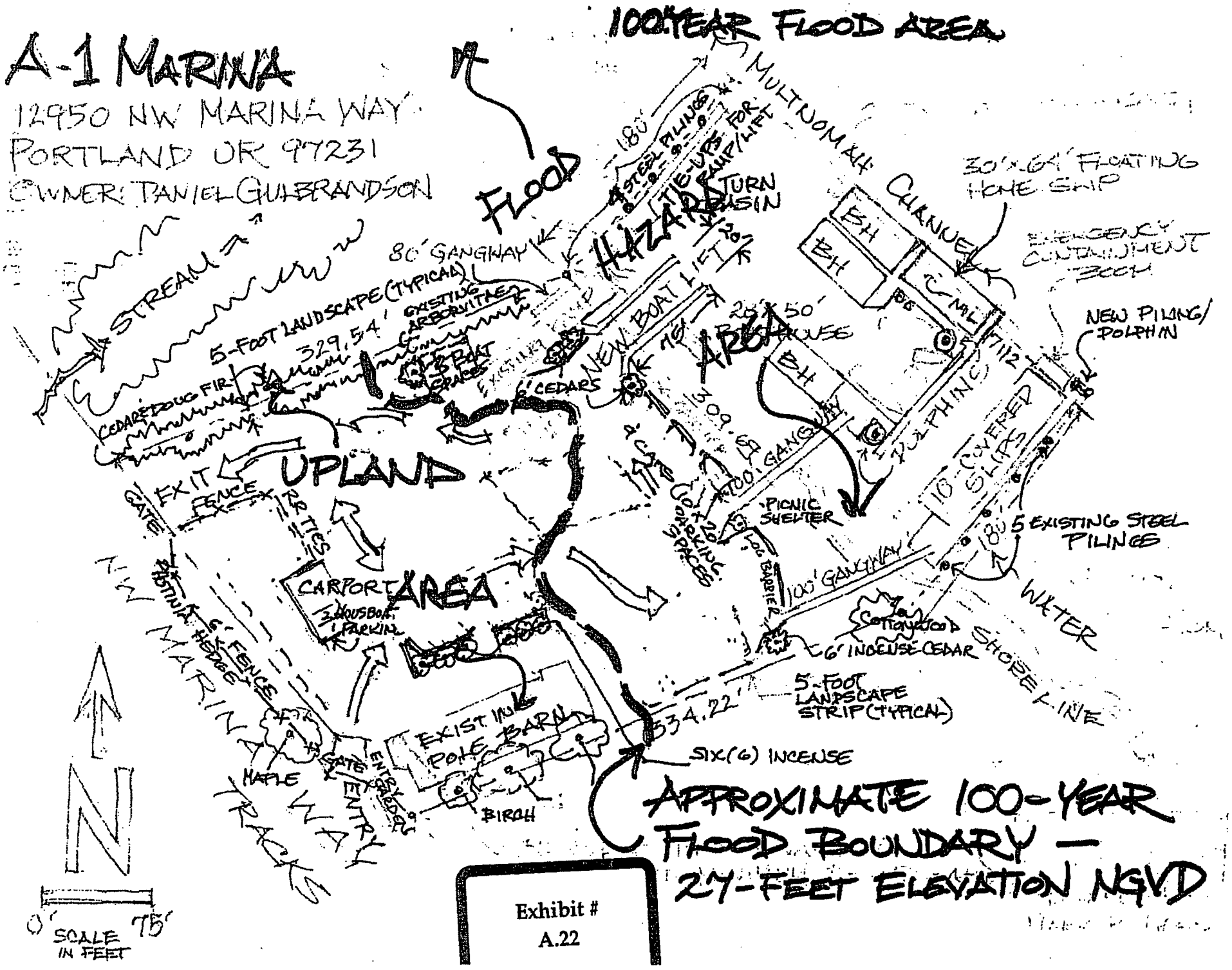
Public Hearing: October 17, 2008 (Day 50)

13.00 ***Exhibits/Procedures***

'A' Applicant's Exhibits
'B' Staff Exhibits
'C' Procedural Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	6/20/08
A.2	3	A&T Property Information and Map 2N1W28	6/20/08
A.3	3	Applicant Project Narrative and Code Narrative Cover Pages and Table of Contents	6/20/08
A.4	1	Greenway Design Review Plan June 20, 2008	6/20/08
A.5	2	Background and Application Summary	6/20/08
A.6	18	Pre Application Meeting Notes (May 24, 2007, PA-07-006) and Applicant submittal	6/20/08
A.7	2	Maps, Plans and Aerial Photos, and Survey	6/20/08
A.8	6	Conditional Use and Community Service Permit Narrative	6/20/08
A.9	3	Willamette River Green Permit Narrative	6/20/08
A.10	5	Design Review Narrative, Floodplain Narrative and FEMA map and GEC Narrative	6/20/08
A.11	4	Health Hardship Mobile Home Narrative	6/20/08
A.12	5	Lot of Record Information	6/20/08
A.13	24	Service Provider Forms ▪ Division of State Lands Waterway Lease (ML-752) ▪ ODOT State Highway Approach ▪ Certification of Water Service ▪ City of Portland Sanitation Site Evaluation Report ▪ Fire District Review- Fire Flow ▪ Fire District Review- Fire Access ▪ State Historic Preservation Office	6/20/08
A.14	18	Variance Narrative	6/20/08
A.15	6	Application Supplemental Materials	7/10/08
A.16	6	ODOT Conditional Approval for State Highway Approach	8/14/08
A.17	1	Email: A1 Marina and Use of Pole Barn	8/15/08
A.18	27	August 4, 2008 Applicant Response and Revised Site Plans (2) dated August 6, 2008	8/6/08

A.19	25	August 7, 2008 Applicant Response Narrative	8/7/08
A.20	1	Site Analysis Diagram	8/19/08
A.21	1	Greenway Setback Line Plan	8/7/08
A.22	1	100 Year Flood Area Site Plan	8/7/08
A.23	1	Site Plan Detail dated August 20, 2008	8/20/08
A.24	1	Greenway Design Review Plan dated August 8, 2008	8/20/08
A.25	1	Site Survey	6/27/08
A.26	10	October 6, 2008 Applicant Response to October 3, 2008 Staff Email	10/6/08
A.27	1	Applicant Acknowledgement of Incompleteness Letter and intent to provide materials	7/21/08
A.28	1	State of Oregon Division of State Lands: Marina Way Moorage Area Multnomah Channel (Oversized Exhibit)	6/20/08
A.29	1	2006 Aerial Photography and 1996 Metro Flood Map (Oversized Exhibit)	6/20/08
A.30	24	Voluntary Compliance Agreement	6/20/08
'B'		Staff Exhibits	Date of Document
B.1	3	Willamette River Greenway Permit (WRG 4-80)	12/3/80
B.2	2	County Land Use Cards	N/A
B.3	7	Joint Permit Application Form for 12 new steel pilings	6/11/02
B.4	5	Building Permit Review to remove and deconstruct shed and barn	1/9/07
B.5	4	1966 County Zoning Map and surveys	N/A
B.6	2	Multnomah County Soil Survey Information	7/18/08
B.7	1	Transportation Memo	9/23/08
'C'		Administration & Procedures	Date
C.1	12	Letter of incomplete application	7/18/08
C.2	2	August 22, 2008 Letter to applicant: Payment of balance between Health Hardship Fee and Variance Fee	8/22/08
C.3	3	Letter of Complete Application and Instructions for posting notice and sign pick-up confirmation	9/23/08
C.4	4	Notice of Public Hearing	9/26/08
C.5	12	Oregonian Affidavit of Publication	9/29/08
C.6	61	Staff Report	10/7/08


A-1 MARINA
12950 NW MARINA WAY
PORTLAND OR 97231
OWNER: DANIEL GULBRANDSON
100-YEAR FLOOD AREA
MULTNOMAH CHANNEL
FLOOD HAZARD
STREAM
80' GANGWAY
5-FOOT LANDSCAPE (TYPICAL)
329.54'
EXISTING ARBORVITAE
CEDAR
DOUG FIR
6' CEDARS
NEW BOAT LIFT
UPLAND AREA
EXIT GATE
FENCE
RR TIES
CARPORT AREA
3 HOUSEBOAT PARKING
6' FENCE
HEDGE
MARINA WAY
TRACKS
MAPLE
GATE
ENTRY
BIRCH
EXISTING POLE BARN
TIE-UP RAMP/LIFT
TURN BASIN
180'
4 STEEL PILINGS
20'
30'x64' FLOATING HOME SHIP
EMERGENCY CONTAINMENT BOOM
NEW PILING/ DOLPHIN
29' x 50' HOUSE
EH
ML
112'
309.62'
100' GANGWAY
4 CAR CARPORT
20 PARKING SPACES
PICNIC SHELTER
LOG BARRIER
DOLPHIN
10' COVERED SLIP
5 EXISTING STEEL PILINGS
100' GANGWAY
WATER
SHORELINE
COTTONWOOD
6' INCENSE CEDAR
5-FOOT LANDSCAPE STRIP (TYPICAL)
534.22'
SIX (6) INCENSE
APPROXIMATE 100-YEAR FLOOD BOUNDARY — 27-FEET ELEVATION NGVD
N
0'
75'
SCALE IN FEET
Exhibit #
A.22

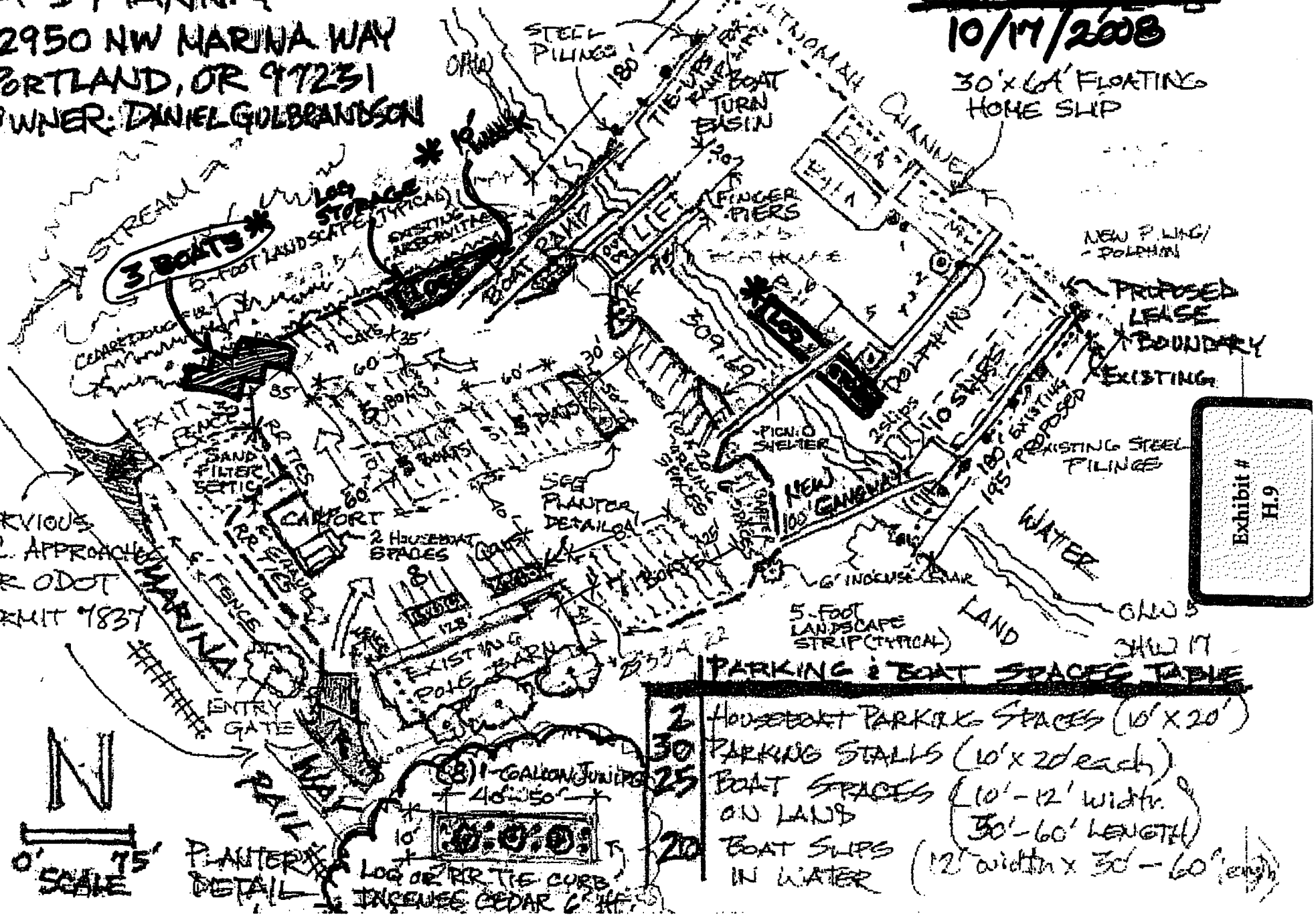
SITE PLAN DETAIL: PARKING, BOAT STORAGE, & LANDSCAPE

A-1 MARINA

12950 NW MARINA WAY
PORTLAND, OR 97231
OWNER: DANIEL GULBRANDSON

* REVISIONS FOR LOG STORAGE

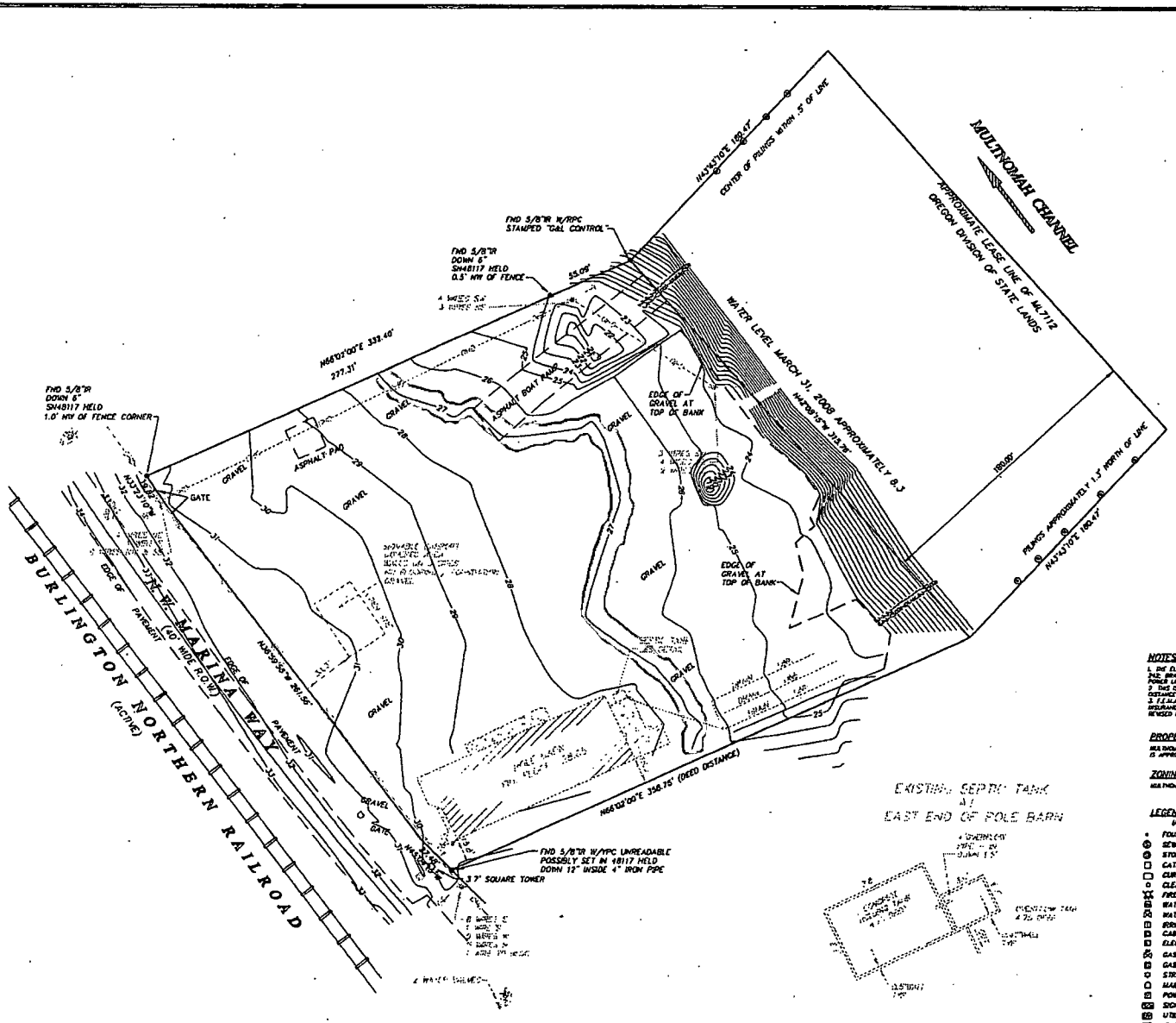
~~AUGUST 20, 2008~~
10/17/2008



PARKING & BOAT SPACES TABLE

2	HOUSEBOAT PARKING SPACES (10' X 20')
30	PARKING STALLS (10' X 20' each)
25	BOAT SPACES ON LAND (10'-12' width, 30'-60' length)
20	BOAT SLIPS IN WATER (12' width x 30'-60' length)

Exhibit # H.9



NOTES

1. ENC ELEVATIONS FOR THIS MAP BASED UPON CITY OF PORTLAND BENCH MARK NO. 340, BRASS DISC IN SOUTH CURB AT INLET, APPROXIMATELY CENTER LINE OF BPA POWER LINES ON ST. HELENS ROAD. ELEVATION 32.74 (NGVD 29 DATUM).
2. THIS IS NOT A BOUNDARY SURVEY. BOUNDARY LINES AS SHOWN HOLDING DEED DISTANCES AND FOUND MONUMENTS.
3. F.E.M.A. 100 YEAR FLOOD PLAIN ELEVATION = 37.0, BASED UPON FIRM FLOOD INSURANCE RATE MAP PANEL 135 OF 430, COMMUNITY PANEL NUMBER 410178 0135 B, REVISED DATE MARCH 18, 1986.

PROPERTY DESCRIPTION

MULTNOMAH COUNTY TAX INFORMATION MAP NO. 3N 1W 26D TAX LOT NO. 700, SITE IS APPROXIMATELY 2.13 ACRES.

ZONING

MULTNOMAH COUNTY ZONING: MULTIPLE USE AGRICULTURE – 2.0 (MUA-2).

LEGEND

(ALL ITEMS SHALL NOT BE USED – EXISTING FEATURES ARE SHOWN)

- FOUND MONUMENT AS NOTED
- SEWER MANHOLE
- STORM MANHOLE
- CATCH BASIN
- CURB INLET
- CLEAN OUT
- FIRE HYDRANT
- WATER METER
- WATER VALVE
- IRRIGATION VALVE
- CABLE TV PEDESTAL
- ELECTRIC METER
- GAS VALVE
- GAS METER
- STREET LIGHT
- MAILBOX
- POWER PEDESTAL
- SIGNAL CONTROL BOX
- UTILITY VAULT
- JUNCTION BOX
- POWER VAULT
- CONCRETE
- CONIFER TREE
- DECIDUOUS TREE
- BRUSH/TREE LINE
- CURB
- DITCH/CREEK
- GUARDRAIL
- EDGE OF PAVEMENT
- FENCE
- GAS LINE
- OHW OVERHEAD UTILITY
- SIGNAL POLE
- SIGN
- TELEPHONE MANHOLE
- TELEPHONE PEDESTAL
- BOLLARD
- GUY WIRE
- UTILITY POLE
- WELL
- MONITORING WELL
- 12" STEEL PILING

REVISIONS			
NO.	BY	DATE	DESCRIPTION

BUCKEL ASSOCIATES, INC.
LAND SURVEY & CIVIL ENGINEER CONSULTANTS
14411 S. Lawson Road
Oregon City, Oregon 97045
(503) 657-4126
FAX (503) 557-4410

PREPARED FOR:
LEE R. BUCKLEY, P.E.
CIVIL ENGINEER
2334 E. BURNSIDE ST. SUITE 3
PORTLAND, OREGON 97214
503-234-4233
503-233-3698

DAN GULBRANDSON PROPERTY
EXISTING CONDITIONS
503-283-5558
12950 NW MARINA WAY
PORTLAND, OREGON 97231

Project: 08187
Designed:
Drawn: SFA
Checked: RCB
Date: APRIL 3, 2008

1 of 1

Exhibit #
A.25

ESCO

Problem solved.

Problem solved.

RECEIVED
08 OCT 15 PM 3:35
MULTNOMAH COUNTY
PLANNING SECTION

October 13, 2008

Joanna Valencia, Staff Planner
Land Use and Transportation Program
Multnomah County
1600 SE 190th Avenue
Portland, OR 97233

Re: T3-08-002, Notice of Public Hearing, Gulbrandson A-1 Marina and Boat Repair

Dear Ms. Valencia:

We are in receipt of the Notice of Public Hearing for the Gulbrandson A-1 Marina and Boat Repair, Case File Number T3-08-002.

While we do not oppose the Applicant's request, we'd like to point out to the County and the Applicant that ESCO Corporation ('ESCO') operates an industrial landfill across the channel from the Applicant's site and proposed land use. The landfill is expected to be in operation for many years. We assume the Applicant has acknowledged these facts as it proceeds with further development of its site.

ESCO requests that you add this letter to the record for this application. Should you have any questions regarding the contents of this letter, please feel free to contact myself or Fran Erickson at 503-778-6260.

Respectfully,

J. Carter Webb
Manager, Environmental/Safety Affairs

c: Frances Erickson, ESCO
J. Carter Webb, EH&S File Copy

World Headquarters
2141 NW 25th Avenue
Portland, Oregon 97210-2578

Phone: 503.228.2141

Exhibit #
H.3

VALENCIA Joanna F

From: CRAYNE Vickie on behalf of PLANNING LAND USE
Sent: Friday, October 17, 2008 10:28 AM
To: VALENCIA Joanna F
Subject: FW: Case file T3-08-002

-----Original Message-----
From: Mark/Juli Valeske [mailto:valeskes@msn.com]
Sent: Thursday, October 16, 2008 4:21 PM
To: PLANNING LAND USE
Subject: Case file T3-08-002

October 17, 2008

Mark Valeske
13010 NW Marina Way, Slip 4,
Portland, Oregon 97231

Regarding: A-1 Moorage, Dan Gulbrandson, owner , Application for a Conditional Use, Community Service, Willamette River Greenway, Design Review, and Variance Permit Case File: T3-08-002 , 12950 NW Marina Way TL 700, Sec 28D, T 2N, R 1W, W.M.
Tax Account # R97128-0500

Dear Members of the Planning commission,

As immediate downstream neighbors, we are significantly impacted by the actions of Mr. Gulbrandson. For years we have put up with his night time or weekend activities of construction/destruction as well as witnessing significant amounts of debris floating downstream into our moorage. We have suffered the visual blight of burned out boat hulls and boathouses and various other piles of rusting metal and other collections of junk stored on the premises. To my knowledge, Mr. Gulbrandson is not in compliance with any local or state permits and I have grave concerns that this proposed activity will not be adequately supervised or regulated by state, county, and local permitting agencies, resulting in more of the same kind of junkyard fallout that we have had to look at for years.

Our moorage recently replaced our boat launch ramp, spending almost $10,000 on permits and engineering fees to complete that project in compliance with all state, county, and local building codes and required permits. Dan Gulbrandson recently repaved his boat launch ramp, in asphalt, on a Sunday. It would be generous of me to assume that he did so with any kind of permits. . Complaints have gone unheeded, with lack of funding to enforce these violations listed as the reason for allowing his noncompliance to continue. While I dont fundamentally oppose his right to apply for permits to upgrade his moorage, I seriously doubt whether he will fully comply with all the zoning and permitting requirements necessary for a project of this scope. With funds for oversight extremely limited, I question whether the county will be able to ensure that he is in compliance once he starts all this. We, his immediate downstream neighbors, will have to bear the brunt of his various indiscretions. Additionally, I have the following concerns.

It is my understanding is that A-1s permit with the Division of State Lands (DSL) only allows log

Exhibit #
H.4

storage, but A-1 is renting slips and stores an abandoned, burned-out houseboat there. Granted, there are logs being stored there but there is a lot a lot of activity taking place beyond that, including moorage of boats, covered boat slips, and in water storage of all kinds of stuff. Over the years, fill has been placed on the property, presumably without permission from DSL or the Army Corps of Engineers.

A-1 graveled a portion of its property and rented it to a paving company as a staging area. When I had contacted the county about the possibility of a similar activity on our moorage, I was told that it was not Marine related and therefore not permitted under the restrictions of our Willamette River Greenway Permit. Does A-1 have an exclusion to allow this activity to take place right next door to us?

Mr. Gulbrandson is living on the property in a portion of the pole barn. Is that permitted under provisions of the WRG? More importantly, does he even have a WRG permit? It is also my understanding that there is an existing drainfield on the property that is likely below the 100 year flood plain.

In reviewing the staff report of this application, Mr. Gulbrandson refers to some existing vegetation on the southernmost side of his property. Those trees are on our property, on our side of the fence. There is also mention of chickens. I havent seen any chickens there in years. The only reason I can see that he would mention this is because the pole barn was reportedly used at one time to raise chickens.

The fact that he does not have building, electrical, or plumbing permits for his pole barn sets a dangerous precedent. I also assume that he doesnt have a permit for the other building he put up a few years ago that he kept horses in.

His application states that many of the activities that he is requesting permits for are marine related and have been going on for years. Apparently, he thinks that if you engage in illegal and unpermitted activities long enough, they are allowable. As I understand it, only activities related to log salvage and storage have been permitted. All other activity that has been undertaken over the years has been in violation of the law.

A-1 moorage, as it stands today, is an eyesore, an environmental disaster, and an affront to everyone who follows the law. My expectation is that Mr. Gulbrandson will bring his property into full compliance with all permits and zoning requirements PRIOR to these permits being issued and ANY work beginning. I am afraid that once he starts he will follow his usual building practices and who knows what we will end up with then.

Respectfully submitted,

Mark Valeske

MULTNOMAH YACHT HARBOR

PORTLAND OREGON

October 16, 2008

Multnomah Yacht Harbor, LLC is not opposed to developing a marina, boat houses or floating homes if completed and held to the same code and permit standards as adjacent marinas.

Dan Gulbrandson has multiple violations of Multnomah County Code and Oregon Division of State Lands rules. Mr. Gulbrandson has a history of not complying with Multnomah County codes, applying for or requesting the proper permits and not cleaning up or disposing of old boats and salvaged houses in a timely manner. This raises major concern as to Mr. Gulbrandson's ability and intention to lawfully execute this or any proposed development. There are a number of issues that Multnomah Yacht Harbor has with these code violations as follows.

The "pole barn," building was built without building permits or inspections. At a minimum, electrical and water permits should have been pulled and a wood stove that burns regularly throughout the winter months is not on the Fire Marshall's record. Mr. Gulbrandson burns this stove almost continuously and inefficiently during cold months to the point that smoke has been so bad that the Portland Fire Department has arrived to look for the cause of the excessive smoke.

Dan Gulbrandson currently resides on the premises. It is believed that he resides in the structure he refers to as the "Pole Barn." (see attached photo with caption). This means that there will be two single family dwellings on-site, which is in conflict with OARs, which limits development to one single family dwelling per lot or parcel. If Mr. Gulbrandson denies that he resides on the property, please ask him to provide evidence of another physical residence.

Multnomah Yacht Harbor believes that the power in the "pole barn," is also used for A-1 welding service. This service is also advertised as located at the property's address in the Portland phone book.

The Applicant's proposal does not speak to coming into compliance prior to developing (i.e. no bathrooms are proposed until year three which is 2011). To operate a marina, a bathroom facility is required. Numerous people rent boat slips (that the applicant rents unlawfully) and work on the property throughout the day and night (see attached photo). Multnomah Yacht Harbor has knowledge of a bathroom facility within the "pole barn," structure. How is the current sewage being handled?

Phone: 503-737-1651 Fax: 503-737-1652 Email: moorage@myharbor.com
Location: 12900 NW Marina Way ~ Mail: PO Box 10447 Portland, Oregon 97296-0

Exhibit # H.5

MULTNOMAH YACHT HARBOR

PORTLAND, OREGON

Utilities (power & phone) for the "pole barn," are being served from the adjoining property's (Multnomah Yacht Harbor) utility easements. The Applicant's property has its own access to these utilities but does not use them. Multnomah Yacht Harbor objects to these utilities crossing private property where no easement exists to serve this "pole barn."

Multnomah Yacht Harbor is opposed to the proposed 15-foot extension of the DSL lease beyond abutting neighbors. Furthermore no evidence has been provided in the Application and Staff Report that the DSL will waive the 25% rule in regards to the depth of the land lease. If this extension is approved, hazardous debris will collect on the upper end of the docks. This debris will collect in Multnomah Yacht Harbor's moorage, versus flowing downriver as it currently does. This would cause a life safety hazard during the Spring and during flooding. (see attached photo with caption).

No storm water design plan has been submitted as was required by Multnomah County in/for Multnomah Yacht Harbor's GEC storm water and land use permits.

No evidence has been shown that the same compliance rules will be required of Mark Hess/Mr. Gulbrandson. For example, during Multnomah Yacht Harbor's design review land use hearing, building elevation drawings with color specifications and design particulars were required.

Multnomah County has a history of requiring neighboring property owners to comply with all codes and laws prior to accepting any future proposals. We request Multnomah County to be consistent in its decision and ruling of this application. Multnomah County should not deem Mr. Gulbrandson's current property use violations as lawfully existing to the extent that they exist today or as a part of the proposed A-1 Marina. The Applicant and Mr. Gulbrandson should be required to comply with all current codes and laws prior to Multnomah County's consideration of this or any future proposal. Multnomah Yacht Harbor requests that Multnomah County require Mark Hess and Mr. Gulbrandson to provide evidence that they will follow thru with meeting the current codes, permits and laws. Multnomah Yacht Harbor strongly opposes approval of any phase or part of the application or to legalize his numerous unlawful uses and violations prior to coming into compliance with current codes and laws.

Respectfully,

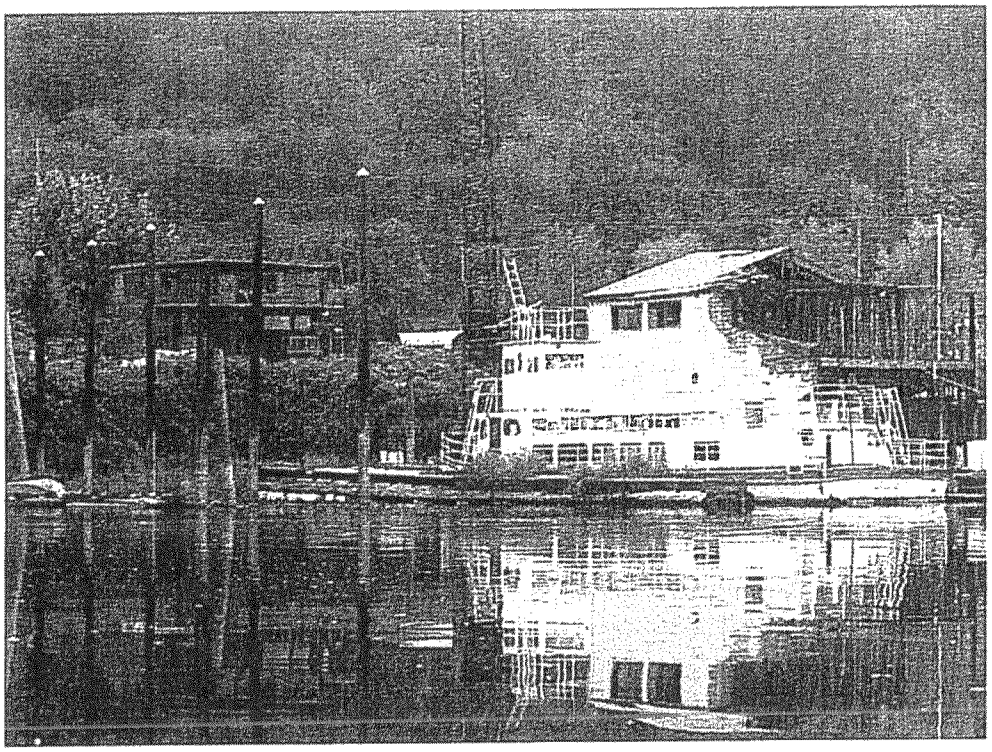
Joseph and Shirley Ashton

Owners
Multnomah Yacht Harbor, LLC

Phone: 503-737-1651 Fax: 503-737-1652 Email: moorage@myharbor.com
Location: 12900 NW Marina Way ~ Mail: PO Box 10447 Portland, Oregon 97296-0447

MULTNOMAH YACHT HARBOR

PORTLAND OREGON

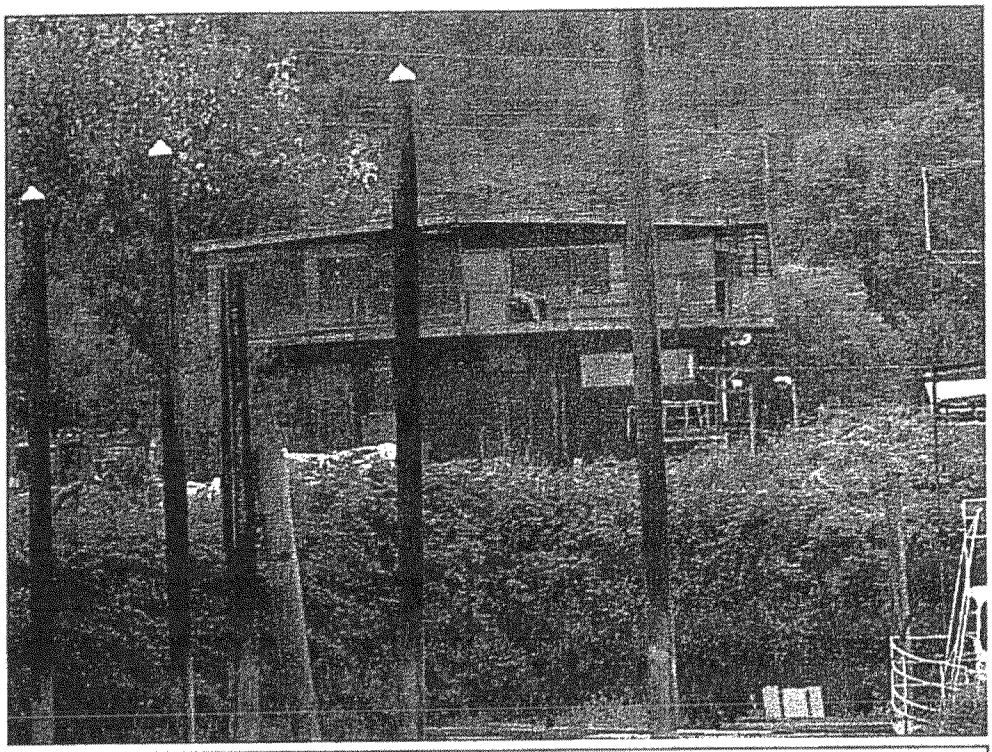


DSL lease line is at piling with white caps. In this photo Multnomah Yacht Harbor property is to the left (upstream) and A-1 moorage is to the right (downstream). If A-1 marina is extended 15-feet, this will cause hazardous debris to collect within neighboring upstream moorage. Currently debris flows downriver in line with all marinas along channel.

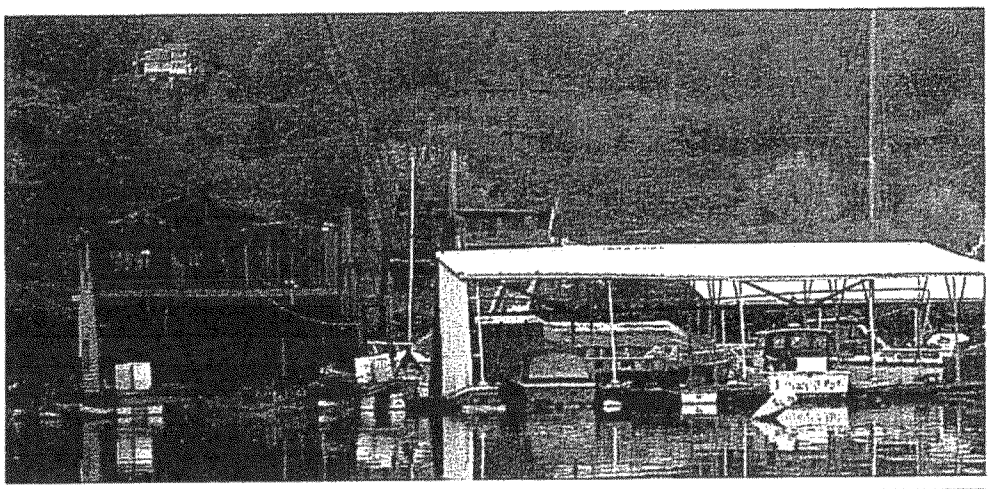
Phone: 503-737-1651 Fax: 503-737-1652 Email: moorage@myharbor.com
Location: 12900 NW Marina Way ~ Mail: PO Box 10447 Portland, Oregon 97296-0447

MULTNOMAH YACHT HARBOR

PORTLAND OREGON



Existing"pole barn"



Existing unlawful marina use with burned out floating structure.

Phone: 503-737-1651 Fax: 503-737-1652 Email: moorage@myharbor.com
Location: 12900 NW Marina Way ~ Mail: PO Box 10447 Portland, Oregon 97296-0447

October 17, 2008

Statement of:

MARILYN ZORNADO

Resident of MARINA WAY MOORAGE since 1990

13140 NW Marina Way, Slip 15, Portland, Oregon 97231

Location: Our moorage is the closest neighbor downstream from A-1

Regarding:

Greenway, Design Review, and Variance Permit / Case File: T3-08-002

12950 NW Marina Way

TL 700, Sec 28D, T 2N, R 1W, W.M.

Tax Account # R97128-0500

We are downstream from A-1 and, consequently A-1's activities and development have a direct impact on us. Any run-off, altered channel hydraulics, increased sediment, water quality issues, changes in navigation access/safety and the like, directly affect us. Development in the channel is a very complex environmental issue and permitting needs to involve many agencies in addition to the County (DSL, USACE, DEQ, NMFS).

We believe that most of A-1's past (additions or developments) were undertaken without proper permitting or compliance with local guidelines. [redacted]. Consequently there is no reason to believe A-1's proposed development would be done in compliance with the County's regulations, or those of other agencies We cannot understand why the Multnomah County Staff now recommends A-1 be allowed to proceed with it expansion before the property has met its current Greenway requirements. Furthermore, we understand that Multnomah County has a very limited budget for enforcement of its regulations. How can we be assured that Multnomah county will follow up on enforcement of regulations in consideration of A-1's pattern of [redacted] disregard of existing regulations and the permitting process.

A-1 is a nuisance neighbor whose activities and development is an aesthetic eyesore that would not meet any reasonable design standard.

Additional piling can slow down channel flow and increase sedimentation downstream (that's us). We already have sedimentation issues and dredging limitations that hamper navigation access to our marina. Has A-1 conferred with USACE, DEQ and other agencies and performed studies on channel hydraulics and sedimentation? If not, why not? If so, can we get copies of the studies?

We strongly suggest that the County take more time and research these issues well before granting any permits to A-1 and we insist that Multnomah County require A-1 Marina to meet all existing Greenway criteria before any further development is permitted.

H-11

		the future?
US ARMY CORPS OF ENGINEERS (USACE)	What uses/activities/construction do their existing USACE permits authorize? WE know that A-1 did not obtain a fill permit from DSL for construction of its asphalt boat ramp into the channel. WE know that A-1 did not obtain a fill permit from USACE for construction of its asphalt boat ramp into the channel. A-1 graveled a portion of its property and rented it to a construction company as a staging area.	Is USACE aware of this proposed development? What permits would/might A-1 need from USACE for this development? Has A-1 conferred with USACE and performed studies on channel hydraulics, sedimentation and water quality? Can we get copies of these studies? How will the USACE force compliance in the future?
NATIONAL MARINE FISHERIES (NMFS)		Is NMFS aware of this proposed development? What permits/studies would/might A-1 need from NMFS for this development? Has A-1 conferred with NMFS and performed biological studies relative to salmon and other aquatic habitat issues? Can we obtain a copy of the studies?
DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ)	Does A-1 have a storm water permit from DEQ? What type of storm water control/processing is required? A-1 graveled a portion of its property and rented it to a paving company as a staging area. Was this permitted by DEQ and property developed relative to potential petroleum leaks and other water quality issues?	Is DEQ aware of this proposed development? What permits would/might A-1 need from DEQ for this development? Has A-1 conferred with DEQ and performed studies on channel hydraulics, sedimentation and water quality? Can we obtain copies of these studies? How will the DEQ force compliance in the future?

Signed,

Marilyn Zornado

SPECIFIC QUESTIONS/ISSUES

Agency	Existing Activities & Compliance	Proposed Expansion
Multnomah County	Our understanding is that A-1's (DSL?) permit only allows log storage, but A-1 is renting slips and stores an abandoned, burned-out houseboat there As these activities are not permitted, why have they been allowed to continue? Likewise, A-1 built an asphalt boat ramp into the channel that we are not convinced was properly permitted by DSL We know that no permit was issued by USACE This also appears to have happened after he entered into the voluntary compliance agreement with Multnomah County, a clear violation of the agreement. A-1 graveled a portion of its property and has rented it to Summit Paving, a construction company, as a staging area We'd like to know if this was permitted by DEQ and property developed relative to potential petroleum leaks and other water quality issues. Summit Paving approached our moorage to ask if they could rent from us, but we had to tell that them that although we would like to, it would violate our Greenway Permit, so we turned them down. Mr. Gulbrandson appears to reside in the Willamette Greenway on the property. He has never provided another address of residence. We do not believe that this is allowed under the Willamette Greenway plan. The A-1 property is an aesthetic eyesore from the water and other vantage points as well. What are the aesthetic design standards that should apply to the existing A-1 property? Why are they not being applied? Does Mr. Gulbrandson have a permit for the septic system currently in use on the property bordering his upstream neighbor?	Has A-1 obtained/applied for DSL, USACE and DEQ permits for this development? NMFS is very concerned about additional shading and juvenile salmonid survival in the area. Has A-1 conferred with NMFS and performed biological studies relative to salmon and other aquatic habitat issues? If not, why not? If so, can we get copies of the studies? Additional piling can slow down channel flow and increase sedimentation downstream (that's us). We already have sedimentation issues and dredging limitations that hamper navigation access to our marina. Has A-1 conferred with USACE, DEQ and other agencies and performed studies on channel hydraulics and sedimentation? If not, why not? If so, can we get copies of the studies? Ditto for DEQ and water quality studies/permits. What aesthetic design standards would apply? How will Multnomah County enforce compliance in the future?

DIVISION OF STATE LANDS (DSL)	Does A-1 have a submerged land lease with DSL with current payments? What uses/activities/construction do their existing DSL permits authorize? Log storage? Slip rental? Storage of dilapidated houseboats? Did A-1 obtain a fill permit from DSL for construction of its asphalt boat ramp into the channel? A-1 graveled a portion of its property and rented it to a paving company as a staging area Was this permitted by DSL?	Is DSL aware of this proposed development? What permits would/might A-1 need from DSL for this development? Has A-1 applied for a submerged land lease expansion? What is the scope (dimensions) of the expansion request? How close does the requested lease expansion come to the edge of the channel? Are there design or aesthetic standards for development? How will the DSL force compliance in

October 17, 2008
Statement of Thomas Magruder
Resident of Marina Way Moorage
13100 NW Marina Way, Slip 11, Portland, OR 97231

Re: Greenway, Design Review, and Variance Permit / Case File: T3-08-002
12950 NW Marina Way, Portland, Oregon
TL 700, Sec. 28D, T 2N, R 1W, W.M.
Tax Account # R97128-0500

My wife and I are both retired. We moved here recently from Nevada in order to live on a floating home along the Multnomah Channel because we like the natural beauty and wildlife of this area.

For two years I served on the board of the Marina Way Moorage and became aware of the various regulations regarding the Greenway. We, as a moorage, have been very conscientious about following the regulations in order to keep the area attractive. We believe it's important for our next door neighbor to be in similar compliance with the Willamette Greenway regulations before he applies for any kind of variance. We do not under-stand why he has been allowed to be out of compliance for so long.

Thank you for your consideration.

Thomas Magruder

Thomas Magruder

H-12

October 17, 2008

Mark Valeske
13010 NW Marina Way, Slip 4,
Portland, Oregon 97231

Regarding: A-1 Moorage, Dan Gulbrandson, owner , Application for a Conditional Use, Community Service, Willamette River Greenway, Design Review, and Variance Permit Case File: T3-08-002 , 12950 NW Marina Way TL 700, Sec 28D, T 2N, R 1W, W.M.
Tax Account # R97128-0500

Dear Members of the Planning commission,

As immediate downstream neighbors, we are significantly impacted by the actions of Mr. Gulbrandson. For years we have put up with his night time or weekend activities of construction/destruction as well as witnessing significant amounts of debris floating downstream into our moorage. We have suffered the visual blight of burned out boat hulls and boathouses and various other piles of rusting metal and other collections of junk stored on the premises. To my knowledge, Mr. Gulbrandson is not in compliance with any local or state permits and I have grave concerns that this proposed activity will not be adequately supervised or regulated by state, county, and local permitting agencies, resulting in more of the same kind of junkyard fallout that we have had to look at for years.

Our moorage recently replaced our boat launch ramp, spending almost $10,000 on permits and engineering fees to complete that project in compliance with all state, county, and local building codes and required permits. Dan Gulbrandson recently repaved his boat launch ramp, in asphalt, on a Sunday. It would be generous of me to assume that he did so with any kind of permits. . Complaints have gone unheeded, with lack of funding to enforce these violations listed as the reason for allowing his noncompliance to continue. While I don't fundamentally oppose his right to apply for permits to upgrade his moorage, I seriously doubt whether he will fully comply with all the zoning and permitting requirements necessary for a project of this scope. With funds for oversight extremely limited, I question whether the county will be able to ensure that he is in compliance once he starts all this. We, his immediate downstream neighbors, will have to bear the brunt of his various indiscretions. Additionally, I have the following concerns.

- It is my understanding is that A-1's permit with the Division of State Lands (DSL) only allows log storage, but A-1 is renting slips and stores an abandoned, burned-out houseboat there. Granted, there are logs being stored there but there is a lot a lot of activity taking place beyond that, including moorage of boats, covered boat slips, and in water storage of all kinds of stuff. Over the years, fill has been placed on the property, presumably without permission from DSL or the Army Corps of Engineers.

H-13

- A-1 graveled a portion of its property and rented it to a paving company as a staging area. When I had contacted the county about the possibility of a similar activity on our moorage, I was told that it was not Marine related and therefore not permitted under the restrictions of our Willamette River Greenway Permit. Does A-1 have an exclusion to allow this activity to take place right next door to us?

- Mr. Gulbrandson is living on the property in a portion of the pole barn. Is that permitted under provisions of the WRG? More importantly, does he even have a WRG permit? It is also my understanding that there is an existing drainfield on the property that is likely below the 100 year flood plain.

- In reviewing the staff report of this application, Mr. Gulbrandson refers to some existing vegetation on the southernmost side of his property. Those trees are on our property, on our side of the fence. There is also mention of chickens. I haven't seen any chickens there in years. The only reason I can see that he would mention this is because the pole barn was reportedly used at one time to raise chickens.

- The fact that he does not have building, electrical, or plumbing permits for his pole barn sets a dangerous precedent. I also assume that he doesn't have a permit for the other building he put up a few years ago that he kept horses in.

- His application states that many of the activities that he is requesting permits for are "marine related" and have been going on for years. Apparently, he thinks that if you engage in illegal and unpermitted activities long enough, they are allowable. As I understand it, only activities related to log salvage and storage have been permitted. All other activity that has been undertaken over the years has been in violation of the law.

A-1 moorage, as it stands today, is an eyesore, an environmental disaster, and an affront to everyone who follows the law. My expectation is that Mr. Gulbrandson will bring his property into full compliance with all permits and zoning requirements PRIOR to these permits being issued and ANY work beginning. I am afraid that once he starts he will follow his usual building practices and who knows what we will end up with then.

Respectfully submitted,

Mark Valeske

Statement in regard to Case File T3-08-002
12950 NW Marina Way
TL 700, Sec 28D, T2N, R1W, W.M.
Tax Account #R971280500
Owner: Daniel C. Gulbrandson

From:
Dwight Jaynes
13110 NW Marina Way
Portland Or. 97231

To Whom It May Concern:

First, allow me to apologize for not being at the hearing in person, but I have an obligation that takes me out of town today. I appreciate the opportunity to speak out on this issue, because it is extremely important to my quality of life in an area I've grown to love.

I live in the most upriver houseboat at Marina Way Moorage, down river from the property in question. In fact, if a boat lift is allowed on the Gulbrandson property, it will sit fewer than 100 feet from my bedroom, which -- because of noise, pollution and potential for accident -- is one reason I believe it should not be allowed.

But after living adjacent to said property for 13 years, I have other serious concerns about granting ANY variances or even building permits. I have supplied, along with this document, photographs of the moorage that were taken this week. For years, it has been known in our neighborhood as a "floating junkyard."

As I look out my living room and bedroom windows each day, I'm confronted with a burnt-out shell of a former boathouse on the upriver side of the Gulbrandson moorage. It didn't burn at that location, he obtained it many years ago after a fire on the Columbia and towed it there. At the time he said he was going to quickly salvage the float. It still sits there, many years later, in much the same condition -- a terrible eyesore on the river. Would anyone ever have to put up with such a thing near their home on land? No way.

But it's a symbol of what that moorage is all about -- unfinished projects, hazardous conditions, disregard for neighbors and very likely a myriad of

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construction and environmental issues undertaken without permit or discussion.

Consistently over the last dozen years, the configuration of the Gulbrandson moorage has been changed, oftentimes in the dead of night. I have never received any notification of permits, variances or other official sanctions for these changes, some of which would seem to violate standard practice. Recently, asphalt was used on a boat ramp fewer than 50 feet from my house -- with that asphalt submerged during high-water months. I've always understood this to be a violation of pollution laws.

A few years back, a covered section of boatslips was installed on the water, at the outermost edge of that moorage, obscuring our view upriver. The structure was towed there and in place in one day, without any permit, hearing or notification that we know of. Now, the owner wants to extend his reach out into the water by another 15 feet? I find this totally unacceptable.

I have included other pictures of the current condition of this moorage. It's been assembled from salvaged bits and pieces that are in terrible disrepair, in most cases. The dock alongside the boat ramp is made up of a combination of a rotted-out deck that is dangerously unusable and a section of an old metal ramp. Again, it's an eyesore that sits about 25 feet from my living room window.

His current moorage is marred by several boats that appear to be unfixable wrecks, salvaged for their parts or as a part of a long-forgotten, lost-cause renovation -- much the same as the burnt-out boathouse.

In summary, the existing moorage is an esthetic and environmental nightmare with an element of hazard attached to it. To think there would be variances allowed on this project defies common sense. I see no evidence that rules will be followed, proper inspections will be done and that the result will be appropriate for the neighborhood or the river itself.

I haven't even spoken about the part of his property that sits on dry land. For years, a horse was boarded on the property -- which provided its own special aroma and background noise in the neighborhood. Now, it appears the property is a staging area for a paving company's trucks and equipment, some of which may be an environmental threat. I also believe that someone lives on the property, although it's hard to imagine anyone being able to live in the ramshackle structure located there.

This property has been a constant source of irritation for many of us on the river but we've tried to be good neighbors and mind our own business. However,

when there is a public discussion about allowing the owner to further expand what is already a very problematic situation, we must speak up.

I would urge the hearings officer to deny any and all requests for expansion or variances and also ask that an investigation be undertaken for possible violations on the property as it exists now.

Respectfully,

Dwight Jaynes
(503) 978-1540
13110 NW Marina Way
Portland, Or. 97231

Multnomah County
Land Use and Transportation Program

October 16, 2008

Regarding A-1 Moorage Application:

On page 8 the Applicant stated his pole barn today continues to be used to store agricultural implements, tools, feed, and to house chickens which the owner raised for his own personal consumption. But there is no mention of living quarters above the pole barn or the existing drain field located between the river and the pole barn. Looking at the revised drawing submitted on August 20, 2008 the drain field may be situated under the seven (7) boat parking spots.

I see nothing in the Staff Report showing his proposal to extend his moorage 15 feet of the upstream boundary to 190 feet as shown in the Greenway Design Review Plan which will set a precedent and not conform to existing moorages.

The only permit we were aware of was just for log storage, never marine related moorage or boat storage even though he uses his property as such. If this is allowed to pass is someone going to watch what he actually does instead of what he has proposed? I understand he is expected to only do work during the week and Saturdays. In the past, most of his work has been done on Sundays or late at night when all of the county offices are closed.

Respectfully Submitted,
Jean Adams

Jean Adams
13014 NW MARINA WAY
Portland OR. 97231

H-15

H-20
Image © 2008 Metro, Portland Oregon
© 2008 Tele Atlas
Google
Pointer 45°37'16.98" N 122°48'34.16" W elev 15 ft Streaming 100%
Eye alt 803 ft

MULT)MAH COUNTY
LAND USE AND TRANSPORTATION PROGRAM
1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
http://www.co.multnomah.or.us/landuse

_____ Notices
16 Decision Notices
mailed on December 11, 2008
by VC

Notice of Hearings Officer Decision

Attached please find notice of the Hearing Officer's decision in the matter of **T3-08-002.** This notice is being mailed to those persons entitled to receive notice under MCC 37.0660(D).

The Hearing Officer's Decision is the County's final decision and may be appealed to the State of Oregon Land Use Board of Appeals (LUBA) by any person or organization that appeared and testified at the hearing, or by those who submitted written testimony into the record. **Appeal instructions and forms are available from the Land Use Board of Appeals at 550 Capitol Street NE, Suite 235, Salem, Oregon 97301; 503-373-1265 (http://luba.state.or.us/).**

For further information call the Multnomah County Land Use Planning Division at 503-988-3043.

MULTNOMAH COUNTY
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DECISION OF HEARINGS OFFICER

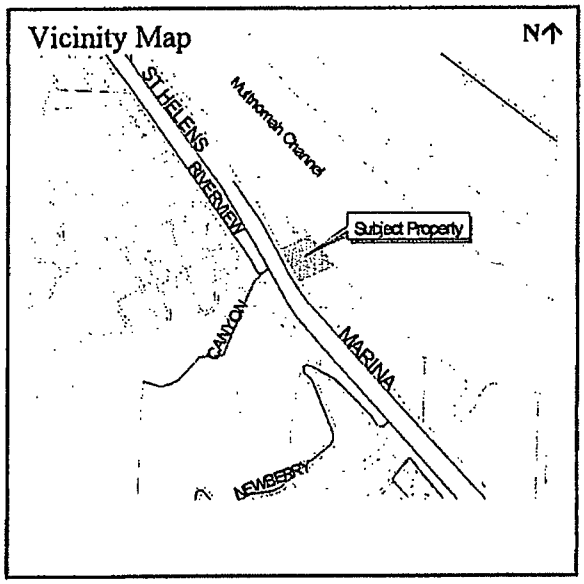
Application for a Conditional Use, Community Service, Willamette River Greenway, Design Review, and Variance Permit

Case File: T3-08-002

Hearings Officer: Liz Fancher

Hearing Date, Time, & Place:

Friday, October 17, 2008, at 1:00 pm
Room 103 at the Land Use Planning Division
1600 SE 190th Avenue, Portland, OR 97233



Location: 12950 NW Marina Way
TL 700, Sec 28D, T 2N, R 1W, W.M.
Tax Account # R97128-0500

Applicant: Mark Hess **Owners:** Daniel Gulbrandson

Summary: Applicant is requesting a Conditional Use permit, Community Service approval, Willamette River Greenway permit, Design Review, and a Variance permit for a 45-boat marina (20 in-water boat slips and 25 boat spaces on-land) with accessory marine-related construction and repair, and one floating residence. The proposal includes: 1 floating home slip, 2 boathouse 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.

Zoning: Multiple Use Agriculture - 20 (MUA-20)

Overlay Zone: 100 Year Floodplain, Willamette River Greenway

Site Size: 2.13 upland acres and an associated 1.3-acres in submerged land lease area

Applicable Approval Criteria: Multnomah County Code (MCC):
Multiple Use Agricultulre-20 (MUA-20) Zoning District: MCC 34.2830 Conditional Uses; MCC 34.2855 Dimensional Requirements; MCC 34.2870 Lot of Record; MCC 34.2875 Lot Sizes for Conditional Uses; MCC 34.2880 Off-Street Parking and Loading; MCC 34.2885 Access
Conditional Use Permits: MCC 34.6315 Conditional Use Approval Criteria
Community Service: MCC 34.6010 Community Service Approval Criteria; MCC 34.6020 Restrictions
Willamette River Greenway: MCC 34.5855 Greenway Design Plan
Waterfront Uses: 34.6750 Houseboats and Houseboat Moorage; 34.6760 Parking; 34.6765 Other Requirements
Design Review: MCC 34.7030 Design Review Plan Contents; MCC 34.7040 Final Design Review Plan; MCC 34.7050 Design Review Criteria; 34.7055 Required Minimum Standards
Variance and Adjustments: MCC 34.7616 Variance Approval Criteria; MCC 34.7611 Adjustment Approval Criteria
Administration and Procedures: MCC Chapter 37
Comprehensive Framework Plan Policy 14 (Development Standards)
Comprehensive Framework Plan Policy 37 (Utilities)
Comprehensive Framework Plan 10 (Multiple Use Agricultural Land)
Comprehensive Framework Plan 13 (Air, Water and Noise Quality)
Comprehensive Framework Plan 15 (Willamette River Greenway)
Comprehensive Framework Plan 16 (Natural Resources)
Comprehensive Framework Plan 26 (Houseboats)
Comprehensive Framework Plan 34 (Traffic Ways)
Comprehensive Framework Plan 38 (Facilities)

Note re Change to Variance/Adjustment Request

On October 6, 2008, the use of the Pole Barn and the request for a Variance was modified by the applicant in response to correspondence sent by County staff on October 3, 2008 regarding the variance criteria. The applicant clarified the use of the pole barn to be for accessory marina use and that the applicant will pursue appropriate building, electrical, and plumbing permits to remodel the pole barn for accessory marina use. In addition, the applicant agreed to remove portions of the pole barn that encroach more than 40% into the 30-foot front yard setback, with the removal of the encroaching portion of the pole barn to be completed in year two of the phasing plan. The removal of the encroachment and limitation to 40% encroachment, removes the requirement of a Variance Permit for the project. Multnomah County Code (MCC) 34.7601(C) provides for the Adjustment review process by which certain dimensional standards may be modified no more than 40 percent.

Hearing Officer Decision:

The Hearings Officer **denies** the Conditional Use permit, Community Service approval, Willamette River Greenway permit, Design Review and Variance permit for a 45-boat marina, with accessory marine-related construction and repair, and one floating residence. The request for Adjustment Review approval of a 40 percent reduction of the required front yard is denied.

Dated this 8th day of December 2008.

Liz Fancher
Multnomah County Land Use Hearings Officer

Exhibits. See Exhibit List, attached.

Notice to Mortgagee, Lien Holder, Vendor, or Seller:
ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code criteria and Comprehensive Plan Policies are in **bold** font. The applicant's statements are identified below as '**Applicant:**'. Staff comments and analysis are identified as '**Staff:**' and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*. The Hearings Officer adopts staff findings as findings supporting this decision with the exceptions discussed in the findings labeled **"Hearings Officer:"** which are the hearings officer's finding and that are found following the staff findings.

Land Use History & Current Conditions:

Applicant: A-1 Marina is an existing boat storage and repair enterprise located at 12950 NW Marina Way, just outside the Portland City limits, approximately ¼ mile upstream from the Sauvie Island Bridge.

The marina's owner and operator, Daniel C. Gulbrandson, initially sought permits in 1977 "... to construct a commercial moorage, boat launching ramp, and boat repair facilities along the Multnomah Channel..." (Reference: Corps of Engineers Public Notice 071-OYA-2-002743 dated November 23, 1977).

The National Marine Fisheries Service and the Columbia Region Association of Governments (CRAG) both issued favorable review letters in December 1977 (attached). The Port of Portland issued permit 78-06 in January 1978 authorizing the work described in the Corps notice. The Port of Portland issued permit 80-20 in May 1980, again authorizing the work described in the Corps notice cited above. That same year, Multnomah County issued Willamette River Greenway permit WRG 4-80, which authorized "log salvage." Since 1980, the property has been used for marina-related activities, with docks and pilings extending along Multnomah Channel's west bank.

A 20-year submerged land lease (ML 7112) was secured from the Division of State Lands in 1989. The waterway lease area, along approximately 310-feet of shoreline, extends 180-feet riverward from the channel's ordinary high water line. The lease area encompasses approximately 1.3 acres of water surface abutting the 2.13-acre upland property. The applicant has contacted the DSL concerning the process to renew and modify the waterway lease that will expire in June 2009.

These 2008 applications seek Multnomah County permits to authorize the current marina and its associated activities. The applications include a phased master site plan that would reconfigure the docks, boat slips and other improvements onsite and within the adjacent submerged land lease area.

Staff: The 2.13 acre subject property is zoned Multiple Use Agriculture-20 with zoning overlays for Willamette River Greenway and for the 100-year floodplain. The property is located between Highway 30 to the southwest and Multnomah Channel to the northeast. A heavy rail line is also located between the subject property and Highway 30 to the southwest. More specifically, the subject property lies between the Lucky Landing and Marina Way Moorages, roughly 0.4-miles upstream from the Sauvie Island Bridge.

Although the owner has approached the County in the past requesting a similar range of uses, previous land use applications were withdrawn by the applicant (cases MC 7-98, CS -03 and WRG 0-1). The owner received County approval in 1980 to establish a private boat ramp for the purpose of providing river access for a log processing operation (WRG 4-80). A zoning complaint was received last year in association with an unpermitted boat salvage operation (case UR-06-007). The applicant is attempting to rectify this complaint as part of this land use review.

Hearings Officer: The Flood Insurance Rate Map for the subject property, Community-Panel Number 4101790135B, dated March 18, 1986 (Exhibit A.10) shows that most of the subject property is located within the 100-year flood plain for the Multnomah Channel. The applicant's burden of proof statement says that the base flood elevation is 27 feet elevation NGVD. The applicant has depicted the location of that elevation on an early site plan map, Exhibit A.22, and on an elevation contour map, Exhibit A.25. The location of the boundaries of the 100-year flood plain area shown on the FIRM map and the boundary shown on the applicant's documents are in conflict. The FIRM map boundary, where it crosses the subject property, is a relatively straight line that parallels the railroad. The boundary shown on the applicant's documents is an irregular line that bows out toward the river.

The FIRM map shows that about 90 percent of the subject property is in the mapped 100-year flood plain. The applicant's maps show that less than 50 percent of the subject property is located in the 100-year flood plain area. The applicant also provided a map that shows the part of the subject property that was inundated by the 1996 flood, Exhibit A.29. This map shows that approximately two-thirds of the property was covered by flood waters above the area shown as the 27-foot elevation by the Exhibit A.25 map. This shows that the Exhibit A.25 map's 27-foot contour line does not accurately depict the location of a worst case flood event.
As the outer boundary of the flood area does not match the location of the 27' elevation line and that line is below the elevation of the 1996 flood, I reviewed the 1986 FIRM map included in the record by the applicant (Exhibt A.10). The map contains four dark wavy lines with the number 27 located on or in the middle of most of the lines. One of the dark wavy lines extends from the outer boundary of the 100-year flood zone on each side of the Multnomah Channel. The map also contains a disclaimer that says that it "does not reflect changes or amendments which have been made subsequent to the date on the title block." The applicant's representative stated that the 100-year flood elevation is 27 feet but did not explain why that is the case. In order to determine the meaning of the map markings and to determine whether subsequent changes have been made to the FIRM map, I researched the records of the Federal Emergency Management Agency for public official acts of this executive department of the United States and found the following information:

A. A key to the 1986 FIRM map. The key shows that the wavy line represents the base flood elevation line with elevation in feet.
B. The key to the 1986 FIRM map also shows that the shaded area on the 1986 FIRM map shows the 100-year flood boundary. This area covers about 90 percent of the subject property.
C. The key to the 1986 FIRM map explains that the Zone A14 reference means that base flood information has been determined for this area of the FIRM map.
D. FEMA's official records show that changes have been made to the 1986 FIRM map.
E. FEMA's records show that a more recent map has been prepared for the area that includes the subject property. That map is Map Number 4101830060E. This map applies a cross-hatched designation of an area where all obstruction of flood waters is prohibited. The applicant did not address the implications, if any, of this mapping on the proposed site plan. This designation extends up onto the subject property, along the bank, for a small distance. A copy of a part of this map has been included as Exhibit J.6 of the record.
F. FEMA maintains a National Flood Hazard Layer database. I prepared a map using only those layers that meet FEMA standards. That map is Exhibit J.7 of the record. That map shows a base flood elevation of 31 feet in two of the areas where the 1986 FIRM maps showed a 27 feet elevation. That elevation comes closer to approximating the area mapped as the 100 year flood zone on the 1986 and subsequent FEMA maps.
G. All maps I reviewed continue to show the 100-year flood zone in the same approximate location on the subject property. The major differences are the change in the number assigned to the base flood elevation and the addition of a protective designation to the part of the subject property located closest to the Multnomah Channel.

ORS 40.090 (2) allows me to take official notice of information provided by public official acts of the executive departments of the United States. I, therefore, have taken official notice of the above information provided by FEMA's official records. These records lead me to the conclusion that about 90% of the subject property is located in the 100-year flood plain up to about the 31' foot elevation level.

If I had not taken official notice of FEMA records I would have reached the same conclusion about the location of the flood zone because the applicant failed to provide sufficient information to determine the reason for the discrepancy in the 1986 map and the elevation data he provided and the fact that the 1996 flood inundated parts of the subject property located above the 27-foot elevation line on the subject property. The burden of proof rests with the applicant to establish material facts. In the absence of evidence on the map and elevation data conflict, I would have relied on the map boundary location that is less favorable to the applicant than the elevation data provided by the 1986 map.

Project Description:
Applicant: A1 Marina Site

Conditional Use, Community Service Use, Willamette River Greenway, Design Review, Floodplain Development, Health Hardship Mobile Home, and Grading and Erosion Control Permits for current and planned marina/boat repair uses and phased master plan with 20 wet slips, 25 dry slips, one floating home, a boat lift; 30 parking spaces, and greenway plantings. A variance request would reduce the 30-front yard to 16-feet and allow the pole barn in its current location.

These applications propose a CU for a single floating home moorage and a CS Permit for the marina that would contain 20 "wet" slips (10 covered; 7 open, 3 boathouses) and 25 "dry" slips or upland boat spaces. An existing boat ramp and a proposed travel lift would facilitate the upland boat storage and launches; boat repair activities accessory to the marina would be conducted primarily on the upland site and would be generally confined to daylight hours, Monday through Saturday.

An existing log salvage operation authorized under WRG 4-80 would continue within the waterway lease area in the channel. Logs from damaged or older floating structures and from other sources -- suitable for floatation -- are reused for new or repaired swim float platforms, floating walkways, boathouses, and other marina and moorage purposes. These in-water salvage and construction activities are generally confined to daylight hours, Monday through Saturday, with exceptions for emergency purposes.

The above described log salvage and related construction activities have been conducted at the A-1 Marina site under County Permit WRG 4-80 for almost 30-years. The 2008 CU and CS Permit applications seek authorization to continue marina and moorage related construction and repair activities within the waterway lease area, limited to the days and hours of operation noted above. Further, the in-water construction and repair activities would employ best management practices to protect ground, air, and water qualities, and are limited in scale, accessory to the requested marina and moorage uses, and would have minimal external effects in terms of noise, fumes, odors, vibration, or other off-site impacts. The accessory log salvage, boat repair, and float construction would occasionally involve hiring or contracting with no more than 6 employees on a temporary, seasonal, or project-duration basis. Typical projects include repair or salvage of a damaged boat, construction or repair of a boathouse or houseboat, and building or repairing swim-float platforms or floating walkways.

(Below responses taken from Applicant response letter received October 6, 2008)
The log salvage consists of securing floating logs in the water lease area immediately upstream and downstream of the center gangway, between the floating walks and the shoreline. Logs are individually brought ashore via the boat ramp. The logs are evaluated, trimmed and cut, and returned to the river for reuse in floating walkways, swim floats, and other structures which use logs for floatation.

(Below responses taken from Applicant response letter received August 7, 2008)
This letter supplements and modifies the above-cited applications and specifically responds to your letter dated July 18, 2008, which identified County Staff's issues, questions, and specific code criterion that should be further addressed in the applications concerning property located at 12950 NW Marina Way.

The application for a Health Hardship Permit is hereby withdrawn; any text or plan references to the Temporary Health Hardship Mobile Home should be disregarded during the review of the other requested permits.

The existing pole barn is used for storing the owner's personal private property, including his personal tools, motor vehicles, and other possessions. The pole barn and the personal items stored therein are not associated with the marina and associated business activities proposed with these CU/CS/WRG/DR applications, except to the extent that the Variance request seeks to authorize the reduced front yard setback that would allow the storage building to remain in its current location on the site.

(Below responses taken from Applicant response letter received October 6, 2008)
The applicant will pursue appropriate building, electrical, and plumbing permits to remodel the pole barn for

accessory marina use. In year one, the building will be evaluated to determine what modifications are needed for the change of occupancy. The phasing plan proposes to obtain the permits and initiate the remodel in year three, which concludes 11/01/2011.

The revised site plan and parking detail sheet identifies the location of the 25 upland "dry slips". Boat repair activities accessory to the marina would be conducted primarily on the upland site and would be confined to daylight hours, Monday through Saturday.

(Below responses taken from Applicant response letter received October 6, 2008)
The boat repair is a minor incidental activity to the boat storage. After the pole barn has been remodeled for accessory marina use (Year three) the building will provide a protected and discreet location for more elaborate boat repairs. In the interim, minor boat repairs are performed outside in the boat yard, with temporary tarps for weather protection as needed.

The existing log salvage operation authorized under WRG 4-80 would continue within the waterway lease area in the channel. Logs from damaged or older floating structures and from other sources -- suitable for floatation -- are reused for new or repaired swim float platforms, floating walkways, boathouses, and other marina and moorage purposes. These in-water salvage and construction activities would be confined to daylight hours, Monday through Saturday, with exceptions only for emergency purposes.

The above described log salvage and marine-related construction activities have been conducted at the A-1 Marina site under County Permit WRG 4-80 for almost 30-years. The 2008 CU and CS Permit applications seek authorization to continue marina and moorage related construction and repair activities within the waterway lease area, limited to the days and hours of operation noted above. Further, the in-water construction and repair activities would employ best management practices to protect ground, air, and water qualities, and are limited in scale, accessory to the requested marina and moorage uses, and would have minimal external effects in terms of noise, fumes, odors, vibration, or other off-site impacts. The accessory log salvage, boat repair, and float construction would occasionally involve hiring or contracting with no more than 6 employees on a temporary, seasonal, or project-duration basis. Typical projects include repair or salvage of a damaged boat, construction or repair of a boathouse or houseboat, and building or repairing swim-float platforms or floating walkways.

(Below response taken from email from applicant dated August 15, 2008, RE: A1 Marina and Use of Pole Barn)
This email supplements the Conditional Use, Community Service Use and related applications for the A-1-Marina site located at 12950 NW Marina Way. The purpose of the email is to further explain and clarify the use of the pole barn building on the site, which, as the record for the property indicates, was constructed in approximately 1980 as an exempt agricultural building.

The pole barn today continues to be used to store agricultural implements, tools, feed and to house chickens which the owner raises for his own personal consumption (of eggs primarily). The dozen or so chickens raised on the premises (and their eggs) are not used for commercial processing and are not for sale at wholesale or retail, and therefore are not subject to MCC 34.2830(B)(3), which requires a conditional use permit for commercial fowl operations. The pole barn remains permissible under MCC 34.2820(A)(3) and MCC 34.2820(F)(4).

(Below response taken from response from applicant dated October 6, 2008)
The Proposed Phasing Timeline is below:

Year One	Structural/Code Evaluation of pole barn/warehouse
11/01/2009	Remove crane equipment near gangway
	Obtain DSL lease renewal and amendment per plan
Year Two	Remove encroaching portion of pole barn/warehouse
11/01/2010	Install driveway approaches and logs per ODOT permit
	Reconfigure in-water walkways, covered slips per plan
	Install planter islands, landscaping, parking spaces

Year Three 11/01/2011	Remodel pole barn i.. accessory marina use Install bathroom and new drain field per plan
Year Four 11/01/2012	Install finger piers and Boat Lift system
Year Five 11/01/2013	Construct floating home per plan

Staff: Applicant is requesting a Conditional Use permit, Community Service approval, Willamette River Greenway permit, Design Review, and a Variance permit for a 45-boat marina, with accessory marine-related construction and repair, and one floating residence. The proposal includes: 1 floating home slip, 2 boathouse parking spaces, 20 in-water boat slips, 25 boat spaces on-land, 30 automobile parking stalls, a boat ramp and lift, log salvage yard, and construction and repair activities related to the marina and moorage.

It should be noted that the request for a Health Hardship Mobile Home was withdrawn on August 7, 2008. On October 6, 2008, the use of the Pole Barn and the request for a variance was further clarified by the client in response to correspondence sent by staff on October 3, 2008 regarding the variance criteria The applicant clarified the use of the pole barn to be for accessory marina use and that the applicant will pursue appropriate building, electrical, and plumbing permits to remodel the pole barn for accessory marina use. In addition, the applicant has agreed to removal of portions of the pole barn that encroach more than 40% into the 30-foot front yard setback, with the removal of the encroaching portion of the pole barn to be completed in year two of the phasing plan. The removal of the encroachment and limitation to 40% encroachment, removes the requirement of a Variance Permit for the project. Multnomah County Code (MCC) 34.7601(C)), provides for the Adjustment review process by which certain dimensional standards may be modified no more than 40 percent. The Adjustment approval criteria are identified in MCC 34.7611 and are addressed in Section 10.00 in the Findings Below.

MCC 37.0560 allows the County to authorize a new land use on properties that contain violations of Multnomah County code if all problems are resolved. A number of other issues must also be addressed as part of this permit. It should be noted that the landowner has entered into a Voluntary Compliance Agreement for the subject property, Case No. UR-06-007 (Exhibit A.30), to address the code violations. The specific violations are for the current configuration of the marina (covered boat docks and piers) on-site, the use of the marina (covered docks/piers) as commercial boat storage spaces, and the storage of burned out two story floating structures at the marina.

These compliance issues must be considered and approved as part of the proposed development or found to be lawfully established prior to the authorization of the proposed development. Based on the evidence in the historical record, planning staff cannot find that the existing extent of the marina is lawful.

Hearings Officer: Michael Grimmett, Code Compliance Specialist for Multnomah County, inspected the "barn" building on October 28, 2008. The inspection revealed that the barn includes a break room and office area. The break room includes a working refrigerator, microwave oven, coffee maker, clothes washer and dryer and a bathroom with a working toilet. There is a second bathroom on the third floor. The building also contains exercise machines, couches and a wet bar. The applicant's representative has also advised the County that the "barn" is used to store the applicant's personal property, such as motor vehicles and that "[a]gricultural uses on the site were discontinued several years ago." Exhibit J.4, p.6. This evidence makes it clear that the building is not being used as an agricultural building that is exempt from building permit requirements. It also demonstrates that the information provided to the County by the applicant's representative as late as October 6, 2008, that the site continues to be used for agricultural purposes, was incorrect. This casts doubt on the reliability of other evidence provided to the County by the applicant.

1.00 ***Administration and Procedures***

1.01 **Proof of Ownership**
MCC 37.0550 Initiation of Action

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

Staff: The proposed project is located on Tax Lot 700, Section 28D, Township: 2 North, Range: 1 West. Assessment & Taxation records show that the land is owned by Daniel C. Gulbrandson who has signed the submitted General Application from authorizing Mark R. Hess to be his applicant. Mr. Hess has signed the General Application form and is the applicant for the proposal (Exhibit A.1). This criterion has been met.

1.02 **MCC 37.0560 Code Compliance And Applications.**
Except as provided in subsection (A), the County shall not make a land use decision, or issue a building permit approving development, including land divisions and property line adjustments, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

(1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or

(2) It is necessary to protect public safety; or

(3) It is for work related to and within a valid easement over, on or under an affected property.

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: The following uses must be found by the Hearings officer to be lawfully existing to the extent that they exist today or consider them as part of the proposed A1 Marina: the current configuration of the marina (covered boat docks and piers) on site, and the use of the marina (covered docks/piers) as commercial boat storage spaces. In order to comply with MCC 37.0560, the landowners must resolve these outstanding issues.

1.03 **MCC 37.0530(C): Type III decisions involve the greatest amount of discretion and evaluation of subjective approval criteria yet are not required to be heard by the Board. Applications evaluated through this process primarily involve conditional uses and some land divisions applications. The process for these decisions is controlled by ORS 197.763. Notice of the application and Hearings Officer hearing is published and mailed to the applicant, recognized neighborhood association and property owners 750 feet of the subject tract. Notice must be issued at least 20 days pre-hearing, and the staff report must be available at least 7 days pre-hearing. The Hearings Officer shall accept into the record all testimony and evidence relevant to the matter, prior to the close of the hearing. The Hearings Officer decision is the County's final decision and is appealable to LUBA within 21 days of when the decision is final. The decision is final the day the signed Hearings Officer decision is mailed pursuant to 37.0660(D).**

Staff: The application has followed the procedures for a Type III land use decision. The application was received on June 6, 2008 (Exhibit A.1). A completeness review was completed by the staff and a letter of incomplete application was sent on July 18, 2008. The applicant on July 21, 2008 acknowledged the letter of incomplete application and indicated to staff the applicant's intent to supplement the application to address items to make the application complete. The applicant supplied the information identified in the July 18, 2008 letter of incomplete application by August 20, 2008. The application was declared complete on August 29, 2008. (C.3) On September 25, 2008 a Notice of Public Hearing was mailed to all property owners within 750 feet, recognized neighborhood associations, the applicant and the property

owners (Exhibit C.4). On September 26, 2008 notice was published in the Oregonian.

1.04 **MCC 37.0700 Expiration and Extension of Type II or Type III Decisions in Exception Areas and Lands within the UGB.**

(B) Notwithstanding Subsection (A) of this section, on exception lands the decision maker may set forth in the written decision, specific instances or time periods when a permit expires.

Staff: It is recognized that the proposed project is not typical and may take longer than two years of the date of the final decision to obtain all necessary building permits and/or initiate the development action or activity approved in the decision. The applicant has identified a 5-year phasing plan for the project as follows.

Year One	Structural/Code Evaluation of pole barn/warehouse
11/01/2009	Remove crane equipment near gangway
	Obtain DSL lease renewal and amendment per plan
Year Two	Remove encroaching portion of pole barn/warehouse
11/01/2010	Install driveway approaches and logs per ODOT permit
	Reconfigure in-water walkways, covered slips per plan
	Install planter islands, landscaping, parking spaces
Year Three	Remodel pole barn for accessory marina use
11/01/2011	Install bathroom and new drain field per plan
Year Four	Install finger piers and Boat Lift system
11/01/2012	
Year Five	Construct floating home per plan
11/01/2013	

Hearings Officer: The phasing schedule, as proposed, delays correction of code violations longer than I believe is reasonable. I do not believe that it is fair to neighbors of the subject property to continue to be subjected to the eyesore that is the A-1 Marina. I also believe that public sanitation issues should be addressed in the first phase of development.

2.00 ***Multiple Use Agriculture - 20 (MUA-20) Criteria***

2.01 **MCC 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;

MCC 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. ...

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

(22) Waste collection, transfer, processing, or recovery facility.

(29) Accessory uses to the above.

Applicant: Multnomah County designates the subject A-1 Marina property as Multiple Use Agricultural in both the County Comprehensive Plan and the Sauvie Island and Multnomah Channel Rural Area Plan. The zoning for the site and environs is MUA-20 (Multiple Use Agricultural, 20-acre minimum lot area).

The entire west (mainland) side of Multnomah Channel is zoned MUA-20. Houseboats and houseboat moorages are listed as a Conditional Use in the Multiple Use Agriculture zoning district. Boat moorages, marinas, and boathouse moorages are considered as Community Service uses, which also require a Conditional Use permit in the MUA-20 zoning district.

Staff: The applicant is proposing to lawfully establish a marina and its related accessory uses. The applicant has applied for a Conditional Use permit, Community Service approval, Willamette River Greenway permit, Design Review, and a Variance permit for a 45-boat marina, with accessory marine-related construction and repair, and one floating residence. The proposal includes: 1 floating home slip, 2 boathouse parking spaces, 20 in-water boat slips, 25 boat spaces on-land, 30 automobile parking stalls, a boat ramp and lift, log salvage yard, and construction and repair activities related to the marina and moorage.

2.02 **MCC 34.2855 Dimensional Requirements**

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.

Applicant: Applicant requests a 14-foot variance to the front yard minimum dimension to allow the existing pole barn to remain in its current location and configuration. The front yard area west of the pole barn abuts the NW Marina Way right-of-way, which abuts the Burlington Northern (BN) railroad right-of-way. Both Marina Way and BN rights-of-way abut the US-30 Right-of-way. The three transportation corridors have a combined Right-of-way width in excess of 200'. The nearest non-right-of-way properties west of the subject site would not be adversely affected by the proposed reduction to the front yard dimension. Neighboring lands west of US 30 are separated from the A-1 Marina site by the 200-foot right-of-way as well as by topography.

Staff: The Multnomah County Transportation Program has reviewed the proposal and provided comments. (Exhibit B.7) The subject property is adjacent to NW Marina Way, which is not a county road at this location. The Right-of-Way is sufficient; therefore there is no need for an increase in the front yard setback. It should be noted that MCC 34.6020(A) requires setbacks specific to Community Service Uses and is addressed in Section 4.02 of the Findings.

The proposed development meets all minimum yard dimensions, except for the pole barn building located in the southwest corner of the property. (Exhibit A.24) The applicant has submitted a variance application requesting a 14-foot variance to the 30-foot minimum front yard requirement for the pole barn. The maximum height of the structures shall be 35 feet. *This criterion has not been met, but a Variance to this front yard standard for the pole barn has been requested as part of this proposal. The Variance Criteria is addressed in Section 10.00 of the Findings.*

2.03 **MCC 34.2870 Lot of Record**

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

(1) July 10, 1958, SR zone applied;

(2) July 10, 1958, F-2 zone applied;

(3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;

(4) October 6, 1977, MUA-20 zone applied, Ord. 148 & 149;

(5) October 13, .. .3, zone change from EFU to MUA-20 fo. some properties, Ord. 395;
(6) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.

(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 34.2885, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(C) Except as otherwise provided by MCC 34.2860, 34.2875, and 34.4300 through 34.4360, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be a Lot of Record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;
(2) An area of land created by the foreclosure of a security interest.
(3) An area of land created by court decree.

Applicant: The subject 2.13-acre property was created in 1975 through a contract recorded in Book 1060, Page 38 by Nicholas and Louise Calcagno.

At that time (1975), the property was zoned M-1, Heavy Manufacturing District as provided by Multnomah County Code (MCC) 5.40 – 5.430. Except for certain conditional or community service uses (i.e., schools, churches), the former M-1 zoning did not specify an explicit minimum site size. The subject 2.13-acre parcel, with more than 300-feet of frontage on a public road, appears consistent with the M-1 zoning provisions in effect at the time it was created. The M-1 zoning remained in effect until 1977, when Multiple Use Agricultural MUA-20 zoning was applied to the area.

It is interesting to note that repealed MCC 5.412 indicates the former M-1 zone district would have allowed, among other uses, an auto wrecking yard, a junk yard, and ship building on the subject A-1 Marina site. Although MCC 7.30 suggests a moorage or marina use would have required a Community Service Use approval, even in the M-1 district. The former M-1 and CS zoning provisions included various building setback (yard area) requirements and other standards that could affect the site size needed to satisfy applicable design criteria to accommodate various uses or developments. Although a CS Permit for a moorage or marina was not obtained under the former zoning provisions, the almost 30-year de facto use of the site and the plans and support materials provided with the 2008 permit applications, demonstrates that the 2.13 acre upland site together with the approximately 1.3 acre waterway lease area provide adequate land and water areas and other physical characteristics needed to accommodate the marina and related uses on the site.

Staff: The subject property is 2.13 acres and was in its current configuration as of 1975 as shown on a recorded survey. The parcel is a Lot of Record.

Hearings Officer: MCC 34.005 defines a "Lot of Record" as follows:

> "Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 34.7785. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.
> (a) "Satisfied all applicable zoning laws" shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.
> (b) "Satisfied all applicable land division laws" shall mean the parcel or lot was created:
> 1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or
> 2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was

recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or

3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in *recordable form* prior to October 19, 1978; or

4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and

5. "Satisfied all applicable land division laws" shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See *Date of Creation and Existence* for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU district.)"

As the subject property was created by contract of sale that was recorded prior to October 19, 1978. The applicant's evidence also shows that the parcel complied with zoning minimum lot size, dimensional standards and access requirement which did not impose a specific minimum lot size.

2.04 **MCC 34.2875 Lot Sizes for Conditional Uses**

The minimum lot size for a Conditional Use permitted pursuant to MCC 34.2830, except subpart (C)(1) thereof, shall be based upon:

(A) The site size needs of the proposed use;

(B) The nature of the proposed use in relation to its impact on nearby properties;

(C) Consideration of the purposes of this district; and

(D) A finding that the lot or parcel is at least two acres in area.

Staff: (A) The subject property to be used for the A1 Marina is approximately 2.13 acres.

Hearings Officer: I am unable to find that the lot is large enough to meet the needs of the proposed use given the fact that the vast majority of the property is located in the 100-year flood plain. The application assumed that certain areas of the site that are located in the flood plain are above the flood plain and relied on that fact to conclude that the application would comply with County regulations. As a result, the impact of flood plain regulations on the development plans has not been fully considered. Without this analysis, I cannot find that the site size is adequate to meet the needs of the proposed use.

MCC 29.603 requires that all structures and new development proposed for an area of special flood hazard first obtain approval of a Floodplain Development Permit. New development includes paving and grading of the site for development of required parking areas. A survey of the actual location of the flood plain is required. To obtain approval, special engineering and designs are required. The floors of commercial buildings must be located at least 1 foot above the flood plain level. Special rules apply to the development of a septic system. In addition, parking lots for marinas must be located at least two feet above the 100-year flood plain – a condition that cannot be satisfied given the size and location of the parcel. At this time, I cannot determine whether the applicant would be able to obtain approval of the pole barn structure or the garage. After reviewing the flood plain regulations, it seems very unlikely that the existing buildings on site would be able to be retroactively approved as meeting the requirements of the flood plain rules. *This criterion has not been met.*

(B) The applicant has not demonstrated that the size of the property is large enough to allow the proposed development to occur without adverse impacts on nearby properties. An analysis of whether all site needs can be met on a parcel that is located almost entirely in the 100-year flood plain is needed before it can be found that the site size is appropriate in relation to impacts on nearby properties. *This criterion has not been met.*

(C) The purposes of the Multiple Use Agriculture District are to conserve those agricultural lands not suited to full-time commercial farming for diversified or part-time agriculture uses; to encourage the use of non-agricultural lands for other purposes, such as forestry, outdoor recreation, open space, low density

residential development and appropriate conditional uses, when these uses are shown to be compatible with the natural resource base, the character of the area and the applicable County policies [MCC 34.2800 - Purpose].

The proposed marina is located on the Multnomah Channel where a number of moorages and marinas of similar nature are located. This area has a number of recreational opportunities that includes boating, fishing, and other water related recreation. The proposed development requires the review and approval of a conditional use permit. The proposed marina will support the various outdoor recreational opportunities in the area. *This criterion has been met.*

(D) The site is at least 2 acres in area. *This criterion has been met.*

2.05 **MCC 34.2880 Off Street Parking and Loading**
Off-Street parking and loading shall be provided as required by MCC 34.4100 through 34.4220.

Staff: It should be noted that although the current code does not specify the required number of parking spaces required for a marina, a prior Hearings Officer determined that a ratio of 1 parking space per 2 boat slips is an appropriate starting point for development review. Multnomah County Code (MCC) 34.6760 requires two automotive parking spaces per houseboat (floating dwelling). The proposed project is proposing one houseboat (floating dwelling) with two parking spaces to be located in the carport identified on the site plan. 20 in-water boat slips are proposed with 30 automobile parking stalls identified on the site plan. *See the Findings under Section 8.00 below.*

2.06 **MCC 34.2885 Access**
Any lot in this district shall abut a street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles.

Staff: The subject property is adjacent to NW Marina Way, which is not a county road at this location. The applicant has obtained Conditional Approval for a State Highway Approach from the Oregon Department of Transportation for the subject property. (Exhibit A.16) *This criterion has been met.*

3.00 ***Conditional Use Criteria***

3.01 **MCC 34.6305 GENERAL PROVISIONS**

(A) Application for approval of a Conditional Use shall be subject to the provisions for Type III decisions in MCC Chapter 37.

(B) A Conditional Use permit shall be issued only for the specific use or uses, together with the limitations or conditions as determined by the Approval Authority.

(C) The findings and conclusions made by the approval authority and the conditions, modifications or restrictions of approval, if any, shall specifically address the relationships between the proposal and the approval criteria listed in MCC 34.6315 and in the district provisions.

Staff: This application is being processed and is subject to the provisions for Type III decisions in MCC Chapter 27. All recommended findings are justified with the corresponding criteria.

3.02 **MCC 34.6315 CONDITIONAL USE APPROVAL CRITERIA**

(A) A Conditional Use shall be governed by the approval criteria listed in the district under which the conditional use is allowed. If no such criteria are provided, the approval criteria listed in this section shall apply. In approving a Conditional Use listed in this section, the approval authority shall find that the proposal:

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

Applicant: There are seven (7) marinas and moorages along this reach of Multnomah Channel:

1. Fred's Marina
2. Multnomah Yacht Harbor (formerly Lucky Landing)
3. A-1 Moorage (subject property)
4. Marina Way Moorage (formerly Cassidy's Moorage)
5. Larson's Marina
6. Channel Island Moorage
7. Bridgeview Moorage

Fred's Marina -- located about 900-feet upstream from the subject A-1 Marina -- contains both in-water and upland boat storage facilities similar to that proposed for the A-1 Marina site.

Multnomah Yacht Harbor abuts the A-1 Marina site to the southeast and includes floating homes (houseboats), boathouses, boat slips, and a boatlift similar to the A-1 Marina proposal. The upland property is used extensively for open (outdoor) boat storage. The Oregon State Marine Board's online records for marina facilities indicates the Multnomah Yacht Harbor has facilities for 200 boats.

Marina Way Moorage abuts the A-1 Marina site to the northwest and includes floating homes (houseboats), boat slips, and a boat ramp.

Larson's Marina -- located about 600-feet downstream from the subject A-1 Marina -- contains both in-water and upland boat storage facilities as well as boathouses and marine related repair and construction (in-water) similar to that proposed for the A-1 Marina site.

Channel Island Moorage — located immediately downstream of the Sauvie Island Bridge -- includes floating homes (houseboats), boathouses, boat slips, and a boat ramp.

Bridgeview Moorage — located about 1000-feet downstream of the Sauvie Island Bridge -- includes floating homes (houseboats), boathouses and boat slips.

The proposed A-1 Marina -- with its associated boat repair activities and marine related repair and construction (in-water), wet and dry boat storage areas, a new travel-lift for launching boats in the boatyard, and a single floating home -- is similar to and consistent with adjacent moorage and marina uses.

Staff: As mentioned by the applicant there is a number of marinas/marinas located adjacent or near the subject property located along the Multnomah Channel. The applicant proposes uses consistent with what can already be found in the surrounding area.

Hearings Officer: The proposed development is consistent with the character of the area if properly landscaped, implemented and operated. The current use of the subject property is not consistent with the character of the area due to the numerous code violations that are occurring on the property. These must be corrected to achieve compliance with this approval criterion. *This criterion can be met.*

3.03 **(2) Will not adversely affect natural resources;**

Applicant: Trees, shrubs, ornamental and natural landscape plants along the perimeter property lines have been allowed to grow and now provide an effective landscape screen to the adjacent properties. The natural vegetation in the central areas of the site has not been retained, as they would conflict with the marina and boatyard operations.

Staff: As identified in the submitted Greenway Plan the applicant is proposing to maintain all significant trees and shrubs on the site and to plant supplemental trees and shrubs to enhance the natural scenic

qualities within the Greenway. In addition, disturbed areas along the riverbank resulting from installation of proposed finger piers for the travel lift and a new gangway near the upstream lease boundary will be replanted and restored within a brief period of time, and vegetation retained along the riverbank will be supplemented with evergreen and deciduous trees to reduce potential erosion, and partially screen the upland boatyard activities from the river and from adjacent floating homes. In addition, a 150-foot Greenway Building Setback from the Ordinary Low Water Mark has been implemented in the design to prevent additional encroachment of structures towards the Multnomah Channel.

Hearings Officer: I am unable to find that the approval of the proposed development will not adversely affect natural resources. I have not been convinced that the retention of the existing pole barn structure and improvement of a mid-sized parking area in the 100-year flood plain will not adversely affect natural resources associated with the Multnomah Channel. Those resources include the water quality of the river and the fish, birds and other aquatic life that are dependent on the water in the channel and related wetlands and shorelines.

Additionally, a Grading and Erosion Control Permit and Flood Development Permit are required for this project. Retroactive building permits are also needed for existing structures that are being proposed to remain as part of this permit. These permits are designed, in part, to assure that development of the subject property will not adversely affect natural resources. It is not clear that the applicant will be able to obtain approval of these permits for existing development due to the fact that so much of his property may be located in the 100-year flood plain and was not built to comply with these County laws. *This criterion has been met.*

3.04 **(3) Will not conflict with farm or forest uses in the area:**
(a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
(b) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

Applicant: Response to (3)(a) and (b) above: The proposed use of the applicant's property for a marina will not force any change in, or increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands. The subject marina property is separated from farmlands to the northeast by the approximate 800-foot wide river channel and the approximately 150-foot width levee/earthen berm on the opposite bank. The rights-of-way for US Highway 30, the Burlington Northern Rail line and NW Marina Way provide more than 200-feet of separation between the A-1 Marina property and the adjacent forestlands that occupy higher elevations to the southwest. Nearby farming practices on Sauvie Island and forest practices in the west hills may have some offsite impacts such as dust, noise, chemical drift in the wind, and similar effects. The proposed single floating residence and boat marina uses are sufficiently separated and buffered from these adjacent farming and forest activities by the above noted natural and built features. And conversely, the adjacent farm and forest areas are similarly separated and buffered from any noise, fumes, lights, traffic, or other offsite effects that may be generated from the proposed marina activities and the single floating residence.

Vehicular access to the marina site is through the entry gate from NW Marina Way; the access point is more than 2 miles from the nearest access to farms on Sauvie Island. No interference by traffic entering the applicant's property should be experienced by nearby farmers or timber operators because NW Marina Way does not provide access to those nearby farm or forestlands.

The applicant is willing to sign and record a statement that the owners and the successors in interest in the A-1 Marina property acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices, consistent with State law. Given the property owner's acceptance of this acknowledgement, the proposed use will not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands.

Staff: As stated by the applicant the proposed use will not force any change in, or increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands. The proposed project is not adjacent to any farm or forest use, with farmlands being located across the Multnomah Channel, and forestlands being located across US Highway 30 and the railroad southwest of the subject property in higher elevations. As stated in the application, the landowner is willing to sign and record a statement that the owners and the successors in interest in the A-1 Marina Property acknowledge the rights of owners nearby property to conduct forest operations and farming practices. *This criterion is met.*

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

Applicant: The subject property is served by Burlington Water District and an on-site sewage disposal system has been authorized under Building Permit 2008-130825-000-00-SE. The land feasibility study concluded that: "SOILS APPROVED FOR 360SF SAND FILTER FOR MARINA AND DWELLING EQUAL TO 6 BEDROOMS."

The proposed marina, with accessory boat repair and storage for 45-boats, one single residence and a temporary health hardship dwelling will have a negligible effect on public services in terms of schools, roads, utilities, police or fire suppression.

Staff: Service provider forms (Exhibit A.13) have been reviewed and submitted for water service (Burlington Water District), on-site sewage disposal system, and fire flow and access demonstrating that services are available that will not require public services other than those existing or programmed for the area.

Hearings Officer: The development of the site, if shown to be feasible in a future land use review, will not require public services other than those existing or programmed for the area. On the current record, it is not clear whether the proposed septic system plan is feasible given the fact that such a large area of the property is located in the flood plain. A review for compliance with the flood plain rules of Chapter 29 is needed to make this determination. Such a review has not been requested or conducted. *This criterion is not met.*

3.06 **(5) 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;**

Applicant: The project site is not within a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife. This criterion is met.

Staff: Staff concurs.

3.07 **(6) Will not create hazardous conditions; and**

Applicant: The proposed boat lift and reconfigured docks and slips have been designed to provide adequate upland and water areas for safe maneuvering of boats being stored, repaired or launched. The marina docks and other in-water structures are designed and arranged to maintain sight visibility near the riverward corners of the lease area, providing clear lines of sight from the lease area out to the main river channel to reduce potential boating conflicts in adjacent waters.

In response the zoning compliance case UR-06-003, the owner has removed a significant quantity of scrap materials and unsightly equipment. Several inoperable vehicles have also been removed or repaired. A perimeter security fence discourages trespassers from entering the boatyard.

There are no public boat launches or day-use marina activities proposed. The marina will remain gated and available only to those persons leasing boat storage space. There are no gas pumps or other fuel tanks proposed. An above ground water tank already on the site would remain. The tank is used for storing

rainwater that is used for landscape irrigation and dust control.

Staff: First, it should be noted that the code compliance case number for the subject property is UR-06-007, not as referenced by the applicant to be UR-06-003. The applicant has submitted a Greenway and Design Review Plan. No gas pumps or other fuel tanks are proposed and the marina will be gated with access only available for persons leasing boat storage spaces. Service provider forms (Exhibit A.13) have been reviewed and submitted for water service (Burlington Water District), on-site sewage disposal system, and fire flow and access. In addition the applicant has received conditional approval from ODOT for access (Exhibit A.16).

Hearings Officer: A Grading and Erosion Control Permit and Flood Development Permit are required. Retroactive building permits are also needed for existing structures that are being proposed to remain as part of this permit. These regulations are designed to assure that development of the subject property will not create hazardous conditions. It is not clear that the applicant will be able to obtain approval of these permits due to the fact that so much of his property may be located in the 100-year flood plain. As it stands, development of the site may create hazardous conditions. *This criterion has been met.*

3.08 **(7) Will satisfy the applicable policies of the Comprehensive Plan.**

Staff: Compliance with this standard is addressed in Section 7.00 of the Findings below.

4.00 ***Community Service Criteria***

4.01 **MCC 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.

Staff: The applicant has applied for a Design Review approval as part of this application.

4.02 **MCC 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;

Applicant: The A-1 Marina site is located on the mainland (west) side of Multnomah Channel, and within the southern section of the channel that is characterized by houseboat moorages and boat marinas. There are seven (7) marinas and moorages along this reach of Multnomah Channel.

Hearings Officer: ***Please see*** the applicant's findings regarding compliance with 34.6315(A)(1) (Section 3.02 of this decision) for a description of these facilities.

Staff: The character of the area is a rural setting with recreation areas and marinas/moorages along the Multnomah Channel. The subject property currently contains a lawful log salvage operation authorized under Permit No.WRG 4-80. As mentioned by the applicant there is a number of marinas/marinas located adjacent or near the subject property located along the Multnomah Channel. The proposed development is proposing uses consistent with what can already be found in the surrounding area. The subject property is outside the Portland City limits, approximately ¼ mile upstream from the Sauvie Island Bridge. Houseboat moorages and marinas are located along Multnomah Channel's west bank. There are floating homes, boat slips, and docks developed on abutting and adjacent properties upstream and downstream from the A-1 Marina site.

Hearings Officer: The proposed development is consistent with the character of the area if properly landscaped, implemented and operated. The current use of the subject property is not consistent with the

character of the area due to the numerous code violations that are occurring on the property. These must be corrected to achieve compliance with this approval criterion. *This criterion can be met.*

4.03 **(B) Will not adversely affect natural resources;**

Applicant: Trees, shrubs, ornamental and natural landscape plants along the perimeter property lines have been allowed to grow and now provide an effective landscape screen to the adjacent properties. The natural vegetation in the central areas of the site has not been retained, as they would conflict with the marina and boatyard operations.

A new sand filter sewage disposal system will be installed to protect ground and surface water qualities.

Staff: Multnomah Channel is located along the eastern boundary for the subject property and has approximately 310 feet of water frontage. As identified in the submitted Greenway Plan the applicant is proposing to maintain all significant trees and shrubs on the site and to plant supplemental trees and shrubs to enhance the natural scenic qualities within the Greenway. In addition, disturbed areas along the riverbank resulting from installation of proposed finger piers for the travel lift and a new gangway near the upstream lease boundary will be replanted and restored within a brief period of time, and vegetation retained along the riverbank will be supplemented with evergreen and deciduous trees to reduce potential erosion, and partially screen the upland boatyard activities from the river and from adjacent floating homes. In addition, a 150-foot Greenway Building Setback from the Ordinary Low Water Mark has been implemented in the design to prevent additional encroachment of buildings towards the Multnomah Channel. The applicant has also submitted a Certificate of On-Septic demonstrating that the site is capable of providing this service within the subject property and will not impact natural resources. A stormwater certificate will need to be submitted as part of a Grading and Erosion Control Permit review. *This criterion has been met.*

Hearings Officer: I am unable to find that the approval of the proposed development will not adversely affect natural resources. I have not been convinced that the retention of the existing pole barn structure and improvement of a mid-sized parking area in the 100-year flood plain will not adversely affect natural resources associated with the Multnomah Channel. Those resources include the water quality of the river and the fish, birds and other aquatic life that are dependent on the water in the channel and related wetlands and shorelines.

Additionally, a Grading and Erosion Control Permit and Flood Development Permit are required for this project. Retroactive building permits are also needed for existing structures that are being proposed to remain as part of this permit. These permits are designed, in part, to assure that development of the subject property will not adversely affect natural resources. It is not clear that the applicant will be able to obtain approval of these permits for existing development due to the fact that so much of his property may be located in the 100-year flood plain and was not built to comply with these County laws. *This criterion has been met.*

4.04 **(C) Will not conflict with farm or forest uses in the area;**

Applicant: The subject property is separated from farmlands to the northeast by the river and levee on the opposite bank. US Highway 30, Burlington Northern Rail line and NW Marina Way rights-of-way separate the marina site from the adjacent forestlands that occupy higher elevations to the southwest. Nearby farming practices on Sauvie Island may have some offsite impacts such as dust, noise, chemical drift in the wind, and similar effects. The proposed single floating residence and boat marina uses are sufficiently separated and buffered from adjacent farming and forest activities by the above noted natural and built features.

If required, the property owner will sign and record a statement acknowledging that the A-1 Marina owners and successors in interest recognize the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices.

Staff: As stated by the applicant the proposed use will not force any change in, or increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands. The proposed project is not adjacent to any farm or forest use, with farmlands being located across the Multnomah Channel, and forestlands being located across US Highway 30 and the railroad southwest of the subject property in higher elevations. As stated in the application, the landowner is willing to sign and record a statement that the owners and the successors in interest in the A-1 Marina Property acknowledge the rights of owners nearby property to conduct forest operations and farming practices. *This criterion is met.*

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

Applicant: The subject property is served by Burlington Water District for potable water and water for fire protection. An on-site sewage disposal system has been authorized under Building Permit 2008-130825-000-00-SE. The land feasibility study concluded that: *"SOILS APPROVED FOR 360SF SAND FILTER FOR MARINA AND DWELLING EQUAL TO 6 BEDROOMS."*

The proposed 45-boat marina, with accessory marine-related construction and repair and one floating residence, will have negligible effects on demands for public services in terms of schools, roads, utilities, police or fire suppression.

Staff: Service provider forms (Exhibit A.13) have been reviewed and submitted for water service (Burlington Water District), on-site sewage disposal system, and fire flow and access demonstrating that services are available that will not require public services other than those existing or programmed for the area.

Hearings Officer: The development of the site, if shown to be feasible in a future land use review, will not require public services other than those existing or programmed for the area. On the current record, it is not clear whether the proposed septic system plan is feasible given the fact that such a large area of the property is located in the flood plain. A review for compliance with the flood plain rules of Chapter 29 is needed to make this determination. Such a review has not been requested or conducted. *This criterion is not met.*

4.06 **(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;**

Applicant: The project site is not within a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife.

Staff: Staff concurs.

4.07 **(F) Will not create hazardous conditions;**

Applicant: The proposed boat lift and reconfigured docks and slips have been designed to provide adequate upland and water areas for safe maneuvering of boats being stored, repaired or launched. The marina docks and other in-water structures are designed and arranged to maintain sight visibility near the riverward corners of the lease area, providing clear lines of sight from the lease area out to the main river channel to reduce potential boating conflicts in adjacent waters.

In response the zoning compliance case UR-006-003, the owner has removed a significant quantity of scrap materials and unsightly equipment. Several inoperable vehicles have also been removed or repaired. A perimeter security fence discourages trespassers from entering the boatyard.

Staff: The subject site is located adjacent to the Multnomah Channel. The subject site is mapped as being in the 100-Year Floodplain (Exhibits A.10 and B.6) for the Columbia River.
A Flood Development permit pursuant to MCC 29.603 will be required prior to construction of the project.

The Flood Hazard regulations require that the septic system and private water system and well be designed to withstand infiltration of floodwaters into the system, discharge of materials into floodwater, and be designed to avoid impairment by flood damage. The electrical system must be designed or located to prevent water from entering or accumulating during flood stage.
No gas pumps or other fuel tanks are proposed and the marina will be gated with access only available for persons leasing boat storage spaces.

Hearings Officer: A Grading and Erosion Control Permit and Flood Development Permit are required. Retroactive building permits are also needed for existing structures that are being proposed to remain as part of this permit. These regulations are designed to assure that development of the subject property will not create hazardous conditions. It is not clear that the applicant will be able to obtain approval of these permits due to the fact that so much of his property may be located in the 100-year flood plain. As it stands, development of the site may create hazardous conditions. *This criterion has not been met.*

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

Staff: Compliance with this standard is addressed in Section 7.00 of the Findings below.

4.09 **(H) Will satisfy such other applicable approval criteria as are stated in this Section.**

Applicant: In addition to the Conditional Use criteria of the Zoning Code, all proposed individual houseboats and houseboat moorages must meet Waterfront Uses criteria in Section 11.15.7500 of the Zoning Ordinance. The Waterfront Uses section defines Houseboats to mean "any floating structure designed as a dwelling for occupancy by one family and having only one cooking facility." This definition does not include other types of living quarters such as live-aboard boats, and boathouse "combos".
In the 1970's, the County established a maximum density of one houseboat for each 50 feet of waterfront frontage. However, the state since determined that permitting multiple dwellings (floating or otherwise) on a single rural-zoned parcel is contrary to Goal 14, Urbanization.
Therefore, this application proposes only one floating home for this 310-foot reach of the channel. The floating home would be the single permanent residence on the A-1 Marina site, which is comprised of the upland 2.13 acres parcel and its associated 1.3-acre submerged land lease area. The other floating structures depicted on the site plan are for non-residential boat storage. The temporary health hardship mobile home has been deleted from the proposal.
The proposed permits are not in conflict with Statewide Goal 14 (Urbanization) because the limited scale of the proposal is compatible with the rural and water-related residential and recreational uses on abutting and adjacent properties. The proposal will not adversely affect the east (island) side of Multnomah Channel, which is predominantly zoned Exclusive Farm Use (EFU). As mandated by state law, the EFU district does not allow houseboat moorages, marinas, or new private boat docks.

Staff: No other applicable community service criteria have been identified.

4.10 **MCC 34.6020 RESTRICTIONS**
A building or use approved under MCC 34.6015 through 34.6050 shall meet the following requirements:

(A) Minimum yards in EFU, MUA-20, RR, and RC, Districts:

(1) Front yards shall be 30 feet.

(2) Side yards for one-story buildings shall be 20 feet; for two-story buildings, 25 feet.

(3) Rear yards shall be as required in the district.

Applicant: Applicant requests a 14-foot variance to the front yard minimum dimension to allow the existing pole barn to remain in its current location and configuration. The front yard area west of the pole barn abuts the NW Marina Way right-of-way, which abuts the Burlington Northern (BN) railroad right-of-way. Both Marina Way and BN rights-of-way abut the US-30 Right-of-way. The three transportation corridors have a combined Right-of-way width in excess of 200'. The nearest non-right-of-way properties west of the subject site would not be adversely affected by the proposed reduction to the front yard

dimension. Neighboring lands west of US 30 are separated from the A-1 Marina site by the 200-foot right-of-way as well as by topography.

Staff: The proposed development meets all minimum yard dimensions, except for the pole barn building located in the southwest corner of the property. (Exhibit A.24) The applicant has submitted a variance application requesting a 14-foot variance to the 30-foot minimum front yard requirement for the pole barn. The maximum height of the structures shall be 35 feet. *This criterion has not been met, but a Variance to this front yard standard has been requested as part of this proposal. The Variance Criteria is addressed in Section 10.00 of the Findings.*

5.00 ***Willamette River Greenway***

5.01 **34.5855 GREENWAY DESIGN PLAN (MCC 34.5800-34.5865)**

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.

Applicant: The revised site plan depicts the location of existing and proposed landscaping and addresses proposed plantings, maintenance of the landscaping, and areas of restoration of disturbed areas and existing landscaping along the riverbank. The Greenway Design Plan for the proposed marina would maintain and enhance the landscaped area along the riverbank. Significant site clean up already conducted (refer to attached photographic exhibits) provides scenic and aesthetic enhancement and open spaces between the upland boat storage and repair uses and the river.

Hearings Officer: The applicant has submitted a Greenway and Design Review Plan. The plan was revised many times. The latest version of the plan is dated October 17, 2008 (Exhibit H.8) and was submitted at the land use hearing. This plan does not show that the applicant has provided the maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation between the proposed use and the river. In particular, the plan places about 15 vehicle parking spaces close to the river and fails to show any landscaping between those spaces and the channel. General statements about landscaping were provided but they are insufficient to establish that this area will be the maximum possible landscaped area and scenic and aesthetic enhancement of this area.

The applicant plans to remove vegetation along the riverbank when installing the proposed finger piers for the travel lift and a new gangway near the upstream boundary. The applicant indicated that the area will be replanted and restored but provides very little detail regarding this work. Without detail, it is impossible to determine what must be done to comply with the landscape plan and for the Hearings Officer to know what will be provided after the new facilities are installed. *This criterion has not been met.*

5.02 **(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 urbanizable areas.**

Applicant: The proposed marina will provide additional private accesses to the river. Public access is maintained along the river within NW Marina Way and US Highway 30, which is a designated bicycle route for the region. These routes generally parallel to and near the river are adequate given the rural character of the area.

Security fencing along the south, west and north property boundaries discourages vandalism and trespass. The proposal will not adversely affect areas of annual flooding, flood plains, or water areas. Areas of erosion or potential erosion will be protected from loss by appropriate means. The Greenway Design Plan exceeds the 150-foot minimum building setback line from the river, except for structures in conjunction with a water-related or a water-dependent use.

Staff: The proposed development is proposing a marina consistent with existing marinas and moorages

located along the banks of the Multnomah Channel. The proposal includes: 1 floating home slip, 2 boathouse parking spaces, 20 in-water boat slips, 25 boat spaces on-land, 30 automobile parking stalls, a boat ramp and lift, log salvage yard, and construction and repair activities related to the marina and moorage. The marina will be available for persons leasing boat storage space, providing for additional access, amenities and services for the members of the public leasing marina space to utilize the recreational opportunity of the Multnomah Channel. River access through the site is not proposed for the general public.

Hearings Officer: Testimony was received from project neighbors that public access for boats is required and that the design of the site plan precludes required public access. It is claimed that other marinas provide good public access and this claim is supported by aerial photographs. The applicant did not respond to this concern so I am unable to determine whether reasonable public access along the river has been provided by this site plan. Additionally, this criterion implies that some type of access by the general public is required and the proposed site plan proposes none other than by business customers. No public access is not "reasonable public access." *This criterion has not been met.*

5.03 **(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.**

Applicant: The existing boat ramp and proposed travel lift directs the boat repair and upland boat storage away from the river.

Hearings Officer: It is not clear from the applicant's WRG site plan that the proposed development has been directed away from the river to "the greatest possible degree." The placement of parking spaces along the river bank is not consistent with a development that is directed away from the river. If the amount of boat storage on land was reduced, the parking areas could be moved away from the river to a less visible location. *This criterion has not been met.*

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

Applicant: The site size and adjacent water and rights-of-way buffer the boat repair/storage from adjacent agricultural or forest resource lands. There are no agricultural lands on the subject 2.13-acre site.

Staff: The site is not being used for farm purposes. As stated by the applicant the proposed use will not force any change in, or increase the cost of accepted farming practices on surrounding agricultural lands. The proposed project is not adjacent to any farm use, with farmlands being located across the Multnomah Channel. As stated in the application, the landowner is willing to sign and record a statement that the owners and the successors in interest in the A-1 Marina Property acknowledge the rights of owners nearby property to conduct forest operations and farming practices.

Hearings Officer: The subject property is not agricultural land. *This criterion does not apply.*

5.05 **(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.**

Applicant: The Greenway Design Plan maintains all significant trees and shrubs on the site; supplemental trees and shrubs indicated on the plan will enhance natural scenic qualities within the Greenway. There is no timber harvest proposed as part of this project.

Staff: No commercial harvesting of timber is proposed. *This criterion does not apply.*

5.06 **(F) Recreational needs shall be satisfied by public and private means in a manner consistent**

with the carry...g capacity of the land and with minimum conflicts with farm uses.

Applicant: The proposed marina provides recreational facilities in a manner and scale consistent with the carrying capacity of the land and without adverse effects to farm uses. The site has adequate areas for parking, boat storage, and landscaping and buffers sufficient to ensure minimum conflicts with the closest farm uses across the river on Sauvie Island.

Staff: The proposed project is in the vicinity of, but not technically adjacent to any farm use, with farmlands being located across the Multnomah Channel. The proposed project addresses recreational opportunities available in the Multnomah Channel and provides services and amenities consistent with the carrying capacity of the land with minimal conflicts with farm uses. Both in-water and in-land development that serves the recreation needs. The applicant has submitted service provider forms (Exhibit A.13) indicating that the land can support the services necessary for the development. *This criterion has been met.*

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

Applicant: The new pilings, docks, and floating walkways will be installed pursuant to Corps and DSL permits and reviews and utilizing best management practices to avoid adverse effects to fish habitats within the channel. There are no wildlife habitats identified or affected by the proposed project.

Staff: Staff concurs that there are no significant wildlife habitats identified or affected by the proposed project. All in-water work will be required to be installed with best management practices and will be reviewed by other agencies consistent with those permitting agencies requirements. A condition is recommended to the Hearings Officer that the applicant be required to obtain all applicable Federal, State and Local permits for the project. *As conditioned, this criterion has been met.*

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

Applicant: The applicant has performed extensive site clean up as documented in the photographic exhibits submitted with the applications. The site clean up provides scenic and aesthetic enhancement and open spaces between the upland boat storage and repair uses and the river. There are no significant natural and scenic areas or viewpoints and vistas affected by the proposed marina or floating home uses.

Staff: The subject property is not located within significant scenic areas and viewpoints and vistas. Natural areas are being preserved and are addressed in plantings and re-vegetation of disturbed areas as identified in the submitted site plans. The applicant has entered signed a Voluntary Compliance Agreement addressing the use of the property as a junkyard. Significant clean-up efforts have occurred enhancing the visual aesthetic of the subject property. The proposal includes significant landscaping and structural improvements as well to improve the natural area. *This criterion has been met.*

5.09 **(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.**

Applicant: Security fencing along the south, west and north property boundaries discourage vandalism and trespass.

(Below responses taken from Applicant response letter received October 6, 2008)
The marina is not open after dark. Night time illumination of the boatyard is provided by three wall-mounted lights on the pole barn; one light is mounted at the two northerly building corners and the third light is in the center of the long-side wall. Each wall-mount light is 18-feet above grade and directed towards the boat yard areas onsite to allow surveillance. The lights are high-pressure sodium vapor, which have an amber hue. The existing 100-foot gangway has 10 low level (15-watt) lights spaced 10-feet apart to illuminate the walk while minimizing excessive or bright lighting directed towards the river. The two new gangways proposed on the plan would have similar low scale lighting.

Staff: As indicated by the applicant a security fence along the south, west and north of the property currently exists and provide for public safety and protection of public and private property. The marina will also be gated with access only available for persons leasing boat storage spaces. The marina is not open in the dark. As mentioned by the applicant, night time illumination of the boatyard is provided by three wall-mounted lights on the pole barn; one light is mounted at the two northerly building corners and the third light is in the center of the long-side wall. Each wall-mount light is 18-feet above grade and directed towards the boat yard areas onsite to allow surveillance. The existing 100-foot gangway has 10 low level (15-watt) lights spaced 10-feet apart to illuminate the walk while minimizing excessive or bright lighting directed towards the river. The two new gangways proposed on the plan would have similar low scale lighting. *This criterion has been met.*

5.10 **(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.**

Applicant: The Greenway Design Plan maintains all significant trees and shrubs on the site; supplemental trees and shrubs indicated on the plan will enhance natural scenic qualities within the Greenway. Disturbed areas along the riverbank resulting from installation of proposed finger piers for the travel lift and a new gangway near the upstream lease boundary will be replanted and restored within a brief period of time. Vegetation retained along the riverbank will be supplemented with evergreen and deciduous trees to reduce potential erosion, and partially screen the upland boatyard activities from the river and from adjacent floating homes.

Staff: Multnomah Channel is located along the eastern boundary of the subject property and has approximately 310 feet of water frontage. As identified in the submitted Greenway Plan the applicant is proposing to maintain all significant trees and shrubs on the site and to plant supplemental trees and shrubs to enhance the natural scenic qualities within the Greenway. In addition, disturbed areas along the riverbank resulting from installation of proposed finger piers for the travel lift and a new gangway near the upstream lease boundary will be replanted and restored within a brief period of time, and vegetation retained along the riverbank will be supplemented with evergreen and deciduous trees to reduce potential erosion, and partially screen the upland boatyard activities from the river and from adjacent floating homes. The proposed vegetation plantings along the riverbank of the channel shall be designed by a biologist or the Soil Conservation Service to ensure that it will enhance the channel. A condition has been recommended to the Hearings Officer, that prior to authorization of any building permits, a copy of the vegetation/landscaping plan shall be submitted to the County for review and approval. *As conditioned, this criterion has been met.*

Hearings Officer: This condition of approval requires the County to make a subjective determination regarding the success of the site plan in achieving specified goals. Staff has recommended a condition of approval to require a deferred review of a vegetation/landscape plan as the submitted plans fail to provide sufficient information to find compliance with applicable criteria. In order to impose a condition of this type, I must find that it is feasible for the applicant to comply with the condition. I am unable to make that finding. I am concerned that if I approve the full extent of development proposed for the property and the parking area configuration shown that either might conflict with the applicant's ability to achieve compliance with this criterion. It seems likely that the site plan layout would need to be revised to achieve compliance with the "maximum extent practicable" requirement. Without detailed plans and a description of the existing natural vegetation, other than trees, I cannot determine that the applicant has or can meet this condition. *This criterion is not met.*

5.11 **(K) (*** Extraction of Aggregated Deposits. Not applicable)**

5.12 **(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.**

Applicant: The proposal will not adversely affect areas of annual flooding, flood plains, or water areas. The 100-year floodplain boundary is noted on the submitted survey as the 27-foot elevation contour line. The only new structures proposed are the floating home and boathouse structures that will be moored within the waterway lease area and will float above the floodwaters during such events. The carport structure on land indicated on the survey contains covered parking for five (5) vehicles, two (2) of which would be designated for the single floating home. The carport structure is located between the 30-foot and 31-foot elevation contour lines depicted on the submitted survey and therefore the two (2) parking spaces designated for the floating home are three (3) to four (4) feet above the 27-foot elevation contour line, which is the 100-year flood elevation. Therefore, the survey demonstrates that the 2 houseboat parking spaces within the carport and access to said parking spaces from NW Marina Way is entirely on those areas of the site above the 29-foot contour line and therefore 2-or-more-feet above the 100-year flood elevation.

Hearings Officer: The subject site is located adjacent to the Multnomah Channel. There are no identified wetlands on the subject property. The subject site is mapped as being in the 100-Year Floodplain (Exhibit A.10) for the Columbia River. The 1986 FIRM map shows that most of the subject property is in the flood plain. The application and its review by the County assumed that most of the subject property was located outside of the flood plain. The applicant's plan, that proposes to retroactively approve intensive development of most of the subject property at the expense of remaining or previously existing natural conditions, has not been shown to preserve the natural state of the flood plain part of the subject property. *This criterion has not been met.*

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

Applicant: There are no significant wetlands on the site.

Staff: Staff concurs. *This criterion has been met.*

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

Applicant: There are no known areas of ecological, scientific, historical or archaeological significance on the site.

Staff: Staff concurs. *This criterion has been met.*

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

Applicant: Areas of erosion or potential erosion will be protected from loss by appropriate means.

Staff: It is unclear what the applicant will do to protect the property from erosion The information provided on this topic is too scanty to support a finding that areas of erosion or potential erosion will be protected, as required by this criterion. *This criterion is not met.*

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

Applicant: The proposed 45-boat marina, with limited accessory marine-related construction and repair and one floating residence, will not create adverse or excessive off-site effects to air, water, or land resources in and adjacent to the Greenway. The scale of the marine-related construction and repair and boat storage has been limited to 45-boats (20-in-water; 25-upland) to demonstrate compatibility with the Greenway environs. The upland boat storage is rural in character with all boats are stored at grade and not

within multi-level racks or buildings. The plan includes one single residence (floating home) and on-site sewage disposal to protect water qualities in the area.

Hearings Officer: The applicant has not proven that the quality of the water and land resources in and adjacent to the Greenway will be preserved once the development plan is complete. The quality of the land was not protected by prior, unauthorized development of the site. Its appearance is marked different than that of other nearby marinas, especially as it relates to the preservation of green, open spaces. As this development occurred without permits and this process seeks to legalize that development, the condition prior to development is relevant and some restoration or intensive preservation of what little natural resources remain on site is needed to achieve compliance with this goal. *This criterion has not been met.*

5.17 **(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 resource districts, except for non-dwellings provided in conjunction with farm use and except for buildings and structures in conjunction with a water-related or a water dependent use.**

Applicant: The only new structures proposed on the site are the floating home and non-residential boathouse structures that will be moored within the waterway lease area. These water-related and water-dependent uses/structures are not subject to the 150-foot greenway setback from the ordinary low waterline of the Willamette River. The 150-foot building setback line has been added to the site plan.

Staff: A 150-foot building setback from the Ordinary Low Water Mark has been provided and identified for in the site plan. There is one floating home proposed with the rest of the in-water uses for non-residential boathouse structures being moored. *This criterion has been met.*

5.18 **(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.**

Applicant: The application includes a Design Review Permit request.

Staff: A Design Review request has been submitted and is addressed in Section 9.00 in the Findings below. *This criterion has been met.*

5.19 **(S) The applicable policies of the Comprehensive Plan are satisfied.**

Staff: This is addressed in Section 7.00 of the Findings below.

6.00 *Waterfront Uses*

6.01 **MCC 34.6750- HOUSEBOATS AND HOUSEBOAT MOORAGE**

(* * *)

(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;

Applicant: The A-1 Marina site is located on the mainland (west) side of Multnomah Channel, and within a section of the channel that is characterized by houseboat moorages and boat marinas. There are seven (7) marinas and moorages along this reach of Multnomah Channel * * *.

Hearings Officer: *Please see* the applicant's findings regarding compliance with 34.6315(A)(1) (Section 3.02 of this decision) for a description of these facilities.

Staff: The proposed development is proposing a marina consistent with existing marinas and moorages located along the banks of the Multnomah Channel. The proposal includes: 1 floating home slip, 2 boathouse parking spaces, 20 in-water boat slips, 25 boat spaces on-land, 30 automobile parking stalls, a boat ramp and lift, log salvage yard, and construction and repair activities related to the marina and moorage. The marina will be available for persons leasing boat storage space, providing for additional access, amenities and services for the public to utilize the recreational opportunity of the Multnomah Channel. In addition, the proposal will be located between two similar uses on the same side of the Multnomah Channel. *This criterion has been met.*

6.02 **(2) The development will not adversely impact, or be adversely affected by normal fluvial processes;**

Applicant: The proposed A-1 Marina -- with its associated boat repair activities, wet and dry boat storage areas, a new travel-lift for launching boats in the boatyard, and a single floating home -- is similar to the de facto use of the property for the past quarter century. The site has sufficient channel width and depth to support the proposed marina and single floating home.

Staff: The proposed development is proposed to be located on a subject property that should not be adversely affected by normal fluvial processes with the docks being able to rise and fall with the river, and the ramps being able to pivot naturally with the water. The site has been operating as a log salvage yard with existing in-water use. *This criterion has been met.*

Hearings Officer: This criterion is focused on activity occurring in the river and looks to "normal" fluvial processes such as erosion and typical changes in the level of the river. It does not apply to an unusual event such as a 100-year flood event.

6.03 **(3) All other applicable governmental regulations have, or can be satisfied; and**

Applicant: The applicant initially sought permits in 1977 "... to construct a commercial moorage, boat launching ramp, and boat repair facilities along the Multnomah Channel..." (Reference: Corps of Engineers Public Notice 071-OYA-2-002743 dated November 23, 1977). The Port of Portland issued permit 78-06 in January 1978 and permit 80-20 in May 1980 authorizing the work described in the Corps notice cited above. In 1980, Multnomah County issued Willamette River Greenway permit WRG 4-80, which authorized "log salvage" and a 20-year submerged land lease (ML 7112) was secured from the Division of State Lands in 1989. The applicant has contacted the DSL concerning the process to renew and modify the waterway lease that will expire in June 2009.

The Oregon Department of Transportation approved the driveway approaches on June 17, 2008 (ODOT Application #7837). The ODOT approval requires the drive approaches to be paved and striped and marked to indicate the entrance and exit.

The applicant has a Site Evaluation Report completed by Michael Ebling, City of Portland Sanitarian (Permit#08-130825-SE), which authorizes a sand filter septic system on the site.

The project is exempt from the Storm Water Certificate because the new pavement required for the driveway approaches is pervious/porous material per ODOT specifications and removal of the temporary mobile home has reduced new impervious surfaces necessitating a storm water certificate below the 500-square foot threshold.

Staff: Service provider forms (Exhibit A.13) have been reviewed and submitted for water service (Burlington Water District), on-site sewage disposal system, and fire flow and access. In addition the applicant has received conditional approval from ODOT for access (Exhibit A.16). The applicant is also working with the Division of State Lands to renew and modify the waterway lease set to expire in June 2009.

Hearings Officer: The applicant submitted evidence of very old approvals and did not include copies of approved plans. From this record, it is impossible to tell if the prior approvals authorized the proposed development. As the applicant has indicated that it is intensifying the use and is proposing to add a new area to the existing DSL permit, it is unlikely that the old permits authorize the development proposed. These permits are the Port of Portland permit, the DSL permit and the Corp of Engineers approval. The applicant has not attempted to explain what other governmental regulations might apply and how they are met. Also the Division of State Lands has the legal authority to deny the request to expand the leased area. As the site plan requires the use of this area, this approval is needed for proposed design to be feasible. *This criterion is not met.*

6.04 **(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.**

Applicant: The subject property is served by Burlington Water District and an on-site sewage disposal system has been authorized under Building Permit 2008-130825-000-00-SE. The land feasibility study concluded that: *"SOILS APPROVED FOR 360SF SAND FILTER FOR MARINA AND DWELLING EQUAL TO 6 BEDROOMS."*

The proposed marina, with accessory boat repair and storage for 45-boats, and one single residence will have a negligible effect on public services in terms of schools, roads, utilities, police or fire suppression.

Staff: Service provider forms (Exhibit A.13) have been reviewed and submitted for water service (Burlington Water District), on-site sewage disposal system, and fire flow and access demonstrating that services are available that will not require public services other than those existing or programmed for the area.

Hearings Officer: The development of the site, if shown to be feasible in a future land use review, will not require public services other than those existing or programmed for the area. On the current record, it is not clear whether the proposed septic system plan is feasible given the fact that such a large area of the property is located in the flood plain. A review for compliance with the flood plain rules of Chapter 29 is needed to make this determination. Such a review has not been requested or conducted. *This criterion is not met.*

6.05 **MCC 34.6760 PARKING**

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

Applicant: The revised site plan identifies the location of two parking spaces in the carport for the houseboat, one parking space per two boat slips (23-spaces for 45 boats), and seven (7) parking spaces to accommodate the accessory marina uses proposed on site.

Staff: One houseboat is allowed and is proposed for the project. Two automobile spaces are identified on the site-plan and are located within the carport.

Hearings Officer: The spaces proposed have not been shown to comply with the requirements of subsection (B), below. *This criterion has not been met.*

(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.

Applicant: The 100-year floodplain boundary is noted on the submitted survey as the 27-foot elevation contour line. The carport structure on land indicated on the survey contains covered parking for five (5)

vehicles, two (2) of which would be designated for the single floating home. The carport structure is located between the 30-foot and 31-foot elevation contour lines depicted on the submitted survey and therefore the two (2) parking spaces for the floating home are three (3) to four (4) feet above the 27-foot elevation contour line, which is the 100-year flood elevation. Therefore, the survey demonstrates that the 2 houseboat parking spaces within the carport and access to said parking spaces from NW Marina Way is entirely on areas of the site above the 29-foot contour line and therefore 2-or-more-feet above the 100-year flood elevation. The criterion is met.

Staff: The subject site is located adjacent to the Multnomah Channel. The subject site is mapped as being in the 100-Year Floodplain (Exhibits A.10 and B.6) for the Columbia River.

Hearings Officer: The applicant has failed to establish that the parking area and ingress and egress to the parking area will be constructed two feet above the elevation of the 100 year flood boundary. The 1986 FIRM map, Exhibit A. 10, shows that only a small part of the subject property is outside of the 100-year flood boundary. The applicant's Existing Conditions map shows that there is not two feet of elevation gain in the part of the property located outside of the mapped flood plain area. In addition, more current maps indicate that the flood elevation is 31 feet and no part of the subject property is located at 33 feet in elevation or higher. This means that the request for approval of the houseboat (singular floating dwelling) must be denied. *This criterion is not met and cannot be met through the imposition of a condition of approval.*

6.06 **MCC 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.

Applicant: Acknowledged.

(Below responses taken from Applicant response letter received October 6, 2008)
The existing 100-foot gangway has 10 low level (15-watt) lights spaced 10-feet apart to illuminate the walk while minimizing excessive or bright lighting directed towards the river. The two new gangways proposed on the plan would have similar low scale lighting.

Staff: All ramps, walkways and moorage spaces shall be designed, constructed and maintained to provide maximum safety in all weather conditions. Staff recommends a condition of approval be applied reflecting this requirement for the installing the improvements for the proposal.

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

Applicant: The lighting plans for the single floating home are not known at this time. Applicant suggests that specific lighting requirements may be attached as conditions to the requested conditional use permit.

(Below responses taken from Applicant response letter received October 6, 2008)
The marina is not open after dark. Night time illumination of the boatyard is provided by three wall-mounted lights on the pole barn; one light is mounted at the two northerly building corners and the third light is in the center of the long-side wall. Each wall-mount light is 18-feet above grade and directed towards the boat yard areas onsite to allow surveillance. The lights are high-pressure sodium vapor, which have an amber hue. The existing 100-foot gangway has 10 low level (15-watt) lights spaced 10-feet apart to illuminate the walk while minimizing excessive or bright lighting directed towards the river. The two new gangways proposed on the plan would have similar low scale lighting.

Staff: Adequate lighting shall be provided for the safety of residents and visitors. Staff recommends that a condition of approval be that a lighting plan shall be submitted as part of the Building Permit Review for review and approval. Any artificial lighting which may be provided shall be shielded or deflected so as to

not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street.

6.08 **(C) Siting and design of all pickup and delivery facilities shall insure maximum convenience with minimum adverse visual impacts.**

Applicant: The loading and boat launching areas are indicated on the design review plan and described in the narrative. The existing and proposed landscaping will ensure minimum adverse visual impacts from these activities, which are sited for maximum convenience.

Hearings Officer: It is not clear from the site plan that the site plan design of pickup and delivery facilities insures maximum convenience with minimum adverse visual impacts. *This criterion has not been met.*

7.00 ***Comprehensive Plan Policies***

Applicant: The proposed 45-boat marina, with limited accessory marine-related construction and repair and one floating residence, is consistent with the County's plans and policies listed below:

Policy 2: Off-site Effects
Policy 10: Multiple Use Agricultural Land
Policy 13: Air, Water, and Noise Quality
Policy 14: Development Limitations
Policy 15: Willamette River Greenway
Policy 16: Housing Choices
Policy 21: Housing Location
Policy 26: Houseboats
Policy 27: Commercial Location
Policy 31: Community Facilities and Uses
Policy 34: Traffic Ways
Policy 37: Utilities
Policy 38: Facilities
Policy 39: Parks and Recreation
Statewide Goal 14: Urbanization

The Greenway Design Plan for the A-1 Marina applications is consistent with the Sauvie Island Rural Area Plan as paraphrased and discussed below.

The Multnomah Channel area is outside of the Portland Metropolitan Area's Urban Growth Boundary; it is supposed to remain rural in nature. County Comprehensive Plan Policies affecting Multnomah Channel include:

POLICY 15 Willamette River Greenway
The Comprehensive Framework Plan states that Multnomah County is to protect the natural scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River. It is also the County's policy to require special procedures for review of certain types of development allowed in the underlying base zone in order to ensure the minimum impact on the values identified within the various areas.

POLICY 26 Houseboats
The Comprehensive Framework Plan states that Multnomah County's policy on houseboats is to assist in providing a broad range of housing options that conforms with other County policies concerning off-site effects, air, water and noise quality, the Willamette River Greenway, natural resources, housing choice, housing location, capital improvements, traffic ways, transportation system development, utilities and facilities; and any other applicable federal, state or local policies that regulate waterway area development.

The proposed floating home is consistent with location criteria regarding the mean low water line, protection from siltation, wind, wave action, icy conditions and other hazards, adequate land area to accommodate related facilities, ensuring proper maintenance of dikes, preservation of upland recreational, ecological or wildlife habitat values and exclusion from Exclusive Farm Use zoned uplands.

The areas identified in Policy 26 of the Multnomah County Comprehensive Plan includes the existing A-1 Marina site. The proposed single floating home is consistent with the County's plan policies.

7.01 **Statewide Planning Goal 14 (Urbanization)**

Applicant: The proposed permits are not in conflict with Statewide Goal 14 (Urbanization) because the limited scale of the proposal is compatible with the rural and water-related residential and recreational uses on abutting and adjacent properties.
The proposal will not adversely affect the east (island) side of Multnomah Channel, which is predominantly zoned Exclusive Farm Use (EFU). As mandated by state law, the EFU district does not allow houseboat moorages, marinas, or new private boat docks. In the 1970's, the County established a maximum density of one houseboat for each 50 feet of waterfront frontage. However, the state since determined that permitting multiple dwellings (floating or otherwise) on a single rural-zoned parcel is contrary to Goal 14, Urbanization.
Therefore, this application proposes only one floating home for this 310-foot reach of the channel. The floating home would be the single permanent residence on the A-1 Marina site, which is comprised of the upland 2.13 acres parcel and its associated 1.3-acre submerged land lease area. The other floating structures depicted on the site plan are for non-residential boat storage.

7.02 **Policy 2 Off-Site Effects**
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.

Applicant: The subject property is served by Burlington Water District for potable water and water for fire protection. An on-site sewage disposal system has been authorized under Building Permit 2008-130825-000-00-SE. The land feasibility study concluded that: *"SOILS APPROVED FOR 360SF SAND FILTER FOR MARINA AND DWELLING EQUAL TO 6 BEDROOMS."*

Hearings Officer: If this application were approved, conditions of approval would have been imposed to achieve the goals described in Policy 2.

7.03 **Policy 10 Multiple Use Agricultural Land**
The County's policy is to designate and maintain as multiple use agriculture land, areas which are:
A. Generally agricultural in nature, with soils, slope and other physical factors indicative of past or present small scale farm use;
B. Parcelized to a degree where the average lot size, separate ownerships, and non-farm uses are not conducive to commercial agricultural use;
C. Provided with a higher level of services than a commercial agricultural area has; or
D. In agricultural or micro-climates which reduce the growing season or affect plant growth in a detrimental manner (flooding, frost, etc.).
The County's policy, in recognition of the necessity to protect adjacent exclusive farm use areas, is to restrict multiple use agricultural uses to those compatible with exclusive farm use areas.

Applicant: The proposed 45-boat marina, with accessory marine-related construction and repair and one floating residence, would not create adverse or excessive off-site effects. The scale of the boat repair and storage has been limited to 45-boats (20-in-water; 25-upland) to demonstrate compatibility with the MUA-20 environs. The upland boat storage is rural in character; all boats are stored at grade and not within large or multi-level buildings. There are no stacked boat racks or multi-level (urban style) boat warehouses

proposed. The plan includes one single residence (floating home). The site will have on-site sewage disposal to protect water qualities in the area. The existing pole barn/storage building is situated outside the flood hazard area, and the floating home will be designed to float above any floodwaters that may affect the site. The existing barn/storage building exceeds the 150-foot Greenway Setback required from the top of the bank. The proposed single floating home will have a negligible effect on demand for public services such as schools, roads, utilities, and police or fire suppression. The floating home proposed is located within the areas identified in Policy 26 as suitable for houseboats, and the site plan and topography survey indicates that 2 parking spaces elevated at least 2-feet above the 100-year flood (and access thereto) can be provided for the floating home. The proposed marina with a boat ramp and lift, and in-water and upland boat storage, provides additional recreational boating facilities to the area, consistent with community service use and recreation planning policies. The proposal will not adversely affect the east (island) side of Multnomah Channel, which is predominantly zoned Exclusive Farm Use (EFU). As mandated by state law, the EFU district does not allow houseboat moorages, marinas, or new private boat docks.

Hearings Officer: This policy does not apply to the County's quasi-judicial review of this application as it is a policy that guides the zoning of land and the contents of the County's MUA zoning regulations.

7.04 **Policy 13 Air, Water and Noise Quality**
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: ***[Amended 1999, Ord. 933 § III]***

1. **Building placement on the site in an area having minimal noise level disruptions.**

2. **Insulation or other construction techniques to lower interior noise levels in noise-impacted areas.** ***[Amended 1999, Ord. 933 § III]***

Applicant: The above described log salvage and marine-related construction activities have been conducted at the A-1 Marina site under County Permit WRG 4-80 for almost 30-years. The 2008 CU and CS Permit applications seek authorization to continue marina and moorage related construction and repair activities within the waterway lease area, limited to the days and hours of operation noted above. Further, the in-water construction and repair activities would employ best management practices to protect ground, air, and water qualities, and are limited in scale, accessory to the requested marina and moorage uses, and would have minimal external effects in terms of noise, fumes, odors, vibration, or other off-site impacts.

Hearings Officer: The proposed uses of boat repair and construction and log salvage are noise generators. The houseboat is a noise-sensitive use. It will be impacted by noise from the boat repair and salvage uses. It is not clear that buildings have been placed on the site where they will have minimal noise level disruptions or that techniques have been used to lower interior noise levels. This is the finding that must be made to find compliance with Policy 13. *This criterion has not been met.*

7.05 **Policy 15 Willamette River Greenway**
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.

Applicant: The Comprehensive Framework Plan states that Multnomah County is to protect the natural scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River. It

is also the County's policy to require special procedures for review of certain types of development allowed in the underlying base zone in order to ensure the minimum impact on the values identified within the various areas.

Hearings Officer: This policy does not provide independent approval criteria. It is fully implemented by the County's WRG zone regulations – the special provisions that ensure minimum impacts.

7.06 **Policy 26 Houseboats**

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 (Willamette River Greenway), 16 (Natural Resources), 21 (Housing Choice), 24 (Housing Location), 32 (Capital Improvements), 34 (Trafficways), 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, ice 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:

1. **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).
2. **Oregon Slough.**

* * *

Houseboats and moorages existing outside these areas shall be limited to existing sites and levels of development.

No houseboats shall be located on the Columbia River east of the Sandy River, or in violation of Federal Aviation Administration clear zone standards, or in violation of any other applicable federal, state or local standards.

Applicant: The Comprehensive Framework Plan states that Multnomah County's policy on houseboats is to assist in providing a broad range of housing options that conforms with other County policies concerning off-site effects, air, water and noise quality, the Willamette River Greenway, natural resources, housing choice, housing location, capital improvements, traffic ways, transportation system development, utilities and facilities; and any other applicable federal, state or local policies that regulate waterway area development.

The proposed floating home is consistent with location criteria regarding the mean low water line, protection from siltation, wind, wave action, icy conditions and other hazards, adequate land area to accommodate related facilities, ensuring proper maintenance of dikes, preservation of upland recreational, ecological or wildlife habitat values and exclusion from Exclusive Farm Use zoned uplands.

The areas identified in Policy 26 of the Multnomah County Comprehensive Plan includes the existing A-1 Marina site. The proposed single floating home is consistent with the County's plan policies.

Staff: Staff concurs with the applicant in that the subject property is located in area suitable for houseboats as identified in the policy. *This policy is met.*

7.07 **Policy 34 Traffic Ways**
The purpose of this policy is to direct the County to develop the existing trafficway system to maximize efficiency, and to consider the mobility of pedestrians by providing safe crossings.

The County's policy is to develop a safe and efficient trafficway system using the existing road network, and by:

- **A. Maintaining a trafficway classification system;**
- **B. Improving streets to the standards established by the classification system, where necessary and/or appropriate, to mitigate identified transportation problems;**
- **C. Placing priority on maintaining the existing trafficways;**
- **D. Developing additional transportation facilities to meet community and regional transportation needs where capacity of the existing system has been maximized through transportation system management and demand management measures;**
- **E. Providing a safe and convenient pedestrian environment with road crossings and sidewalk network designed for pedestrian travel;**
- **F. Limiting the number of, and consolidating ingress and egress points, on arterials and major collectors to preserve traffic flow;**
- **G. Reducing reliance on the automobile and assuring that the planned transportation system supports patterns of travel and land use which will avoid or mitigate problems of air pollution, traffic congestion and community livability;**
- **H. Encouraging ride-share and flextime programs to help meet the projected increase in travel demand. The County will work with METRO and Tri-Met to develop ride-share programs, flextime and other transportation demand strategies to achieve the ride-share goal given in the Regional Transportation Plan; and**
- **I. Implementing the Street Standards Chapter 11.60 and street standards codes and rules, including adherence to access control and intersection design guideline criteria, and establishing a procedure for allowing variances from that ordinance.**
- **J. Considering and allowing for implementation of regional street design elements (as shown in "Creating Livable Streets: Street Design for 2040" (1997) when planning for improvements to facilities designated on Metro's Regional Street Design Map.** ***[Added 1999, Ord. 926 § 2]***
- **K. Improving local circulation by keeping through trips on arterial streets and minimizing local trip lengths by increasing street connectivity. [Added 1999, Ord. 926 § 2]**

Excluding that portion of Multnomah County included in the Columbia River Gorge National Scenic Area, this policy, and the functional classification of trafficways map accompanying this policy, shall control over conflicting provisions of community plans or other preexisting plans in determining the functional classification of trafficways. Trafficways located within the Columbia River Gorge National Scenic Area are subject to, and superceded by, provisions of the Columbia

River Gorge Scenic Area Management Plan.

Staff: The applicant has obtained Conditional Approval for a State Highway Approach from the Oregon Department of Transportation for the subject property that provides for one entry point and one exit point off NW Marina Way. The on-site circulation pattern allows for two way traffic and allows traffic to circulate on the site without needing to access NW Marina Way. A separate sidewalk system is not proposed. The increase of the accessway between the parking and boat storage stall will allow traffic and space available for pedestrians on the pavement. *This policy has been met.*

7.08 **Policy 14 Development Limitations**

The County's policy is to direct development and land form alterations away from areas with development limitations except upon a showing that design and construction techniques can mitigate any public harm or associated public cost and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:

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

Staff: The soils in the area of development are Sauvie silt loam unit (44) (Exhibit B.6). The Multnomah County Soil Survey indicates that Sauvie silt loam is a poorly drained soil on broad flood plains. Slopes are 0 to 2 percent. Permeability is moderately slow. Run-off is slow and the hazard of erosion is slight. There is no indication of a high seasonal water table or fragipan with this soil. The site is not identified as a slope hazard area, and doesn't have severe soil erosion potential. In addition with the subject property being fairly flat, slumping, earth slides and movement is not prone for the property. The property is located within the flood hazard area.

Hearings Officer: It appears that the 100-year flood plain is more extensive than claimed by the applicant and that the pole barn building and, perhaps, the carport building are located in this flood plain. The applicant has not shown that design and construction techniques for these existing buildings mitigate any potential public harm or associated public cost and impacts on neighbors as required by this policy. *This policy has not been met.*

7.09 **Policy 37 Utilities**

Water and Disposal Systems

- **A. Shall be connected to a public sewer and water system, both of which have adequate capacity; or**
- **B. Shall be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or**
- **C. Shall have an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or**
- **D. Shall have an adequate private water system, and a public sewer with adequate capacity.**

Drainage

- **E. Shall have adequate capacity in the storm water system to handle the run-off; or**
- **F. The water run-off shall be handled on the site or adequate provisions shall be made; and**
- **G. The run-off from the site shall not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjoining lands.**

Energy and Communications

- **H. There shall be an adequate energy supply to handle the needs of the proposal and the development level projected by the plan; and**
- **I. Communications facilities are available.**

Applicant: The subject property is served by Burlington Water District for potable water and water for fire protection. An on-site sewage disposal system has been authorized under Building Permit 2008-130825-000-00-SE. The land feasibility study concluded that: *"SOILS APPROVED FOR 360SF SAND FILTER FOR MARINA AND DWELLING EQUAL TO 6 BEDROOMS."*

The proposed 45-boat marina, with accessory marine-related construction and repair and one floating residence, will have negligible effects on demands for public services in terms of schools, roads, utilities, police or fire suppression. The floating home is anticipated to equal at most 3 bedrooms of demand on the septic system, and a single bathroom for the private marina is the only other demand to be placed on the septic system, which the 3-bedrooms of remaining septic capacity would easily accommodate. Until a bathroom is constructed for the marina members, a portable toilet is provided, which is cleaned at least once per week by the provider of the portable facility.

There are no public boat launches or day-use marina activities proposed. The marina will remain gated and available only to those persons leasing boat storage space. There are no gas pumps or other fuel tanks proposed. An above ground water tank already on the site would remain. The tank is used for storing rainwater that is used for landscape irrigation and dust control.

The project is exempt from the Storm Water Certificate because the new pavement required for the driveway approaches is pervious/porous material per ODOT specifications and removal of the temporary mobile home has reduced new impervious surfaces necessitating a storm water certificate below the 500-square foot threshold.

Hearings Officer: It is unknown whether the correct flood plain location was used to assess septic site suitability and whether the flood plain location will change the site suitability. Until that question has been answered, it is not clear that this policy has been or can be met. *This policy is not met.*

7.10 **Policy 38 Facilities**
It is the County's Policy to coordinate and encourage involvement of applicable agencies and jurisdiction in the land use process to ensure:

Fire Protection

- **B. There is adequate water pressure and flow for fire fighting purposes; and**
- **C. The appropriate fire district has had an opportunity to review and comments on the proposal.**

Police Protection

- **D. The proposal can receive adequate local Police protection in accordance with the standards of the jurisdiction providing police protection.**

Applicant: The proposed single floating home will have a negligible effect on demand for public services such as schools, roads, utilities, police or fire suppression.

Staff: Service provider forms (Exhibit A.13) have been reviewed and submitted for water service (Burlington Water District), on-site sewage disposal system, and fire flow and access demonstrating that services are available that will not require public services other than those existing or programmed for the area. The proposal is located in unincorporated Multnomah County that is serviced by the County Sheriff's Department. *This policy has been met.*

8.00 ***Off-Street Parking and Loading Criteria***

8.01 MCC 34.4105 GENERAL PROVISIONS
In the event of the erection of a new building or an addition to an existing building, or any change in the use of an existing building, structure or land which results in an intensified use by customers, occupants, employees or other persons, off-street parking and loading shall be provided according to

the requirements of this section.
Staff: The proposed improvements must meet the Off-Street Parking and Loading Ordinance as the expansion will intensify the use.

8.02 **MCC 34.4120 PLAN REQUIRED**
A plot plan showing the dimensions, legal description, access and circulation layout for vehicles and pedestrians, space markings, the grades, drainage, setbacks, landscaping and abutting land uses in respect to the off-street parking area and such other information as shall be required, shall be submitted in duplicate to the Planning Director with each application for approval of a building or other required permit, or for a change of classification to O-P.

Staff: The applicant has submitted a site plan and other plans showing most of the required information. Staff has recommended Condition No. 6 to bring the proposed plans into conformance with these criteria.

Hearings Officer: This information should have been provided with the application and is needed to allow the County to accurately assess the impact of development in the 100-year flood plain. *This requirement has not been met.* This code section, however, is not a mandatory approval criterion and is not being used as a reason to deny approval of the submitted land use applications.

8.03 **MCC 34.4130 LOCATION OF PARKING AND LOADING SPACES**
(A) Parking spaces required by this Section shall be provided on the lot of the use served by such spaces.
(B) Exception – The Planning Director may authorize the location of required parking spaces other than on the site of the primary use, upon a written finding by the Director that:

Staff: It should be noted that although the current code does not specify the required number of parking spaces required for a marina, a prior Hearings Office determined that a ratio of 1 parking space per 2 boat slips is an appropriate starting point for development review. Multnomah County Code (MCC) 34.6760 requires two automotive parking spaces per houseboat (floating dwelling). The proposed project is proposing one houseboat (floating dwelling) with two parking spaces to be located in the carport identified on the site plan. 20 in-water boat slips are proposed with 30 automobile parking stalls identified on the site plan. Staff recommends to the Hearing's Officer that a condition be placed identifying the required parking spaces for the uses.

8.04 **MCC 34.4140 CHANGE OF USE**
(A) Any alteration of the use of any land or structure under which an increase in the number of parking or loading spaces is required by this Section shall be unlawful unless the additional spaces are provided.
(B) In case of enlargement or change of use, the number of parking or loading spaces required shall be based on the total area involved in the enlargement or change in use.
MCC 34.4165 DESIGN STANDARDS: SCOPE
(A) The design standards of this section shall apply to all parking, loading, and maneuvering areas except those serving a single or two-family residential dwelling or mobile home on an individual lot.
(B) All parking and loading areas shall provide for the turning, maneuvering and parking of all vehicles on the lot. After July 26, 1979 it shall be unlawful to locate or construct any parking or loading space so that use of the space requires a vehicle to back into the right-of-way of a public street.

Staff: The expansion of the number of spaces for the proposed development requires that parking and vehicle circulation be improved to the County's Off-Street Parking Ordinance. All parking and loading areas for the turning, maneuvering, and parking of all vehicles are provided on the lot.

8.06 **MCC 34.4170 ACCESS**
(A) Where a parking or loading area does not abut directly on a public street or private street

approved under MCC 34.7700 et seq., the Land Division Chapter, there shall be provided an unobstructed paved drive not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.
(B) Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this section. Required spaces may be located in a private street when authorized in the approval of such private street.

Staff: The revised site plan (Exhibit A.23) shows the location of proposed parking and traffic circulation. A condition of approval has been recommended that the plan be redrawn showing all improvements meeting the various zoning regulations including this standard. No off-site parking is proposed along the public right-of-way of NW Marina Way.

8.07 **MCC 34.4175 DIMENSIONAL STANDARDS**

(A) Parking spaces shall meet the following requirements:

(1) At least 70% of the required off-street parking spaces shall have a minimum width of nine feet, a minimum length of 18 feet, and a minimum vertical clearance of six feet, six inches.

(2) Up to 30% of the required off-street parking spaces may have a minimum width of eight-and-one-half feet, a minimum length of 16 feet, and a vertical clearance of six feet if such spaces are clearly marked for compact car use.

(3) For parallel parking, the length of the parking space shall be 23 feet.

(4) Space dimensions shall be exclusive of access drives, aisles, ramps or columns.

(B) Aisle width shall be not less than:

(1) 25 feet for 90 degree parking,

(2) 20 feet for less than 90 degree parking, and

(3) 12 feet for parallel parking.

(4) Angle measurements shall be between the center line of the parking space and the center line of the aisle.

Staff: The proposed automobile parking stalls have dimensions of 10 feet by 20 feet. The proposed Site Plan Detail: Parking, Boat Storage and Landscape (Exhibit A.23) shows these parking areas clear of utility connections, columns, aisles or ramps.

There is adequate area on the site to maintain the setbacks and meet the aisle width standard. A condition of approval has been recommended to the Hearings Officer that the plan be redrawn showing all improvements meeting the various zoning regulations including this standard.

8.08 **MCC 34.4180 IMPROVEMENTS**

(A) Surfacing

(1) All areas used for parking, loading or maneuvering of vehicles shall be surfaced with two inches of blacktop on a four inch crushed rock base or six inches of portland cement or other material providing a durable and dustless surface capable of carrying a wheel load of 4,000 pounds.

(B) Curbs and Bumper Rails

(1) All areas used for parking, loading, and maneuvering of vehicles shall be physically separated from public streets or adjoining property by required landscaped strips or yards or in those cases where no landscaped area is required, by curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress.

(2) The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height and at least three feet from the lot line or any required fence.

(C) Marking – All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC 34.4120, and such marking shall be continually maintained.

(D) Drainage – All areas for the parking and maneuvering of vehicles shall be graded and

drained to provide f... ...he disposal of all surface water on the l...

Applicant: (A)(1) The boat maneuvering and storage areas depicted on the site plan and the perimeter vehicle parking spaces are located on a base of 18-inches to 24-inches of gravel, which is ..."material providing a durable and dustless surface capable of carrying a wheel load of 4,000 pounds".

(B) As noted above, the walkways, parking areas and boatyard maneuvering and storage areas are overlain with 18 to 24 inches of compacted gravel. The perimeter of the parking and maneuvering areas is or will be defined with logs or railroad ties to provide a curb-like barrier demarcating natural and landscaped areas, generally along the perimeter property lines and above the vegetated riverbank.

(C) The parking and maneuvering areas will be defined with logs or railroad ties and painted markings, reflective materials and colored rocks to provide visual direction to drivers.

(D) There are no new impervious areas proposed onsite in excess of 500-square feet. The existing 18-inches to 24-inches of gravel that covers most of the site receives rain and surface water run-off without affecting adjacent properties or streets.

Staff: The site currently has a gravel surface. All areas used for parking, loading or maneuvering of vehicles shall be surfaced with two inches of blacktop on a four inch crushed rock base or six inches of portland cement or other material providing a durable and dustless surface capable of carrying a wheel load of 4,000 pounds. A condition of approval has been recommended that the plan be redrawn showing all improvements meeting the various zoning regulations including this standard.

As shown on the submitted site plans railroad ties and landscaping boxes are being used to physically separate areas used for parking, loading, and maneuvering of vehicles public streets. There is currently an existing fence around the perimeter of the property and 5 foot landscaping strips, railroad ties are proposed to address unchanneled motor vehicle access or egress. All areas for the parking and maneuvering of vehicles are identified to be marked in the submitted parking plan. All such marking shall be continually maintained. A condition of approval has been recommended that the plan be redrawn showing all improvements meeting the various zoning regulations including this standard.

A stormwater system is necessary for all newly created impervious surfaces. It appears that the site will be able to handle the generated stormwater run-off, but a Stormwater Certificate and study will need to be completed to verify this. A condition of approval has been recommended that the plan be redrawn showing all improvements meeting the various zoning regulations including this standard.

Hearings Officer: I have not addressed the issue whether gravel surfacing meets the requirements of this code section as I have not approved the application. Photographs in the record show what appears to be a gravel surface less than 18 inches in depth. Additional information on what is meant by 18" base depth of gravel and how that would appear and be verified by the County would have been helpful if this application had been approved.

8.09 **MCC 34.4185 LIGHTING**

Any artificial lighting which may be provided shall be shielded or deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street.

Applicant: (Below responses taken from Applicant response letter received October 6, 2008)
The marina is not open after dark. Night time illumination of the boatyard is provided by three wall-mounted lights on the pole barn; one light is mounted at the two northerly building corners and the third light is in the center of the long-side wall. Each wall-mount light is 18-feet above grade and directed towards the boat yard areas onsite to allow surveillance. The lights are high-pressure sodium vapor, which have an amber hue. The existing 100-foot gangway has 10 low level (15-watt) lights spaced 10-feet apart to illuminate the walk while minimizing excessive or bright lighting directed towards the river. The two new gangways proposed on the plan would have similar low scale lighting.

Staff: The application materials have not shown any lighting to be installed. Staff recommends the hearings officer include a condition of approval regarding this standard for future reference.

8.10 **MCC 34.4190 SIGNS**

Signs, pursuant to the provisions of MCC 34.7465.

Staff: No signs have been proposed at this time. If in the future a sign is desired, a sign permit will be required.

8.11 **MCC 34.4195 DESIGN STANDARDS: SETBACKS**

(A) Any required yard which abuts upon a street lot line shall not be used for a parking or loading space, vehicle maneuvering area or access drive other than a drive connecting directly to a street.

(B) A required yard which abuts a street lot line shall not be paved, except for walkways which do not exceed 12 feet in total width and not more than two driveways which do not exceed the width of their curb cuts for each 150 feet of street frontage of the lot.

Staff: The subject property is adjacent to NW Marina Way, which is not a county road at this location. The applicant has obtained Conditional Approval for a State Highway Approach from the Oregon Department of Transportation for the subject property. (Exhibit A.16). The 30 ft setback from the NW Marina right-of-way only has the driveway access proposed. No new improvements are shown within the setback. *This criterion has been met.*

8.12 **MCC 34.4200 LANDSCAPE AND SCREENING REQUIREMENTS**

(A) The landscaped areas requirements of MCC 34.7055 (C) (3) to (7) shall apply to all parking, loading or maneuvering areas which are within the scope of design standards stated in MCC 34.4165 (A).

Staff: See Section 9.08 for discussion of this criterion.

9.00 *Design Review Criteria*

Applicant: The proposed 45-boat marina, with limited accessory marine-related construction and repair and one floating residence, will include a new boat lift consisting of two new finger piers 20-feet apart, immediately upstream of the existing boat ramp, with a concrete bulkhead between the two finger piers covering approximately 250-square feet. An engineered plan detail of the piers and bulkhead is included with this response letter. The other proposed development is a new gangway ramp near the southern lease area boundary and reconfigured docks and slips within the waterway lease area as depicted on the plan. The proposal would extend the lease area 15- feet on the upstream end, from 180-feet to 195-feet to add a triangular area to waterway lease and encompassing approximately 2,350 square feet of water surface. Discussions with the State's DSL staff have been initiated and the applicant intends to renew and amend the waterway lease ML 7112 pursuant to the proposed plan and before its expiration in June 2009.

Hearings Officer: The applicant did not address the design of the existing buildings that the applicant is seeking to convert to a new use and/or to legalize. Design review is required for any building associated with the proposed conditional use. MCC 34.6325; 34.7010; 34.7015. The requirement to seek design review for all buildings associated with the proposed use *has not been met.*

9.01 **MCC 34.7030 DESIGN REVIEW PLAN CONTENTS**

(3) Preliminary Architectural Drawings, indicating floor plans and elevations;

Applicant: Architectural drawings are not available for the floating home or boathouses at this time. No other buildings are proposed.

Staff: Architectural drawings of the floating home or boathouses will need to be submitted as part of the building plan review consistent with permit approvals. In addition, drawings of docks, ramps, and piers shall be submitted for the in-water development for review and approval.

Hearings Officer: Plans for the existing buildings that were constructed without County approval is also needed in order for those buildings to be retained on site as a part of the proposed use being reviewed by this application. This is not an approval criterion but this information is essential for the County to find compliance with design review criteria. *This requirement is not met*

9.02 **MCC 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.

Applicant: The proposed 45-boat marina, with limited accessory marine-related construction and repair and one floating residence, will include a new boat lift consisting of two new finger piers 20-feet apart, immediately upstream of the existing boat ramp, with a concrete bulkhead between the two finger piers covering approximately 250-square feet. An engineered plan detail of the piers and bulkhead is included with this response letter. The other proposed development is a new gangway near the southern lease area boundary and reconfigured docks and slips within the waterway lease area as depicted on the plan. The proposal would extend the lease area 15- feet on the upstream end, from 180-feet to 195-feet to add a triangular area to waterway lease and encompassing approximately 2,350 square feet of water surface. Discussions with the State's DSL staff have been initiated and the applicant intends to renew and amend the waterway lease ML 7112 pursuant to the proposed plan and before its expiration in June 2009.

Hearings Officer: The applicant failed to provide site design review information regarding the existing buildings that were constructed without County permits. The fact that these buildings exist does not excuse them from complying with design review criteria if the applicant wishes to use the buildings as a part of the new use. Otherwise, the buildings would need to be restricted to agricultural use – a use that has been abandoned by the applicant.

(b) The elements of the design review plan should promote energy conservation and provide protection from adverse climatic conditions, noise, and air pollution.

Applicant: The proposed floating home is consistent with location criteria regarding the mean low water line, protection from siltation, wind, wave action, icy conditions and other hazards, adequate land area to accommodate related facilities, ensuring proper maintenance of dikes, preservation of upland recreational, ecological or wildlife habitat values and exclusion from Exclusive Farm Use zoned uplands.

Hearings Officer: As a complete plan has not been submitted, I am unable to determine compliance with this approval criterion.

(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.

Applicant: The proposed plan utilizes a waterfront site for a boat marina with accessory boat repair and marine construction and a single floating home. The design groups the boat slips at the perimeter of the lease area, with the new boat lift adjacent to the existing boat ramp, allowing a shared boat turning basin. Marine construction activities are placed in the center of the lease area to minimize off-site effects to upstream and downstream floating homes on adjacent sites.

Hearings Officer: As a complete plan has not been submitted, I am unable to determine compliance with

this approval criterion.

9.03 **(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.**

Applicant: The perimeter security fencing discourages vandalism and trespass. The design groups the boat slips at the perimeter of the lease area, with the new boat lift adjacent to the existing boat ramp, allowing a shared boat turning basin. Marine construction activities are placed in the center of the lease area to minimize off-site effects and maintain privacy for upstream and downstream floating homes on adjacent sites.

(Below responses taken from Applicant response letter received October 6, 2008)
As noted above, the walkways, parking areas and boatyard maneuvering and storage areas are overlain with 18 to 24 inches of compacted gravel. The perimeter of the parking and maneuvering areas is or will be defined with logs or railroad ties to provide a curb-like barrier demarcating natural and landscaped areas, generally along the perimeter property lines and above the vegetated riverbank. The parking and maneuvering areas will be defined with logs or railroad ties and painted markings, reflective materials and colored rocks to provide visual direction to drivers. The site plans provided demonstrate the proposed reconfigured docks, slips, lift, ramp, and upland parking and boat storage areas have adequate dimensions and placement for maneuvering boats and vehicles.

Hearings Officer: As a complete plan has not been submitted, I am unable to determine compliance with this approval criterion.

9.04 **(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.**

Applicant: The site plan provides ample aisle widths in the parking area and gangways for pedestrians and handicapped persons to access to the docks and slips.

(Below responses taken from Applicant response letter received October 6, 2008)
A handicapped accessible parking space is proposed immediately northwest (downstream) from the gangway ramp. This space is not near the portable toilet that is maintained on the site because the temporary toilet is not ADA compliant.

Hearings Officer: As a complete plan has not been submitted, I am unable to determine compliance with this approval criterion.

9.05 **(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.**

Applicant: The landscape plans are indicated on the design review plan and described in the narrative. Applicant suggests that specific landscape requirements may be attached as conditions to the conditional or community service use permits requested. The plan would maintain significant trees and shrubs on the site and preserved trees will be protected during construction. The parking and landscape detail sheet depicts the locations and dimensions of new landscape areas in the parking areas. The landscaping includes Incense or Hogan Cedars, selected for their narrow, columnar growth habits and 20 to 40-foot heights at maturity.

Staff: Staff understands from the applicant that no trees are proposed for removal. Vegetation along the river will be supplemented with evergreen and deciduous trees to reduce potential erosion, and partially

screen the upland boatyard activities from the river and from adjacent floating homes. Disturbed areas along the riverbank resulting from installation of proposed finger piers for the travel lift and a new gangway near the upstream boundary will be replanted and restored within a brief period of time.

Hearings Officer: The application does not provide enough detail about plans for the protection of natural landscaping to allow me to conclude that the landscape and existing grade will be preserved to the maximum practical degree. It is clear that existing vegetation along or near the river will be removed for piers and the gangway. Precisely what will be done to address this disturbance is unknown. What will be replanted and restored and to what extent is unclear. *This criterion is not met.*

9.06 **(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 proposed and neighboring buildings and structures.**

Applicant: The site plan provides ample aisle widths in the parking area and gangways for pedestrians and handicapped persons to access to the docks and slips. The scale and nature of the parking facility (30-cars for a private marina) does not give rise to a need for separate pedestrian-only facilities.
(Below responses taken from Applicant response letter received October 6, 2008)
As noted above, the walkways, parking areas and boatyard maneuvering and storage areas are overlain with 18 to 24 inches of compacted gravel. The perimeter of the parking and maneuvering areas is or will be defined with logs or railroad ties to provide a curb-like barrier demarcating natural and landscaped areas, generally along the perimeter property lines and above the vegetated riverbank. The parking and maneuvering areas will be defined with logs or railroad ties and painted markings, reflective materials and colored rocks to provide visual direction to drivers. The site plans provided demonstrate the proposed reconfigured docks, slips, lift, ramp, and upland parking and boat storage areas have adequate dimensions and placement for maneuvering boats and vehicles.

Hearings Officer: The plan continued to change through the date of the hearing. The plan appears crowded. Without a scaled plan, it is difficult to find compliance with this approval criterion.

9.07 **(6) Drainage – Surface drainage systems shall be designed so as not to adversely affect neighboring properties or streets.**

Applicant: There are no new impervious areas proposed onsite in excess of 500-square feet. The existing 18-inches to 24-inches of gravel that covers most of the site receives rain and surface water run-off without affecting adjacent properties or streets.

Hearings Officer: If the staff recommendation regarding paving the parking area had been imposed, surface drainage facilities would have been needed.

9.08 **(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.**

Applicant: The landscape plans are indicated on the design review plan and described in the narrative. Applicant suggests that specific landscape requirements may be attached as conditions to the conditional or community service use permits requested. The Design Review Plan would maintain significant trees and shrubs on the site and vegetation retained along the riverbank will be supplemented with evergreen and deciduous trees to reduce potential erosion, and partially screen the upland boatyard activities from the river.

Hearings Officer: The applicant has proposed to store boats close to the south property line. A five-foot

landscape strip is indicated but no detail about the development of that area is provided. It is not clear that this area is adequately buffered from the property to the south. Storage of boats and cars is also proposed within five feet of the north property line. There appears to be more landscaping along this boundary but it has not been demonstrated that this landscaping minimizes adverse impacts on neighboring properties. Result, I am unable to conclude that they will be properly buffered. I am also unable to identify where, on site, the applicant plans to provide for trash receptacles and recycling facilities so I cannot find they are properly screened. *This criterion has not been met.*

9.09 **(8) Utilities – All utility installations above ground shall be located so as to minimize adverse impacts on the site and neighboring properties.**

Applicant: The existing above ground utilities indicated on the survey would remain.

9.10 **MCC 34.7055 REQUIRED MINIMUM STANDARDS**

(C) Required Landscape Areas

The following landscape requirements are established for developments subject to design review plan approval:

(1) A minimum of 15% of the lot area shall be landscaped; provided, however, that computation of this minimum may include areas landscaped under subpart 3 of this subsection.

(2) All areas subject to the final design review plan and not otherwise improved shall be landscaped.

(3) The following landscape requirements shall apply to parking and loading areas:

(a) A parking or loading area providing ten or more spaces shall be improved with defined landscaped areas totaling no less than 25 square feet per parking space.

(b) A parking or loading area shall be separated from any lot line adjacent to a street by a landscaped strip at least 10 feet in width, and any other lot line by a landscaped strip at least 5 feet in width.

(c) A landscaped strip separating a parking or loading area from a street shall contain:

1. Street trees spaced as appropriate to the species, not to exceed 50 feet apart, on the average;

2. Low shrubs, not to reach a height greater than 3'0", spaced no more than 5 feet apart, on the average; and

3. Vegetative ground cover.

(d) Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.

(e) A parking landscape area shall have a width of not less than 5 feet.

(4) Provision shall be made for watering planting areas where such care is required.

(5) Required landscaping shall be continuously maintained.

(6) Maximum height of tree species shall be considered when planting under overhead utility lines.

(7) Landscaped means the improvement of land by means such as contouring, planting, and the location of outdoor structures, furniture, walkways and similar features.

Applicant: The landscape plans are indicated on the design review plan and described in the narrative. Applicant suggests that specific landscape requirements may be attached as conditions to the requested conditional or community service use permits. The Design Review Plan would maintain all existing trees and shrubs on the site and vegetation retained along the riverbank will be supplemented with evergreen and deciduous trees to reduce potential erosion and partially screen the upland boatyard activities from the river. Applicant acknowledges his obligation to maintain all landscaped areas. Tree selections have taken into consideration overhead utility lines in relation to the landscaping. There is no use of contouring proposed, and applicant contends that the scale and nature of the parking facility (30-cars for a private marina plus 2-spaces for the houseboat) and generous 30-foot more-or-less drive-aisle widths obviates the need for separate pedestrian-only facilities throughout the site.

(c)(e) The parking and landscape detail sheet depicts the locations and dimensions of new landscape areas in the parking areas and elsewhere on the site. The new landscaped parking area islands and perimeter site buffers will be supplemented with several 5-foot to 6-foot height Incense or Hogan Cedar trees (subject to price and availability. These evergreen trees were selected because of their narrow, columnar growth habits, drought tolerance, and eventual 20 to 40-foot heights at maturity.

(4) The applicant manually waters site landscaping.

(7) The landscape plans are indicated on the design review plan and described in the narrative. Applicant suggests that specific landscape requirements may be attached as conditions to the requested conditional or community service use permits. The Design Review Plan would maintain all existing trees and shrubs on the site and vegetation retained will be supplemented with evergreen and deciduous trees to reduce potential erosion and partially screen the boatyard activities from off-site view. Applicant acknowledges his obligation to maintain all landscaped areas. Tree selections have taken into consideration overhead utility lines in relation to the landscaping. There is no use of contouring proposed, and applicant contends that the scale and nature of the parking facility (30-cars for a private marina) and ample drive-aisle widths does not support a need for separate pedestrian-only facilities throughout the site.

Hearings Officer: The proposed site plan, Exhibit H.8, fails to provide the required street trees. It is not clear that all areas subject to the final design review plan and not otherwise improved will be landscaped or that the landscaped area proposed meets the 15% requirement. *This criterion is not met.*

10.00 *Variance and Adjustment Review Criteria*

10.01 **MCC 34.7616 Variance Approval Criteria**
The Approval Authority may permit and authorize a variance from the dimensional standards given in MCC 34.7606 upon finding that all the following standards in (A) through (F) are met:

(A) A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or zoning district. The circumstance or condition may relate to:

(1) The size, shape, natural features and topography of the property, or
(2) The location or size of existing physical improvements on the site, or
(3) The nature of the use compared to surrounding uses, or
(4) The zoning requirement would substantially restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or district, or
(5) A circumstance or condition that was not anticipated at the time the Code requirement was adopted.
(6) The list of examples in (1) through (5) above shall not limit the consideration of other circumstances or conditions in the application of these approval criteria.

Applicant: A circumstance or condition applies to the property that does not apply generally to other property in the same vicinity or zoning district. The circumstance or condition relates to the size and topography of the property and the location of existing physical improvements on the site. The existing pole barn/storage building was sited 30-feet from the front fence line rather than 30-feet from the front property line. The placement of the building is near the southwest corner of the site, which is removed from adjacent floating home residences on adjoining moorage properties, and also places the building above the 100-year flood elevation and outside the flood hazard area.

Imposition of the 30-foot front setback requirement would substantially affect the use of the subject property to a greater degree than it restricts other properties in the vicinity or district because other properties in the area do not contain buildings constructed within the yard setback area.

(Below responses taken from Applicant response letter received October 6, 2008)
The applicant appreciates this consideration by staff (*From October 3, 2008 Email from Staff: Variance. In taking a look at the variance criteria, we're not sure the proposal can meet all criteria in regards to a*

unique circumstance/condition, owner's making or personal circumstance, etc. In taking a look at historical records, as best we can tell that Mr. Gulbrandson has been the landowner. In discussing things, we may be able to consider things under the adjustment criteria (MCC 34.7611), however the encroachment is limited to 40% of the required 30 feet setback limiting encroachment to 12 feet) and agrees to remove the portions of the pole barn that encroach more than 40% (12-feet) into the 30-foot front yard. The removal of the encroaching portion of pole barn/warehouse would be completed in year two of the phasing plan (by 11/01/2010).

Staff: The pole barn was constructed as part of the approved WRG 4-80 permit to operate a log salvage operation. The building is existing and has been part of the marina operation. There is no indication that a circumstance or condition applies to the property that does not apply generally to other property in the same vicinity or zoning district. The building was constructed was sited in the wrong place, and was sited 30-feet from the front fence line rather than 30-feet from the front property line. At the time of the siting of the building, the property was owned by the same landowner. *This criterion is not met.*

It should be noted that on October 6, 2008, the use of the Pole Barn and the request for a variance was further clarified by the client in response to correspondence sent by staff on October 3, 2008 regarding the variance criteria. The applicant clarified the use of the pole barn to be for accessory marina use and that the applicant will pursue appropriate building, electrical, and plumbing permits to remodel the pole barn for accessory marina use. In addition, the applicant has agreed to removal of portions of the pole barn that encroach more than 40% into the 30-foot front yard setback, with the removal of the encroaching portion of the pole barn to be completed in year two of the phasing plan. The removal of the encroachment and limitation to 40% encroachment, removes the requirement of a Variance Permit for the project. Multnomah County Code (MCC) 34.7601(C) provides for the Adjustment review process by which certain dimensional standards may be modified no more than 40 percent. The Adjustment approval criteria are identified in MCC 34.7611 and are addressed in Section 10.07 in the Findings below.

10.02 **(B) The circumstance or condition in (A) above that is found to satisfy the approval criteria is not of the applicant's or present property owner's making and does not result solely from personal circumstances of the applicant or property owner. Personal circumstances include, but are not limited to, financial circumstances.**

Applicant: The circumstance is not the present property owner's making and does not result solely from personal circumstances of the applicant or property owner.

Staff: As provided by the applicant, the existing pole barn/storage building was sited 30-feet from the front fence line rather than 30-feet from the front property line. In taking a look at historical records, Mr. Gulbrandson has been the landowner and was at the time of construction of the pole barn. *This criterion is not met.*

It should be noted that on October 6, 2008, the use of the Pole Barn and the request for a variance was further clarified by the client in response to correspondence sent by staff on October 3, 2008 regarding the variance criteria. The applicant clarified the use of the pole barn to be for accessory marina use and that the applicant will pursue appropriate building, electrical, and plumbing permits to remodel the pole barn for accessory marina use. In addition, the applicant has agreed to removal of portions of the pole barn that encroach more than 40% into the 30-foot front yard setback, with the removal of the encroaching portion of the pole barn to be completed in year two of the phasing plan. The removal of the encroachment and limitation to 40% encroachment, removes the requirement of a Variance Permit for the project. Multnomah County Code (MCC) 34.7601(C) provides for the Adjustment review process by which certain dimensional standards may be modified no more than 40 percent. The Adjustment approval criteria are identified in MCC 34.7611 and are addressed in Section 10.07 in the Findings below.

10.03 **(C) There is practical difficulty or unnecessary hardship to the property owner in the application of the dimensional standard.**

Applicant: There is practical difficulty and unnecessary hardship to the property owner if the 30-foot setback standard is applied retroactively and a 14-foot section of the building were required to be removed.

Staff: The structure is existing and has been in operation since 1980. The submitted development proposal considers the location of the pole barn and allows for the proposed uses to be sited on-site consistent with a marina use. *This criterion is met.*

It should be noted that on October 6, 2008, the use of the Pole Barn and the request for a variance was further clarified by the client in response to correspondence sent by staff on October 3, 2008 regarding the variance criteria. The applicant clarified the use of the pole barn to be for accessory marina use and that the applicant will pursue appropriate building, electrical, and plumbing permits to remodel the pole barn for accessory marina use. In addition, the applicant has agreed to removal of portions of the pole barn that encroach more than 40% into the 30-foot front yard setback, with the removal of the encroaching portion of the pole barn to be completed in year two of the phasing plan. The removal of the encroachment and limitation to 40% encroachment, removes the requirement of a Variance Permit for the project. Multnomah County Code (MCC) 34.7601(C) provides for the Adjustment review process by which certain dimensional standards may be modified no more than 40 percent. The Adjustment approval criteria are identified in MCC 34.7611 and are addressed in Section 10.07 in the Findings below.

10.04 **(D) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or zoning district in which the property is located, or adversely affects the appropriate development of adjoining properties.**

Applicant: The authorization of the variance will not harm the public or injure property in the vicinity or zoning district in which the property is located, nor adversely affect the appropriate development of adjoining properties. The abutting property immediately to the west is public and railroad rights-of-way for a distance exceeding 200-feet. The 14-foot reduction to the 30-foot minimum setback will not impair development on abutting or adjacent properties.

Hearings Officer: The pole barn has been in existence since 1980. There has been no indication of detrimental or injurious effects of the pole barn to property in the vicinity or zoning district. Allowing the building to be located closer to the road is not materially detrimental to the public welfare or injurious. The area of the property in the setback area is also a better location than one outside the setback area because the closer one gets to the river, the greater the risk of flooding. *This criterion is met.*

Note: The pole barn was constructed in the 100-year flood plain shown on the 1986 FEMA map. This finding does not mean that the retention of a structure that was built without permits is not materially detrimental to the public welfare or injurious to property in the vicinity or zoning district due to its location in the flood plain. Rather, the finding applies only to the relative merits of the location proposed versus the location required by the front yard setback.

Staff: *It should be noted that on October 6, 2008, the use of the Pole Barn and the request for a variance was further clarified by the client in response to correspondence sent by staff on October 3, 2008 regarding the variance criteria. The applicant clarified the use of the pole barn to be for accessory marina use and that the applicant will pursue appropriate building, electrical, and plumbing permits to remodel the pole barn for accessory marina use. In addition, the applicant has agreed to removal of portions of the pole barn that encroach more than 40% into the 30-foot front yard setback, with the removal of the encroaching portion of the pole barn to be completed in year two of the phasing plan. The removal of the encroachment and limitation to 40% encroachment, removes the requirement of a Variance Permit for the project. Multnomah County Code (MCC) 34.7601(C) provides for the Adjustment review process by which certain dimensional standards may be modified no more than 40 percent. The Adjustment approval criteria are identified in MCC 34.7611 and are addressed in Section 10.07 in the Findings below.*

10.05 **(E) The Variance requested is the minimum necessary variation from the Code requirement which**

would alleviate the difficulty.

Applicant: The Variance requested is the minimum necessary variation from the Code requirement to alleviate the difficulty.

Staff: The building is existing, therefore the requested variance is for the minimum necessary variation from the code requirement to alleviate the difficulty. *This criterion is met.*

It should be noted that on October 6, 2008, the use of the Pole Barn and the request for a variance was further clarified by the client in response to correspondence sent by staff on October 3, 2008 regarding the variance criteria. The applicant clarified the use of the pole barn to be for accessory marina use and that the applicant will pursue appropriate building, electrical, and plumbing permits to remodel the pole barn for accessory marina use. In addition, the applicant has agreed to removal of portions of the pole barn that encroach more than 40% into the 30-foot front yard setback, with the removal of the encroaching portion of the pole barn to be completed in year two of the phasing plan. The removal of the encroachment and limitation to 40% encroachment, removes the requirement of a Variance Permit for the project. Multnomah County Code (MCC) 34.7601(C) provides for the Adjustment review process by which certain dimensional standards may be modified no more than 40 percent. The Adjustment approval criteria are identified in MCC 34.7611 and are addressed in Section 10.07 in the Findings below.

10.06 **(F) Any impacts resulting from the variance are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage.**

Applicant: The potential impacts resulting from the variance are mitigated to the extent practical through provision of landscaping and open space within the remaining 16-foot front yard and retention and maintenance of several trees and ornamental landscaping within the abutting Marina Way right-of-way, consistent with the ODOT Permit #7837.

Staff: Buffering and screening is proposed in the form of a perimeter fence and a 5 foot landscape planting strip around the subject property. In addition, landscaping and open space is proposed to buffer and screen the pole barn in the remaining 16-foot front property setback. There is existing vegetation in the side setback screening the pole barn from the nearest impacted neighbor to the south. *This criterion is met.*

It should be noted that on October 6, 2008, the use of the Pole Barn and the request for a variance was further clarified by the client in response to correspondence sent by staff on October 3, 2008 regarding the variance criteria. The applicant clarified the use of the pole barn to be for accessory marina use and that the applicant will pursue appropriate building, electrical, and plumbing permits to remodel the pole barn for accessory marina use. In addition, the applicant has agreed to removal of portions of the pole barn that encroach more than 40% into the 30-foot front yard setback, with the removal of the encroaching portion of the pole barn to be completed in year two of the phasing plan. The removal of the encroachment and limitation to 40% encroachment, removes the requirement of a Variance Permit for the project. Multnomah County Code (MCC) 34.7601(C) provides for the Adjustment review process by which certain dimensional standards may be modified no more than 40 percent. The Adjustment approval criteria are identified in MCC 34.7611 and are addressed in Section 10.07 in the Findings below.

10.07 **MCC 34.7611 Adjustment Approval Criteria**
The Approval Authority may permit and authorize a modification of no more than 40 percent of the dimensional standards given in MCC 34.7606 upon finding that all the following standards in (A) through (E) are met:

(A) Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Applicant:
(Below responses taken from Applicant response letter received October 6, 2008)
The applicant appreciates this consideration by staff (*From October 3, 2008 Email from Staff: Variance. In taking a look at the variance criteria, we're not sure the proposal can meet all criteria in regards to a unique circumstance/condition, owner's making or personal circumstance, etc. In taking a look at historical records, as best we can tell that Mr. Gulbrandson has been the landowner. In discussing things, we may be able to consider things under the adjustment criteria (MCC 34.7611), however the encroachment is limited to 40% of the required 30 feet setback limiting encroachment to 12 feet*) and agrees to remove the portions of the pole barn that encroach more than 40% (12-feet) into the 30-foot front yard. The removal of the encroaching portion of pole barn/warehouse would be completed in year two of the phasing plan (by 11/01/2010).

Staff: MCC 34.7606 lists the types of dimensional standards eligible for adjustments. It includes front yard setbacks. Dimensional standards cannot be reduced more than 40 percent. The pole barn will be altered so that it will be located no closer than 18 feet from the front lot line. The front yard requirement is 30 feet. In order for the County to approve an Adjustment of the front yard requirement, the encroachment cannot exceed 12 feet. It shall be required that portions of the pole barn that encroach more than 40% into the required setback shall be removed and completed by year two of the phasing plan (by 11/01/2010).

Hearings Officer: The applicant and staff findings above fail to demonstrate that approval of the adjustment will equally or better meet the purpose of the setback regulations being modified. *This criterion has not been met.*

(B) Any impacts resulting from the adjustment are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage; and

Applicant: The potential impacts resulting from the variance are mitigated to the extent practical through provision of landscaping and open space within the remaining 16-foot front yard and retention and maintenance of several trees and ornamental landscaping within the abutting Marina Way right-of-way, consistent with the ODOT Permit #7837.

Staff: The subject property and properties in the immediate vicinity have a mixture of mature trees, vegetation and landscaping that provide privacy between properties. The requested setback still provides for 18 feet in addition to a 200 foot right-of-way to the front property line. In addition the setbacks to the side and rear property line meet or exceed requirements providing for continued privacy and light for the property and surrounding properties. As indicated by the applicant, a security fence along the south, west and north of the property currently exists and provide for public safety and protection of public and private property. Further as indicated in the site plan, birch trees and big leaf maples screens and provides a buffer to the closest and adjacent property to the southwest corner.

Hearings Officer: The applicant's final site plan, Exhibit H.8, show grass between the building and the street. This landscaping does not mitigate the impact of moving the building closer to the road "to the extent practical." A more significant visual separation, such as what would be created by planting a tall hedge or large trees, would be more likely to create the type of separation intended by this criterion. *This criterion has not been met.*

(C) If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zoning district; and

Staff: Only one adjustment is being requested. *This criterion is not applicable.*

(D) If the properties are zoned farm (EFU) or forest (CFU), the proposal will not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices

on the subject property and adjoining lands; and

Staff: The subject property is not zoned farm (EFU) or forest (CFU). *This criterion is not applicable.*

(E) If in a Rural Residential (RR) or Rural Center (RC) zone, the proposal will not significantly detract from the livability or appearance of the residential area.

Staff: The subject property is not zoned Rural Residential (RR) or Rural Center (RC). *This criterion is not applicable.*

11.00 *Conclusion*

Hearings Officer: The applicant has failed to establish that all approval standards for the proposed A-1 Marina project can be met. In addition, the hearings officer is unable to conclude from the record before the County that compliance with approval criteria can be achieved by the imposition of reasonable conditions of approval. The Hearings Officer, therefore, denies the Conditional Use, Community Service, Willamette River Greenway, Design Review, Variance and Adjustment Permits.

EXHIBIT LIST for A-1 Marina Decision (T3-08-002)

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	6/20/08
A.2	3	A&T Property Information and Map 2N1W28	6/20/08
A.3	3	Applicant Project Narrative and Code Narrative Cover Pages and Table of Contents	6/20/08
A.4	1	Greenway Design Review Plan June 20, 2008	6/20/08
A.5	2	Background and Application Summary	6/20/08
A.6	18	Pre Application Meeting Notes (May 24, 2007, PA-07-006) and Applicant submittal	6/20/08
A.7	2	Maps, Plans and Aerial Photos, and Survey	6/20/08
A.8	6	Conditional Use and Community Service Permit Narrative	6/20/08
A.9	3	Willamette River Green Permit Narrative	6/20/08
A.10	5	Design Review Narrative, Floodplain Narrative and FEMA map and GEC Narrative	6/20/08
A.11	4	Health Hardship Mobile Home Narrative	6/20/08
A.12	5	Lot of Record Information	6/20/08
A.13	24	Service Provider Forms ▪ Division of State Lands Waterway Lease (ML-752) ▪ ODOT State Highway Approach ▪ Certification of Water Service ▪ City of Portland Sanitation Site Evaluation Report ▪ Fire District Review- Fire Flow ▪ Fire District Review- Fire Access ▪ State Historic Preservation Office	6/20/08
A.14	18	Variance Narrative	6/20/08
A.15	6	Application Supplemental Materials	7/10/08
A.16	6	ODOT Conditional Approval for State Highway Approach	8/14/08
A.17	1	Email: A1 Marina and Use of Pole Barn	8/15/08
A.18	27	August 4, 2008 Applicant Response and Revised Site	8/6/08

		Plans (2) dated August 6, 2008	
A.19	25	August 7, 2008 Applicant Response Narrative	8/7/08
A.20	1	Site Analysis Diagram	8/19/08
A.21	1	Greenway Setback Line Plan	8/7/08
A.22	1	100 Year Flood Area Site Plan	8/7/08
A.23	1	Site Plan Detail dated August 20, 2008	8/20/08
A.24	1	Greenway Design Review Plan dated August 20, 2008	8/20/08
A.25	1	Site Survey	6/27/08
A.26	10	October 6, 2008 Applicant Response to October 3, 2008 Staff Email	10/6/08
A.27	1	Applicant Acknowledgement of Incompleteness Letter and intent to provide materials	7/21/08
A.28	1	State of Oregon Division of State Lands: Marina Way Moorage Area Multnomah Channel (Oversized Exhibit)	6/20/08
A.29	1	2006 Aerial Photography and 1996 Metro Flood Map (Oversized Exhibit)	6/20/08
A.30	24	Voluntary Compliance Agreement	6/20/08
'B'		Staff Exhibits	Date of Document
B.1	3	Willamette River Greenway Permit (WRG 4-80)	12/3/80
B.2	2	County Land Use Cards	N/A
B.3	7	Joint Permit Application Form for 12 new steel pilings	6/11/02
B.4	5	Building Permit Review to remove and deconstruct shed and barn	1/9/07
B.5	4	1966 County Zoning Map and surveys	N/A
B.6	2	Multnomah County Soil Survey Information	7/18/08
B.7	1	Transportation Memo	9/23/08
'C'		Administration & Procedures	Date
C.1	12	Letter of incomplete application	7/18/08
C.2	2	August 22, 2008 Letter to applicant: Payment of balance between Health Hardship Fee and Variance Fee	8/22/08
C.3	3	Letter of Complete Application and Instructions for posting notice and sign pick-up confirmation	9/23/08

C.4	4	Notice of Public Hearing	9/26/08
C.5	12	Oregonian Affidavit of Publication	9/29/08
C.6	61	Staff Report	10/7/08
'H'		Hearing Exhibits	Date
H.1	1	Police Services Review	10/17/08
H.2	2	October 7 correspondence from Mark Hess regarding building location	10/17/08
H.3	1	October 13 correspondence from Carter Webb regarding proposal	10/17/08
H.4	2	October 17 correspondence from Mark and Julie Valeske	10/17/08
H.5	4	October 16 correspondence from Joseph and Shirley Ashton, Multnomah Yacht Harbor, LLC	10/17/08
H.6	4	October 15 correspondence from Mark Hess re: code compliance	10/17/08
H.7	3	October 15 correspondence from Mark Hess re: condition 6a and surfacing	10/17/08
H.8	1	Greenway Design Review Plan revision 10/17/08	10/17/08
H.9	1	Site Plan- Log Storage revision 10/17/08	10/17/08
H.10	20	Dustless pervious surfacing information- L.R. Buckley	10/17/08
H.11	3	October 17 statement from Marilyn Zornado	10/17/08
H.12	1	October 17 correspondence from Thomas Magruder	10/17/08
H.13	2	October 17 correspondence from Mark Valeske	10/17/08
H.14	3	October 17 correspondence from Dwight James	10/17/08
H.15	1	October 16 correspondence from Jean Adams	10/17/08
H.16	1	Arial photo from 2000	10/17/08
H.17	1	Photo of waterfront	10/17/08
H.18	1	Photo of burnt out building	10/17/08
H.19	1	Photo of paving company use	10/17/08
H.20	1	Google earth photo of current conditions	10/17/08
H.21	1	Sign-In Sheet	10/17/08
'J'		Post-Hearing Exhibits	Date
J.1	7	Memorandum from Michael Grimmett to Joanna Valencia dated October 29, 2008 with four attachments	10/31/08

J.2	3	Memorandum from Joanna Valencia to Liz Fancher dated October 30, 2008	10/31/08
J.3	4	Letter from Marilyn Zornado and Alan Garren dated October 30, 2008	10/31/08
J.4	26	Post-Hearing Supplement from A-1 Marina	10/31/08
J.5	2	November 5, 2008 letter from Mark Hess for A-1 Marina	11/5/08
J.6	1	FIRM Map Number 4101830060E, Map Revised October 19, 2004	12/2/08
J.7	1	DFIRM FEMA map with most current data layers meeting FEMA standards for area including subject property	12/02/08

FEMA MSC Viewer

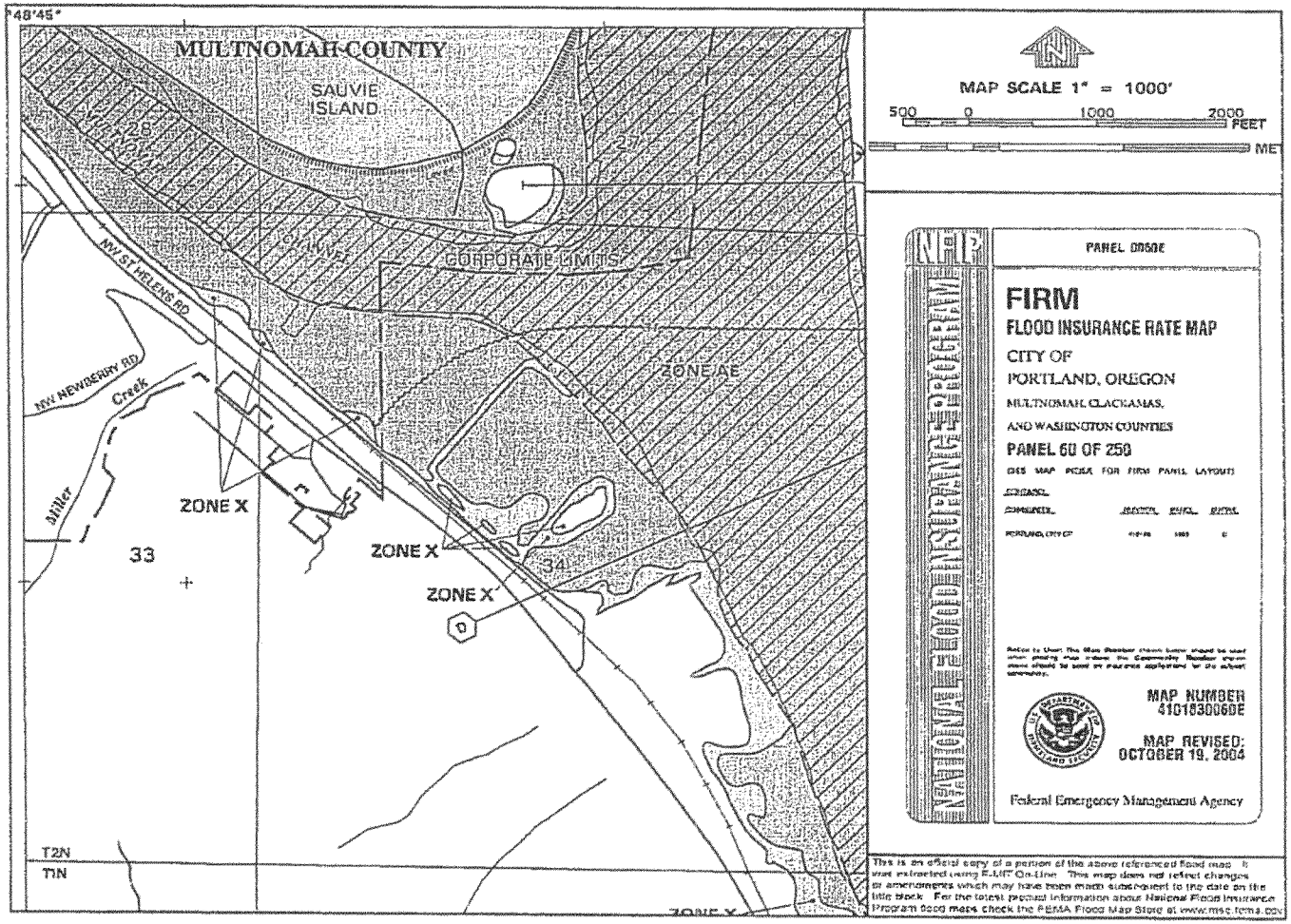
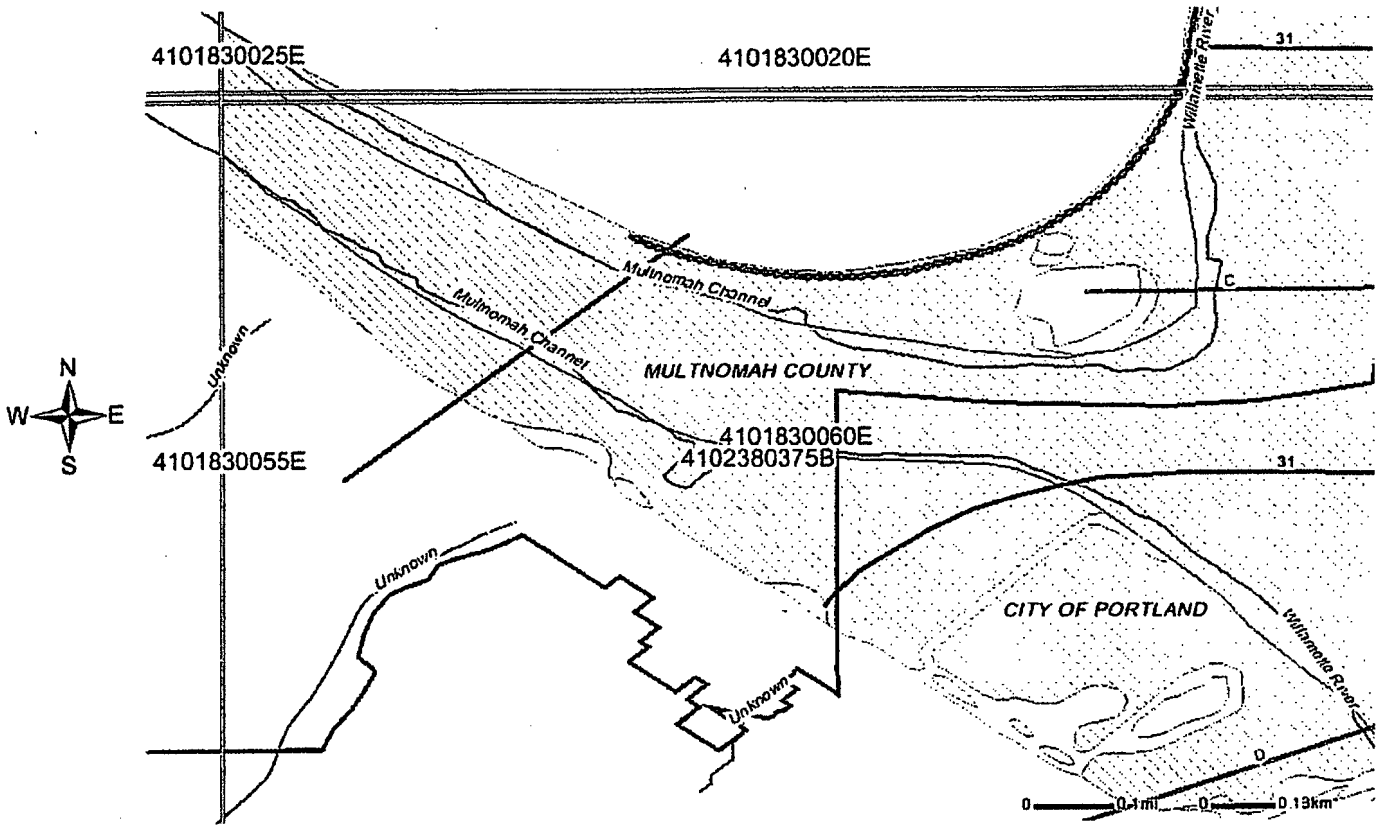


EXHIBIT J-6

Mapping Information Platform

DFIRM 2008

This Map Is For Advisory Purposes Only



Legend

- Compiled LOMAs
- LOMR's
- DFIRM Panels
- Bench Marks
- General Structures
- Culverts
- Foot Bridges
- Dams
- Levees
- Wing Walls
- Base Flood Elevation
- BFE with NGVD29 datum
- BFE with NAVD88 datum
- BFE with other datum
- Cross Section Lines
- Cross Section with NGVD29 datum (cont)
- Cross Section with NAVD88 datum
- Cross Section with other datum
- Streams
- States
- Land Areas
- US
- Other Countries

Tuesday, 2 December 2008 12:49

This map contains DFIRM and basemap data layers meeting FEMA standards

FEMA

EXHIBIT J-7

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk
*****This form is a public record*****

MEETING DATE: 1/22/2009

SUBJECT: APPEAL OF HEARINGS OFFICER DECISION THAT DENIED MARINA AND ACCESSORY USES

AGENDA NUMBER OR TOPIC: R-3

FOR: ✓ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: MARK HESS – APPLICANT'S AGENT

ADDRESS: 8840 NE BEECH ST

CITY/STATE/ZIP: PORTLAND, OR 97220

PHONE: DAYS: 503-381-8882 EVES: SAME

EMAIL: markrichardhess@me.com FAX: _____

SPECIFIC ISSUE: HEARINGS OFFICER RELIED ON INACCURATE FLOOD ELEVATION DATUM TO SUPPORT HER DECISION

WRITTEN TESTIMONY: APPLICANT SUPPORTS THE PLANNING DIRECTOR'S APPEAL AND CONCURS WITH PROPOSED ORDER TO APPROVE THE C.U., CS, AND ADJUSTMENTS, WITH CONDITIONS.

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes.**
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. 09-012

Order Affirming In Part and Reversing In Part the Decision of the Hearings Officer Relating to Marina and Marina-Related Uses of Property Located at 12950 NW Marina Way, Multnomah County, Oregon

The Multnomah County Board of Commissioners Finds:

a. Applicant, Mr. Mark Hess, on behalf of owner Daniel Gulbrandson, is requesting a Conditional Use permit, Community Service permit, an Adjustment permit, Willamette River Greenway permit, and a Design Review permit for a 45-boat marina (20 in-water boat slips and 25 boat spaces on-land) with accessory marine-related construction and repair, and one floating residence. The proposal includes: 1 floating home slip, 2 houseboat 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.

b. In accordance with MCC 37.0510 *et seq.*, the application was processed as and subject to the procedures for a Type III land use decision.

c. This matter was heard by Liz Fancher, Multnomah County Hearings Officer, on Friday, October 17, 2008, at 1:00 p.m. in Room 103 at the Land Use Planning Division, 1600 SE 190th Avenue, Portland, OR 97233.

d. Multnomah County Land Use Planning staff prepared a staff report with findings recommending the Hearings Officer approve all permits sought by the applicant.

e. After reviewing the record, the Hearings Officer issued a Decision denying all permits on December 8, 2008.

f. As reflected in the Decision, determination of the boundary of the 100-year floodplain on the subject property is critical to approval of the Conditional Use and Community Service permits.

g. The survey map submitted by the applicant and set forth in exhibit A.25 properly establishes the boundary of the 100-year floodplain on the subject property. Exhibit A.25 derives from the more general Federal Emergency Management Agency's (FEMA) Flood Rate Insurance Map (FIRM) panel 135 of 550 (Community Panel Number 4101790135 B, March 18, 1986), which is FEMA's map for unincorporated Multnomah County covering the subject property (exhibit

A.10). This FIRM is part of the set of maps produced by FEMA for use in the National Flood Insurance Program in which the County participates. Exhibit A.25 is a site specific survey indicating the location of the 100-year floodplain on the subject property.

h. The 100-year floodplain boundary established by the applicant covers less than half of the upland portions of the subject property whereas the boundary determined by the Hearings Officer covered almost all of the property. The Hearings Officer relied on 2004 maps developed by FEMA for incorporated, rather than unincorporated, portions of Multnomah County (exhibit J.6). These maps use a datum (i.e. starting point) for measuring elevation that is different from the maps submitted by the applicant, which are based upon the 1986 FIRM. This difference renders the differing map sets incomparable. In the alternative, the Hearings Officer found that the applicant's survey was inconsistent with the 1986 FIRM map that similarly shows more of the property inside the floodplain than the applicant's survey. Firm maps show the general location of the floodplain. They are not survey accurate. The applicant's site specific survey, which is based upon the FIRM, best indicates the location of flood boundary on the property. Accordingly, the Decision by the Hearings Officer relying on a different location of the 100-year floodplain boundary than that established by the applicant requires revision.

i. Pursuant to MCC 37.0640 (B)(1), Karen Schilling, Director of the Multnomah County Division of Transportation and Land Use Planning, timely appealed the Hearings Officer's Decision on December 15, 2008.

j. With respect to the application for a Conditional Use permit:

   i. Exhibits A.22 and A.25 show the location of the 100-year floodplain, topography of the site, the project site plan, and establish that the lot may be large enough to meet the needs of the proposed use for purposes of MCC 34.2875 (A) and (B), and MCC 34.6315(A)(2) (site size needs of the proposed use, impact to nearby properties, and impact to natural resources). Site and building plan deficiencies identified by the Hearings Officer can be corrected with new Willamette River Greenway and Design Review permits and through those permits the applicant will have an opportunity to demonstrate that the full density can be achieved on the property. Any concern over the satisfaction of the above criterion is resolved by requiring these permits, along with Grading and Erosion Control and Flood Development permits as a condition of approval. Accordingly, the criteria set forth in MCC 34.2875 (A) and (B), MCC 34.6315(A)(2) have been met.

   ii. Service provider forms (Exhibit A.13) have been reviewed and submitted for water service (Burlington Water District), on-site sewage disposal system, and fire flow and access demonstrating that services are available that will

not require public services other than those existing or programmed for the area for purposes of MCC 34.6315 (A)(4) and related Comprehensive Framework Plan Policies 2 and 37. Given our findings in paragraphs g–h above, any remaining concern over the satisfaction of the criterion in MCC 34.6315 (A)(4) is resolved by requiring Grading and erosion Control and Flood Development permits as a condition of approval Accordingly, the criterion set forth in MCC 34.6315 (A)(4) and associated plan policies has been met.

iii. Given our findings in paragraphs g–h above, any concern over the satisfaction of the criterion in MCC 34.6315(A)(6) (project will not create hazardous conditions) and related Comprehensive Plan Policy 14 is resolved by requiring Grading and Erosion Control and Flood Development permits as a condition of approval. Accordingly, the criterion set forth in MCC 34.6315(A)(6) and Policy 14 has been met.

k. With respect to the application for a Community Service permit:

i. Our findings in paragraph j.ii above apply equally to the criterion set forth in MCC 34.6010 (D) (project will not require public services other than those existing or programmed for the area) for Community Service permits. Accordingly, the criterion set forth in MCC 34.6010 (D) has been met.

ii. Given our findings in paragraphs g–h above, any concern over the satisfaction of the criterion in MCC 34.6010 (F) (project will not create hazardous conditions) is resolved by requiring Grading and Erosion Control and Flood Development permits as conditions of approval. Accordingly, the criterion set forth in MCC 34.6010 (F) has been met.

l. With respect to the application for an Adjustment permit, staff findings pertaining to MCC 34.7611 (A) and (B) are adopted as set forth in the staff report, along with a modified version of staff condition of approval #8. In relevant part, the purpose of the setback standards sought to be adjusted is to provide separation between properties for privacy. As conditioned, the proposed adjustment will preserve privacy through placement of a 5-foot wide landscape strip planted along the north, south and west property lines which will screen and buffer the development. Accordingly, the criteria set forth in MCC 34.7611 (A) and (B) have been met.

m. Phasing of this approval and the Voluntary Compliance Agreement entered between Mr. Gulbrandson and the County adequately addresses Hearings Officer concerns about the number of violations and timing of corrective actions. The County has verified the removal of most of the scrap material stored on the property and Mr. Gulbrandson will be removing the burned out floating home. Compliance issues related to the in-water structures (i.e. piers, slips, and

walkways) and the pole barn will be addressed with the marina work, as outlined in the phasing plan.

n. Placing a houseboat on this property is not inconsistent with Comprehensive Plan Policy 13, which seeks to minimize conflicts between noise sensitive and noise generating uses. Marine repair and related uses are commonly found along the Channel, so the related noise is typical to the area. Most noise generating activities will occur in upland areas; whereas the houseboat will be located on the water. This satisfies the policy objective of locating the residence on the portion of the site where noise levels will be minimized.

The Multnomah County Board of Commissioners Orders:

1. The Conditional Use, Community Service, and Adjustment permits are approved subject to the following conditions:

   a. Approval of this Permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other that which is specified within these documents or within subsequent land use permits. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.

   b. Prior to land use sign off of any building permits, a Willamette River Greenway, Design Review, Flood Development and Grading and Erosion Control permits must be applied for and approved.

   c. A 5-foot landscaping strip shall be planted along the north, south, and west property lines to further screen the pole building from view. Planting details shall be provided with the Willamette River Greenway and Design Review permits. Required landscaping shall be continuously maintained.

   d. All proposed development shall occur as described in the below Phasing Plan, and all necessary building permits shall be obtained by November 1, 2013.

Year One 11/01/2009	Structural/Code Evaluation of pole barn/warehouse Remove crane equipment near gangway Obtain DSL lease renewal and amendment per plan
Year Two 11/01/2010	Remove encroaching portion of pole barn/warehouse Install driveway approaches and logs per ODOT permit Reconfigure in-water walkways, covered slips per plan Install planter islands, landscaping, and parking spaces
Year Three	Remodel pole barn for accessory marina use

11/01/2011	Install bathroom and new drain field per plan
Year Four 11/01/2012	Install finger piers and Boat Lift system
Year Five 11/01/2013	Construct floating home per plan

e. Portions of the pole barn that encroach more than 40% into the required setback shall be removed and completed by year two of the phasing plan (by 11/01/2010). The applicant shall submit building plans for review and approval to the county, and applicable building permits shall be successfully obtained for use of the pole barn as accessory to the marina.

f. All applicable Federal, State and Local permits shall be obtained as applicable to the project.

2. Except as revised by this Order and the foregoing findings, the Hearing's Officer's Decision is otherwise affirmed.

ADOPTED this 22nd day of January, 2009.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

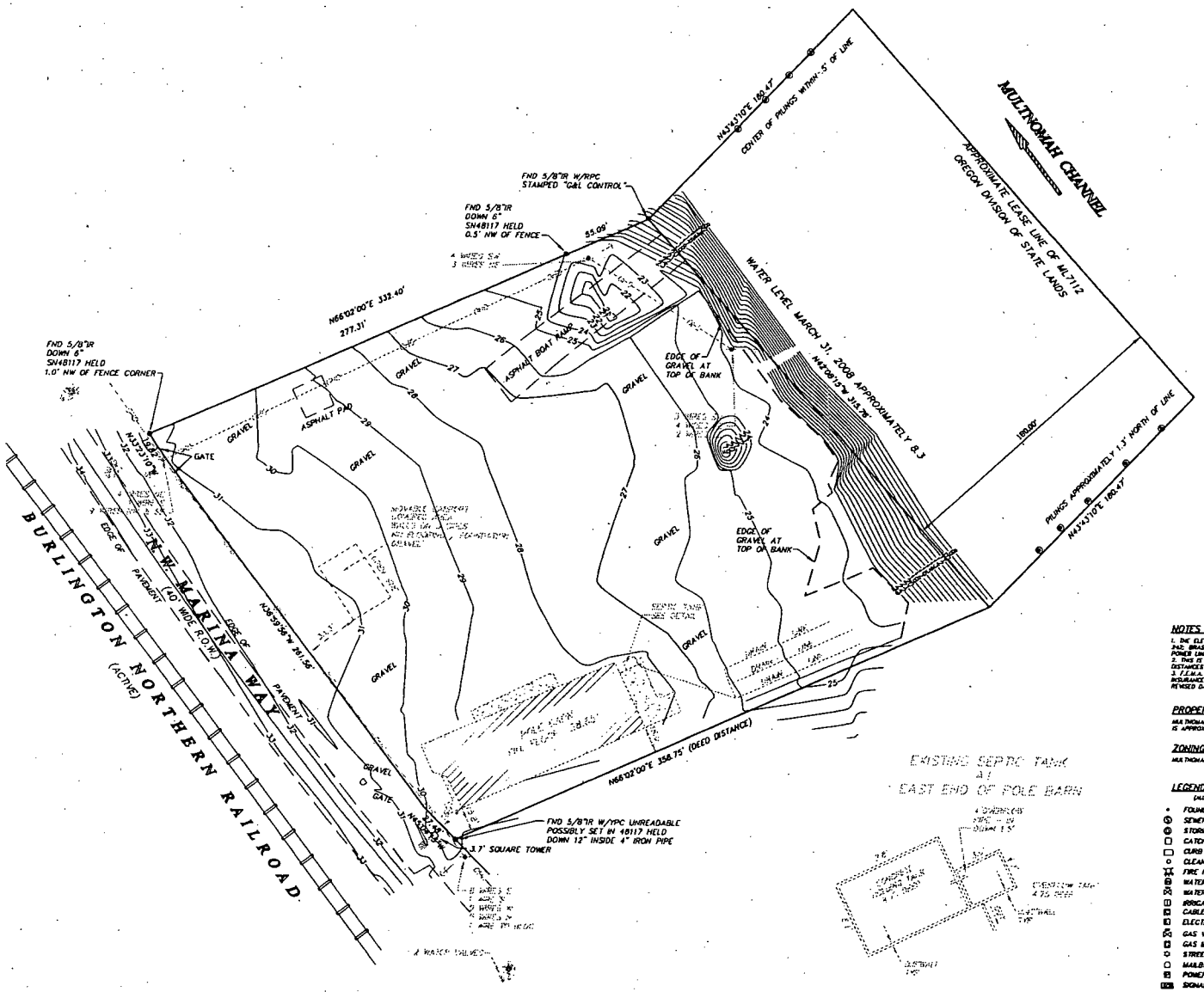
Ted Wheeler, Chair

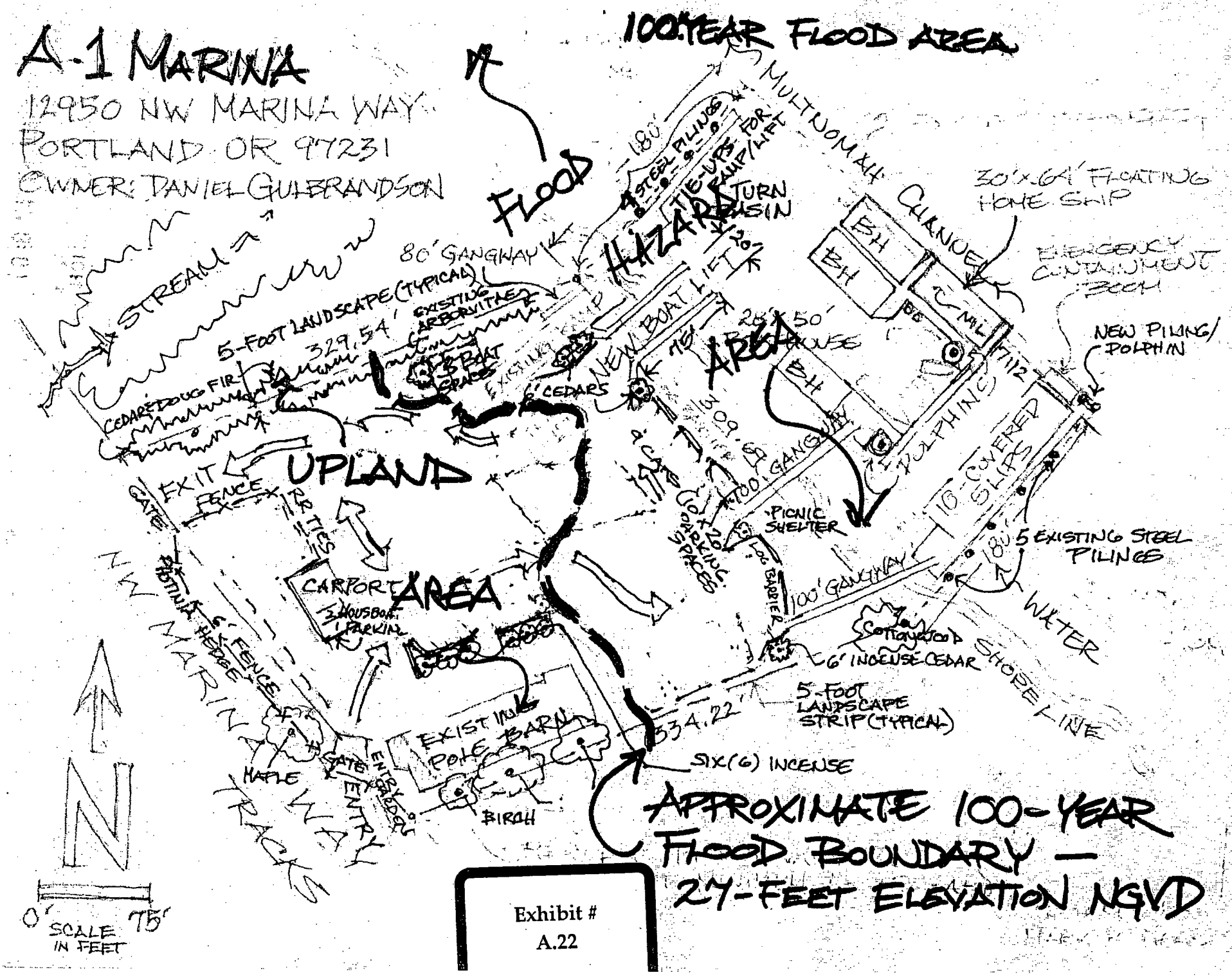
REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By Sandra Duffy
Sandra N. Duffy, Assistant County Attorney

SUBMITTED BY:
Sandra N. Duffy, Assistant County Attorney


MULTNOMAH CHANNEL
APPROXIMATE LEASE LINE OF ML-7112
OREGON DIVISION OF STATE LANDS
WATER LEVEL MARCH 31, 2008 APPROXIMATELY 8.3'
N43°43'10"E 180.47'
CENTER OF PILINGS WITHIN 5' OF LINE
PILINGS APPROXIMATELY 1.3' NORTH OF LINE
N43°43'10"E 180.47'
180.00'
FND 5/8"IR W/RPC STAMPED "G&L CONTROL"
FND 5/8"IR DOWN 6" SN48117 HELD 0.5' NW OF FENCE
55.09'
N68°02'00"E 332.40'
277.31'
FND 5/8"IR DOWN 6" SN48117 HELD 1.0' NW OF FENCE CORNER
N32°31'07"W 18.47'
GATE
GRAVEL
ASPHALT PAD
ASPHALT BOAT RAMP
EDGE OF GRAVEL AT TOP OF BANK
EDGE OF GRAVEL AT TOP OF BANK
BURLINGTON NORTHERN RAILROAD
(ACTIVE)
NW MARINA WAY
(40' WIDE R.O.W.)
EDGE OF PAVEMENT
PAVEMENT
N35°59'56"W 98.56'
N68°02'00"E 358.75' (DEED DISTANCE)
FND 5/8"IR W/YPC UNREADABLE POSSIBLY SET IN 48117 HELD DOWN 12" INSIDE 4" IRON PIPE
3.7' SQUARE TOWER
GATE
EXISTING SEPTIC TANK AT EAST END OF POLE BARN
CONCRETE SLAB
4 OVERHEAD WIRES
DOWN 15'
CONCRETE SLAB
4 WIRES
OVERFLOW TANK
4.75' DIA.
SEPTIC TANK
4.75' DIA.
MANHOLE
SEPTIC


A-1 MARINA
12950 NW MARINA WAY
PORTLAND OR 97231
OWNER: DANIEL GULBRANDSON
100-YEAR FLOOD AREA
FLOOD
STREAM
MULTNOMAH CHANNEL
HAZARD AREA
UPLAND AREA
80' GANGWAY
4 STEEL PILINGS
TIE-UPS FOR RAMP/LIFT
TURN BASIN
30'x64' FLOATING HOME SHIP
EMERGENCY CONTAINMENT BOOM
NEW PILING/ DOLPHIN
5-FOOT LANDSCAPE (TYPICAL)
EXISTING ARBORVITAE
329.54'
CEDAR/DOUG FIR
3 BOAT SPACES
NEW BOAT LIFT
EXISTING DOCK
6' CEDARS
EXIT
FENCE
GATE
PRIVATE
6' FENCE/HEDGE
NW MARINA WAY
TRACKS
TREES
CARPORT
3 HOUSEBOAT PARKING
EXISTING POLE BARN
MAPLE
GATE
ENTRY
BIRCH
309.58'
100' GANGWAY
A CAFE (10 x 20' PARKING SPACES)
PICNIC SHELTER
LOG BARRIER
16-COVERED SLIPS
5 EXISTING STEEL PILINGS
100' GANGWAY
WATER
COTTONWOOD
6' INCENSE CEDAR
SHORELINE
5-FOOT LANDSCAPE STRIP (TYPICAL)
534.22'
SIX (6) INCENSE
APPROXIMATE 100-YEAR FLOOD BOUNDARY — 27-FEET ELEVATION NGVD
N
0'
75'
SCALE IN FEET
Exhibit #
A.22

MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST (revised 09/22/08)

Board Clerk Use Only	
Meeting Date:	01/22/09
Agenda Item #:	R-4
Est. Start Time:	10:20 AM
Date Submitted:	01/06/09

Agenda Title: **First Reading of a Proposed ORDINANCE Amending the Multnomah County Code Chapters 33-36, 38, 11.15 and 11.45 Relating to Nonconforming Uses, Transportation and Signs**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.

Requested Meeting Date:	January 22, 2009	**Amount of Time Needed:**	15 minutes
Department:	Community Services	**Division:**	Land Use and Transportation
Contact(s):	George Plummer, Chuck Beasley		
Phone:	503-988-3043 **Ext.** 29152	**I/O Address:**	455/1/116
Presenter(s):	George Plummer		

General Information

1. What action are you requesting from the Board?

Adopt the proposed Ordinance amendments listed above to Multnomah County Code Chapters 33, 34, 35, 36, 37, 38, 11.15 and 11.45.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

The code chapters affected by these amendments are known as the Multnomah County Zoning Ordinance. The Zoning Ordinance is a land use regulatory tool that periodically needs minor technical corrections, added clarifications, and general "housekeeping." This agenda item includes three sets of housekeeping amendments that the County Planning Commission recommends the Board of Commissioners adopt. Each is briefly described below by file number.

PC-08-002 is a proposal to amend Non-Conforming Use Sections of Multnomah County Code Chapters 33, 34, 35 and 36 to reorganize and update the ordinance sections. The current organization of the code and some of the terms have been confusing to the public. The proposed amendments will ensure the provisions of the non-conforming use section will flow logically by placing the verification section before the alteration section, modify the definition of non-conforming use, and clarify the applicability of off-street parking codes to alterations of non-conforming uses in each chapter.

PC-08-004 is a proposal to revise and add definitions for transportation terms in Multnomah County

Code Chapters 33-36, 38, 11.15 and 11.45 and amend the codes to include transportation facilities as allowed uses in the exception zone districts and certain transportation facilities as Conditional Uses in the Exclusive Farm Uses (EFU) Zone Districts as required by Oregon Administrative Rules. Exception zones include the Multiple Use Agriculture -20, Rural Residential, Rural Center, Pleasant Home Rural Center, Orient Rural Center Residential, and Orient Commercial-Industrial Zone Districts. Land Use Planning staff consulted with County Transportation staff regarding the proposed amendments.

PC-08-011 is a proposal to change signs to an allowed use category in the various zones to make the use consistent with the permitting process pursuant to Multnomah County Code Chapter 37, Administration and Procedures. The various chapters of the County Land Use Planning Code list signs as a Review Use which are Type II discretionary decisions. However, Chapter 37 lists sign permits as Type I non-discretionary decisions, similar to building permits because the approval standards are clear and objective. Additionally, this amendment includes a proposal to correct an omission, adding signs as an allowed use in the Orient Commercial Industrial (OCI) Zone District consistent with other zone districts and adding the OCI District to the list in the Signs section of the Codes.

3. Explain the fiscal impact (current year and ongoing).

There are no fiscal impacts.

4. Explain any legal and/or policy issues involved.

There are no legal issues. The amendments are consistent with policies of the County Comprehensive Framework Plan and will make it easier for the public to understand County land use regulations.

5. Explain any citizen and/or other government participation that has or will take place.

For each of these amendment proposals, the Planning Commission held work sessions and hearings that were open to the public. Advance notice of the work sessions and hearings was provided in the Oregonian newspaper. A public hearing was held before the Planning Commission for PC-08-002 on October 6, 2008 and for PC-08-004 and PC-08-001 on November 3, 2008 where the public was invited to speak. No members of the public attended the meetings or provided comments on the amendments. Planning Commission Resolutions PC 08-002, PC-08-004 and PC-08-011 recommend adoption of the amendments.

Copies of all proposed code changes were sent to the State of Oregon Department Land Conservation and Development (DLCD) and that agency was given an opportunity to comment on the proposals. No comments were received from the State for PC-08-002 and PC-08-011.

For PC-08-004, DLCD staff submitted a letter of comment stating a concern that the proposed language was inconsistent with Oregon Administrative Rules. We have revised the amendments to address that concern.

Required Signature

Elected Official or Department/ Agency Director: M. Cecilia Johnson **Date: 01/06/09**

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO._____

Amending the Multnomah County Code Chapters 33-36, 38, 11.15 and 11.45 Relating to Nonconforming Uses, Transportation and Signs

(Language ~~stricken~~ is deleted; double underlined language is new.)

The Multnomah County Board of Commissioners Finds:

a. Periodically there is a need to review and update the County Land Use Planning Code (Zoning Code) provisions due to changing circumstances and for general housekeeping. Such an update of the Zoning Code has become necessary for some selected technical corrections, clarifications, consistency and additional uses. This agenda item includes three Planning Commission housekeeping amendments, PC-08-002: *Reorganize and Update the Non-Conforming Use Sections*; PC-08-004: *Amend Zoning Codes Transportation Facilities Definitions, Adding Transportation Facilities as a Use and Adding Certain Transportation Facilities as Conditional Uses;* and PC-08-011: *Amendments to Zoning Codes Sections Related to Signs.*

b. The Planning Commission is authorized by Multnomah County Code Chapter subsections 33.0140, 34.0140, 35.0140, 36.0140, 38.0530(D) 37.0710, and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan.

c. A public hearing was held for PC-08-002 on October 6, 2008 and for PC-08-004 and PC-08-011 on November 3, 2008 before the Planning Commission for the proposed amendments where all interested persons were given an opportunity to appear and be heard. Notice of the Planning Commission hearing was published in the "Oregonian" newspaper and on the County Land Use Planning Program website.

d. As stated in Planning Commission Resolutions for each of these cases the Planning Commission has found that the proposed amendments and additions to Multnomah County Code Chapters 33, 34, 35, 36, 11.15 and 11.45 in this Ordinance are needed and recommends approval.

e. No regulations are being proposed that further restrict the use of property thus no mailed notice to individual property owners is required ("Ballot Measure 56" notice). Notice of the Planning Commission hearing and the Board of County Commissioners were published in the "Oregonian" newspaper and on the County Land Use Planning Program's web site.

f. The proposed amendments will ensure the provisions of the non-conforming use section will flow logically by placing the verification section before the alteration, modification, and

expansion section, modify the definition of non-conforming use, and clarify the applicability of off-street parking codes to alterations of non-conforming uses in each chapter.

g. Under the State of Oregon land use planning program, land uses listed in County Zoning Codes, including transportation projects, are subject to the restrictions and standards of Statutes, Farm and Forest Administrative Rules, "Exception Lands" Rules, and Transportation Planning Rules. The changes to the Multnomah County Code that are in this Ordinance adhere to those State requirements.

h. The amendments to the code chapters add certain transportation facilities as allowed uses in exception zone districts, as uses allowed conditionally in Exclusive Farm Use districts, and amend definitions of transportation facilities for consistency. The proposed amendments would add transportation facilities and improvements that serve local needs or are part of the Multnomah County Functional Classification of Trafficways Plan as allowed uses in exception zone districts. Adding these transportation facilities to the list of allowed uses in exception zones recognizes that transportation facilities have been adopted as part of the County Trafficways Plan and thus have already gone through the Comprehensive Plan amendment public hearings. Additionally, the amendments include local access roads that provide for local travel needs, emergency access and support the rural land uses identified in the Comprehensive Plan. These roads by their very limited nature, as access to one or a few properties, serve local travel needs and provide properties with emergency access. Thus these transportation uses can be allowed outright without further review on a case by case basis.

i. The amendments include changing signs from a review use to an allowed use, addition of signs as an allowed use in the Orient Commercial Industrial Zone District, and update of zoning districts to the sign code list of zones where signs are allowed.

Multnomah County Ordains as follows:

PART I – NONCONFORMING USES AND TRANSPORTATION

Section 1. **§§ 33.0005, 34.0005, 35.0005 and 36.0005 are amended as follows:**

* * *

Accessway – A private ~~street~~ road which is not a part of a lot or parcel and which provides access to more than one lot or parcel.

* * *

Driveway – See private driveway.

* * *

Non-~~C~~conforming Use – A legally established use, structure or physical improvement in existence at the time of enactment or amendment of the Zoning Code but not presently in compliance with the use regulations of the zoning district in which it is located. A use approved under criteria that have been modified or are no longer in effect is considered nonconforming.

* * *

Private Driveway – A private ~~street~~ means of access to a public road or private road which is part of and provides access only to one lot or parcel ~~(See Flag Lot)~~.

Private Road – A private accessway built on a separate lot from the lots it serves, connecting more than one property to the local public road system and each lot using the private road for access has an undivided interest in the private road.

Private Street – ~~A street which is either a private driveway or an accessway, which is under private ownership, and which passes through or alongside the full length or width of a separate lot or parcel, either existing or proposed~~See private road.

* * *

Public Road– A road over which the public has a right of use that is a matter of public record. County roads, city streets, state highways, federal roads and local access roads are all public roads.

* * *

Road (County Road) – ~~Every public way, thoroughfare, road, street or easement within the county used or intended for use by the general public for vehicular travel, but excluding private driveways~~A public road that is maintained by the County and has been designated as a county road under ORS 368.016.

Road - The entire right-of-way of any public or private way that provides ingress to, or egress from property by vehicles or other means, or provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways, or alleys;

(b) Road-related structures, such as tunnels, culverts, or similar structures, that are in the right-of-way; and

(c) Structures such as bridges that provide for continuity of the right-of-way.

* * *

Street – ~~A public way which provides vehicular and pedestrian access to adjacent properties. It shall include the terms Street, Road, Avenue, Boulevard, Lane, Place, and other such terms~~See road.

* * *

Section 2. §§ 33.7705, 34.7705, 35.7705, 36.7705, 38.0015, 38.7705, 11.15.0010 and 11.45.010 are amended as follows:

33.7705 Definitions

As used in this Chapter, unless the context requires otherwise~~:~~, the following words and their derivations shall have the meanings provided below.

* * *

Private driveway means a private ~~street~~ means of access to a public road or private road which is ~~a~~ part of and provides access only to one lot or parcel.

Private Road means a private accessway built on a separate lot from the lots it serves, connecting more than one property to the local public road system and each lot using the private road for access has an undivided interest in the private road.

Private street ~~means a street which is either a private driveway or an accessway, which is under private ownership and which passes through or alongside the full length or width of, a separate lot or parcel, either existing or proposed~~—See private road.

* * *

Public Road means a road over which the public has a right of use that is a matter of public record. County roads, city streets, state highways, federal roads and local access roads are all public roads.

Public street ~~means a street dedicated for public use or proposed to be dedicated for public use in a land division~~—See public road.

* * *

Road means the entire right-of-way of any public or private way that provides ingress to, or egress from property by vehicles or other means, or provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways, or alleys;

(b) Road-related structures, such as tunnels, culverts, or similar structures, that are in the right-of-way; and

(c) Structures such as bridges that provide for continuity of the right-of-way.

* * *

Street, ~~as used in this land division section, means a public or private way that is created to provide access to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide access to such land in conjunction with the use of such land for forestry, mining or agricultural purposes~~See road.

* * *

34.7705 Definitions

As used in this Chapter, unless the context requires otherwise~~:~~, the following words and their derivations shall have the meanings provided below.

* * *

Private driveway means a private ~~street~~ means of access to a public road or private road which is ~~a~~ part of and provides access only to one lot or parcel.

Private Road means a private accessway built on a separate lot from the lots it serves, connecting more than one property to the local public road system and each lot using the private road for access has an undivided interest in the private road.

Private street ~~means a street which is either a private driveway or an accessway, which is under private ownership and which passes through or alongside the full length or width of, a separate lot or parcel, either existing or proposed~~—See private road.

* * *

Public Road means a road over which the public has a right of use that is a matter of public record. County roads, city streets, state highways, federal roads and local access roads are all public roads.

Public street ~~means a street dedicated for public use or proposed to be dedicated for public use in a land division~~—See public road.

* * *

Road means the entire right-of-way of any public or private way that provides ingress to, or egress from property by vehicles or other means, or provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways, or alleys;

(b) Road-related structures, such as tunnels, culverts, or similar structures, that are in the right-of-way; and

(c) Structures such as bridges that provide for continuity of the right-of-way.

* * *

Street, ~~as used in this land division section, means a public or private way that is created to provide access to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide access to such land in conjunction with the use of such land for forestry, mining or agricultural purposes~~See road.

* * *

35.7705 Definitions

As used in this Chapter, unless the context requires otherwise~~:~~, the following words and their derivations shall have the meanings provided below.

* * *

Private driveway means a private ~~street~~ means of access to a public road or private road which is ~~a~~ part of and provides access only to one lot or parcel.

Private Road means a private accessway built on a separate lot from the lots it serves, connecting more than one property to the local public road system and each lot using the private road for access has an undivided interest in the private road.

Private street ~~means a street which is either a private driveway or an accessway, which is under private ownership and which passes through or alongside the full length or width of, a separate lot or parcel, either existing or proposed~~—See private road.

* * *

Public Road means a road over which the public has a right of use that is a matter of public record. County roads, city streets, state highways, federal roads and local access roads are all public roads.

Public street ~~means a street dedicated for public use or proposed to be dedicated for public use in a land division~~—See public road.

* * *

Road means the entire right-of-way of any public or private way that provides ingress to, or egress from property by vehicles or other means, or provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways, or alleys;

(b) Road-related structures, such as tunnels, culverts, or similar structures, that are in the right-of-way; and

(c) Structures such as bridges that provide for continuity of the right-of-way.

* * *

~~***Street*, as used in this land division section, means a public or private way that is created to provide access to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide access to such land in conjunction with the use of such land for forestry, mining or agricultural purposes~~See road.

* * *

36.7705 Definitions.

As used in this Chapter, unless the context requires otherwise~~:~~, the following words and their derivations shall have the meanings provided below.

* * *

Private driveway means a private ~~street~~ means of access to a public road or private road which is ~~a~~ part of and provides access only to one lot or parcel.

Private Road means a private accessway built on a separate lot from the lots it serves, connecting more than one property to the local public road system and each lot using the private road for access has an undivided interest in the private road.

Private street ~~means a street which is either a private driveway or an accessway, which is under private ownership and which passes through or alongside the full length or width of, a separate lot or parcel, either existing or proposed~~—See private road.

* * *

Public Road means a road over which the public has a right of use that is a matter of public record. County roads, city streets, state highways, federal roads and local access roads are all public roads.

Public street ~~means a street dedicated for public use or proposed to be dedicated for public use in a land division~~—See public road.

* * *

Road means the entire right-of-way of any public or private way that provides ingress to, or egress from property by vehicles or other means, or provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways, or alleys;

(b) Road-related structures, such as tunnels, culverts, or similar structures, that are in the right-of-way; and

(c) Structures such as bridges that provide for continuity of the right-of-way.

* * *

~~*Street*, as used in this land division section, means a public or private way that is created to provide access to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide access to such land in conjunction with the use of such land for forestry, mining or agricultural purposes~~See road.

* * *

38.0015 Definitions

As used in ~~MCC~~ Chapter ~~38~~, unless the context requires otherwise ~~noted~~, the following words and their derivations shall have the ~~following~~ meanings provided below.~~:~~

* * *

County Road: A public road that is maintained by the County and has been designated as a county road under ORS 368.016.

* * *

Driveway: See private driveway.

* * *

Private driveway: a private street which is a part of and provides access only to one lot or parcel.

* * *

Highway: Any road or highway designated as such by law or by the Oregon Transportation Commission; includes both primary and secondary state highways.

* * *

38.7705 Definitions

As used in this ~~sube~~Chapter, unless the context requires otherwise~~:~~, the following words and their derivations shall have the meanings provided below.

Accessway means a private ~~street~~ road which is not a part of a lot or parcel and which provides access to more than one lot or parcel.

* * *

Private driveway means a private ~~street~~ means of access to a public road or private road which is ~~a~~ part of and provides access only to one lot or parcel.

Private Road means a private accessway built on a separate lot from the lots it serves, connecting more than one property to the local public road system and each lot using the private road for access has an undivided interest in the private road.

Private street ~~means a street which is either a private driveway or an accessway, which is under private ownership and which passes through or alongside the full length or width of, a separate lot or parcel, either existing or proposed~~ See private road.

* * *

Public Road means a road over which the public has a right of use that is a matter of public record. County roads, city streets, state highways, federal roads and local access roads are all public roads.

Public street ~~means a street dedicated for public use or proposed to be dedicated for public use in a land division~~ See public road.

* * *

Road means the entire right-of-way of any public or private way that provides ingress to, or egress from property by vehicles or other means, or provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways, or alleys;

(b) Road-related structures, such as tunnels, culverts, or similar structures, that are in the right-of-way; and

(c) Structures such as bridges that provide for continuity of the right-of-way.

* * *

Street ~~means a public or private way that is created to provide access to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide access to such land in conjunction with the use of such land for forestry, mining or agricultural purposes~~ See road.

* * *

11.15.0010 Definitions

* * *

Accessway
A private ~~street~~ road which is not a part of a lot or parcel and which provides access to more than one lot or parcel.

* * *

Driveway
See private driveway

* * *

Private Driveway
A private ~~street~~ means of access to a public road or private road which is part of and provides access only to one lot or parcel ~~(See *Flag Lot*)~~.

Private Road
A private accessway built on a separate lot from the lots it serves, connecting more than one property to the local public road system and each lot using the private road for access has an undivided interest in the private road.

Private Street
~~A street which is either a private driveway or an accessway, which is under private ownership, and which passes through or alongside the full length or width of a separate lot or parcel, either existing or proposed.~~ See private road.

* * *

Public Road
A road over which the public has a right of use that is a matter of public record. County roads, city streets, state highways, federal roads and local access roads are all public roads.

* * *

~~Road (~~**County Road**~~)~~
~~Every public way, thoroughfare, road, street or easement within the County used or intended for use by the general public for vehicular travel, but excluding private driveways.~~A public road that is maintained by the County and has been designated as a county road under ORS 368.016.

Road
The entire right-of-way of any public or private way that provides ingress to, or egress from property by vehicles or other means, or provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways, or alleys;
(b) Road-related structures, such as tunnels, culverts, or similar structures, that are in the right-of-way; and
(c) Structures such as bridges that provide for continuity of the right-of-way.

* * *

Street
~~A public way which provides vehicular and pedestrian access to adjacent properties. It shall include the terms Street, Road, Avenue, Boulevard, Lane, Place, and other such terms~~See road.

* * *

11.45.010 Definitions

As used in this Chapter, unless the context requires otherwise~~:~~, the following words and their derivations shall have the meanings provided below.

A. *Accessway* means a private ~~street~~ road which is not a part of a lot or parcel and which provides access to more than one lot or parcel.

* * *

Y. *Private driveway* means a private ~~street~~ means of access to a public road or private road which is ~~a~~ part of and provides access only to one lot or parcel. *[Renumbered 1994, Ord. 781 § II]*

Private Road means a private accessway built on a separate lot from the lots it serves, connecting more than one property to the local public road system and each lot using the private road for access has an undivided interest in the private road.

Z *Private street* ~~means a street which is either a private driveway or an accessway, which is under private ownership and which passes through or alongside the full length or width of a separate lot or parcel, either existing or proposed~~—See private road. *[Renumbered 1994, Ord. 781 § II]*

* * *

Public Road means a road over which the public has a right of use that is a matter of public record. County roads, city streets, state highways, federal roads and local access roads are all public roads.

CC *Public street* ~~means a street dedicated for public use or proposed to be dedicated for public use in a land division~~ See public road. *[Renumbered 1994, Ord. 781 § II]*

* * *

Road means the entire right-of-way of any public or private way that provides ingress to, or

egress from property by vehicles or other means, or provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways, or alleys;

(b) Road-related structures, such as tunnels, culverts, or similar structures, that are in the right-of-way; and

(c) Structures such as bridges that provide for continuity of the right-of-way.

* * *

HH *Street* ~~means a public or private way that is created to provide access to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide access to such land in conjunction with the use of such land for forestry, mining or agricultural purposes.~~ See road.
[Renumbered 1994, Ord. 781 § II]

* * *

Section 3. §§ 33.7200, 34.7200, 35.7200 and 36.7200 are amended as follows:

33.7200- NONCONFORMING USES

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

(B) The Planning Director must consider the purpose of the current zoning provisions that cannot be satisfied when determining whether or not the alteration, expansion, or replacement of the nonconforming use will have a greater adverse impact on the neighborhood under MCC 33.7214(C).

(C)Nonconforming uses shall be allowed to continue without additional permission, except that such uses may be replaced, altered or expanded only as provided in MCC 33.~~7205~~7209 ~~or~~ and 33.~~7210~~7214 after verification under MCC 33.7204.

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

(~~D~~E) Notwithstanding any other provisions of this Code, a surface mining use shall not be deemed to be interrupted or abandoned for any period after July 1, 1972, provided:

(1) The owner or operator was issued and continuously renewed a state or local surface mining permit, or received and maintained a State of Oregon exemption from surface mining regulation; and

(2) The surface mining use was not inactive for a period of 12 consecutive years or more.

(3) For purposes of this subsection, *inactive* means no aggregate materials were excavated, crushed, removed, stockpiled or sold by the owner or operator of the surface mine.

(~~E~~F) A nonconforming use may be maintained with ordinary care.

(~~F~~G) A change in ownership or occupancy of a nonconforming use is permitted.

(H) No application under this section is required for the alteration, expansion, or replacement of a lawfully established habitable dwelling when a governing zoning district regulates such alteration, expansion, or replacement and the proposed alteration, expansion, or replacement satisfies the dimensional requirements of the district.

34.7200- NONCONFORMING USES

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

(B) The Planning Director must consider the purpose of the current zoning provisions that cannot be satisfied when determining whether or not the alteration, expansion, or replacement of the nonconforming use will have a greater adverse impact on the neighborhood under MCC 34.7214(C).

(C)Nonconforming uses shall be allowed to continue without additional permission, except that such uses may be replaced, altered or expanded only as provided in MCC 34.~~7205~~ 7209 ~~or~~ and 34.~~7210~~7214 after verification under MCC 34.7204.

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

(~~D~~E) Notwithstanding any other provisions of this Code, a surface mining use shall not be deemed to be interrupted or abandoned for any period after July 1, 1972, provided:

(1) The owner or operator was issued and continuously renewed a state or local surface mining permit, or received and maintained a State of Oregon exemption from surface mining regulation; and

(2) The surface mining use was not inactive for a period of 12 consecutive years or more.

(3) For purposes of this subsection, *inactive* means no aggregate materials were excavated, crushed, removed, stockpiled or sold by the owner or operator of the surface mine.

(~~E~~F) A nonconforming use may be maintained with ordinary care.

(~~F~~G) A change in ownership or occupancy of a nonconforming use is permitted.

(H) No application under this section is required for the alteration, expansion, or replacement of a lawfully established habitable dwelling when a governing zoning district regulates such alteration,

expansion, or replacement and the proposed alteration, expansion, or replacement satisfies the dimensional requirements of the district.

35.7200- NONCONFORMING USES

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

(B) The Planning Director must consider the purpose of the current zoning provisions that cannot be satisfied when determining whether or not the alteration, expansion, or replacement of the nonconforming use will have a greater adverse impact on the neighborhood under MCC 35.7214(C).

(C)Nonconforming uses shall be allowed to continue without additional permission, except that such uses may be replaced, altered or expanded only as provided in MCC 35.~~7205~~ 7209 ~~or~~and 35.~~7210~~7214 after verification under MCC 35.7204.

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

(~~D~~E) Notwithstanding any other provisions of this Code, a surface mining use shall not be deemed to be interrupted or abandoned for any period after July 1, 1972, provided:

(1) The owner or operator was issued and continuously renewed a state or local surface mining permit, or received and maintained a State of Oregon exemption from surface mining regulation; and

(2) The surface mining use was not inactive for a period of 12 consecutive years or more.

(3) For purposes of this subsection, *inactive* means no aggregate materials were excavated, crushed, removed, stockpiled or sold by the owner or operator of the surface mine.

(~~E~~F) A nonconforming use may be maintained with ordinary care.

(~~F~~G) A change in ownership or occupancy of a nonconforming use is permitted.

(H) No application under this section is required for the alteration, expansion, or replacement of a lawfully established habitable dwelling when a governing zoning district regulates such alteration, expansion, or replacement and the proposed alteration, expansion, or replacement satisfies the dimensional requirements of the district.

36.7200- NONCONFORMING USES.

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

(B) The Planning Director must consider the purpose of the current zoning provisions that cannot be satisfied when determining whether or not the alteration, expansion, or replacement of the nonconforming use will have a greater adverse impact on the neighborhood under MCC 36.7214(C).

(C)Nonconforming uses shall be allowed to continue without additional permission, except that such uses may be replaced, altered or expanded only as provided in MCC 36.~~7205~~ 7209 ~~or~~and 36.~~7210~~7214 after verification under MCC 36.7204.

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

(~~D~~E) Notwithstanding any other provisions of this Code, a surface mining use shall not be deemed to be interrupted or abandoned for any period after July 1, 1972, provided:

(1) The owner or operator was issued and continuously renewed a state or local surface mining permit, or received and maintained a State of Oregon exemption from surface mining regulation; and

(2) The surface mining use was not inactive for a period of 12 consecutive years or more.

(3) For purposes of this subsection, inactive means no aggregate materials were excavated, crushed, removed, stockpiled or sold by the owner or operator of the surface mine.

(~~E~~F) A nonconforming use may be maintained with ordinary care.

(~~F~~G) A change in ownership or occupancy of a nonconforming use is permitted.

(H) No application under this section is required for the alteration, expansion, or replacement of a lawfully established habitable dwelling when a governing zoning district regulates such alteration, expansion, or replacement and the proposed alteration, expansion, or replacement satisfies the dimensional requirements of the district.

Section 4. § § 33.7215, 34.7215, 35.7215 and 36.7215 are renumbered and amended as follows and references in §§34.5710, 35.5710 and 36.5710 will be corrected:

33.~~7215~~ 7204 Verification of Nonconforming Use Status

(A) The Planning Director shall verify the status of a nonconforming use upon application for a determination by an owner on application for any land use or other permit for the site, or on finding there is a need for a determination (e.g., on learning of a possible Code violation). The determination shall be based on findings that the use:

(1) Was legally established and operating at the time of enactment or amendment of this Zoning Code, and

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

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

(1) Description of the use;

(2) The types and quantities of goods or services provided and activities conducted;

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

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

(5) The amount of land devoted to the use; and

(6) Other factors the Planning Director may determine appropriate to identify the nature and extent of the particular use.

(7) A reduction of scope or intensity of any part of the use as determined under ~~MCC 33.7215~~this subsection (B) for a period of two years or more creates a presumption that there is no right to resume the use above the reduced level. Nonconforming use status is limited to the greatest level of use that has been consistently maintained since the use became nonconforming. The presumption may be rebutted by substantial evidentiary proof that the long-term fluctuations are inherent in the type of use being considered.

(C) In determining the status of a nonconforming use, the Planning Director shall determine that, at the time of enactment or amendment of the Zoning Code provision disallowing the use, the nature, scope and intensity of the use, as determined above, was established in compliance with all land use procedures, standards and criteria applicable at that time. A final and effective County decision allowing the use shall be accepted as a rebuttable presumption of such compliance.

(D) Except for nonconforming uses considered under MCC 33.~~7210~~7214 (B), the Planning Director may impose conditions to any verification of nonconforming use status to insure compliance with said verification.

~~(E) Any decision on verification of nonconforming use status shall be processed as a Type II permit as described in MCC Chapter 37.~~

(~~F~~E) An applicant may prove the ~~existence,~~ continuity, nature and extent of the nonconforming use only for the 10-year period immediately preceding the date of application. Evidence proving the ~~existence,~~ continuity, nature and extent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, ~~lawfully~~ existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of application.

Evidence proving the continuity, nature and extent of the use for the 10-year period preceding application does not create a rebuttable presumption that the use lawfully existed at the time the applicable zoning ordinance or regulation was adopted.

(~~G~~F) For purposes of verifying a nonconforming use, the Planning Director shall not require an applicant for verification to prove the ~~existence,~~ continuity, nature and extent of the use for a period exceeding 20 years immediately proceeding the date of application. Evidence proving the continuity, nature and extent of the use for the 20-year period preceding application does not create a rebuttable presumption that the use lawfully existed at the time the applicable zoning ordinance or regulation was adopted.

34.~~7215~~ 7204 Verification of Nonconforming Use Status

(A) The Planning Director shall verify the status of a nonconforming use upon application for a determination by an owner on application for any land use or other permit for the site, or on finding there is a need for a determination (e.g., on learning of a possible Code violation). The determination shall be based on findings that the use:

(1) Was legally established and operating at the time of enactment or amendment of this Zoning Code, and

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

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

(1) Description of the use;

(2) The types and quantities of goods or services provided and activities conducted;

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

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

(5) The amount of land devoted to the use; and

(6) Other factors the Planning Director may determine appropriate to identify the nature and extent of the particular use.

(7) A reduction of scope or intensity of any part of the use as determined under ~~MCC 34.7215~~this subsection (B) for a period of two years or more creates a presumption that there is no right to resume the use above the reduced level. Nonconforming use status is limited to the greatest level of use that has been consistently maintained since the use became nonconforming. The presumption may be rebutted by substantial evidentiary proof that the long-term fluctuations are inherent in the type of use being considered.

(C) In determining the status of a nonconforming use, the Planning Director shall determine that, at the time of enactment or amendment of the Zoning Code provision disallowing the use, the nature, scope and intensity of the use, as determined above, was established in compliance with all land use procedures, standards and criteria applicable at that time. A final and effective County decision allowing the use shall be accepted as a rebuttable presumption of such compliance.

(D) Except for nonconforming uses considered under MCC 34.~~7210~~ 7214 (B), the Planning Director may impose conditions to any verification of nonconforming use status to insure compliance with said verification.

~~(E) Any decision on verification of nonconforming use status shall be processed as a Type II permit as described in MCC Chapter 37.~~

(~~F~~E) An applicant may prove the ~~existence,~~ continuity, nature and extent of the nonconforming use only for the 10-year period immediately preceding the date of application. Evidence proving the ~~existence,~~ continuity, nature and extent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, ~~lawfully~~ existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of application. Evidence proving the continuity, nature and extent of the use for the 10-year period preceding application does not create a rebuttable presumption that the use lawfully existed at the time the applicable zoning ordinance or regulation was adopted.

(~~G~~F) For purposes of verifying a nonconforming use, the Planning Director shall not require an applicant for verification to prove the ~~existence,~~ continuity, nature and extent of the use for a period exceeding 20 years immediately proceeding the date of application. Evidence proving the continuity, nature and extent of the use for the 20-year period preceding application does not create a rebuttable presumption that the use lawfully existed at the time the applicable zoning ordinance or regulation was adopted.

35.~~7215~~ 7204 Verification of Nonconforming Use Status

(A) The Planning Director shall verify the status of a nonconforming use upon application for a determination by an owner on application for any land use or other permit for the site, or on finding there is a need for a determination (e.g., on learning of a possible Code violation). The determination shall be based on findings that the use:

(1) Was legally established and operating at the time of enactment or amendment of this Zoning Code, and

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

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

(1) Description of the use;

(2) The types and quantities of goods or services provided and activities conducted;

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

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

(5) The amount of land devoted to the use; and

(6) Other factors the Planning Director may determine appropriate to identify the nature and extent of the particular use.

(7) A reduction of scope or intensity of any part of the use as determined under ~~MCC 35.7215~~this subsection (B) for a period of two years or more creates a presumption that there is no right to resume the use above the reduced level. Nonconforming use status is limited to the greatest level of use that has been consistently maintained since the use became nonconforming. The presumption may be rebutted by substantial evidentiary proof that the long-term fluctuations are inherent in the type of use being considered.

(C) In determining the status of a nonconforming use, the Planning Director shall determine that, at the time of enactment or amendment of the Zoning Code provision disallowing the use, the nature, scope and intensity of the use, as determined above, was established in compliance with all land use procedures, standards and criteria applicable at that time. A final and effective County decision allowing the use shall be accepted as a rebuttable presumption of such compliance.

(D) Except for nonconforming uses considered under MCC 35.~~7210~~7214 (B), the Planning Director may impose conditions to any verification of nonconforming use status to insure compliance with said verification.

~~(E) Any decision on verification of nonconforming use status shall be processed as a Type II permit as described in MCC Chapter 37.~~

(~~F~~E) An applicant may prove the ~~existence,~~ continuity, nature and extent of the nonconforming use only for the 10-year period immediately preceding the date of application. Evidence proving the ~~existence,~~ continuity, nature and extent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, ~~lawfully~~ existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of application. Evidence proving the continuity, nature and extent of the use for the 10-year period preceding application does not create a rebuttable presumption that the use lawfully existed at the time the applicable zoning ordinance or regulation was adopted.

(~~G~~F) For purposes of verifying a nonconforming use, the Planning Director shall not require an applicant for verification to prove the existence, continuity, nature and extent of the use for a period exceeding 20 years immediately proceeding the date of application. Evidence proving the continuity, nature and extent of the use for the 20-year period preceding application does not create a rebuttable presumption that the use lawfully existed at the time the applicable zoning ordinance or regulation was adopted.

36.~~7215~~ 7204 Verification of Nonconforming Use Status.

(A) The Planning Director shall verify the status of a nonconforming use upon application for a determination by an owner on application for any land use or other permit for the site, or on finding there is a need for a determination (e.g., on learning of a possible Code violation). The determination shall be based on findings that the use:

(1) Was legally established and operating at the time of enactment or amendment of this Zoning Code, and

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

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

(1) Description of the use;

(2) The types and quantities of goods or services provided and activities conducted;

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

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

(5) The amount of land devoted to the use; and

(6) Other factors the Planning Director may determine appropriate to identify the nature and extent of the particular use.

(7) A reduction of scope or intensity of any part of the use as determined under ~~MCC 36.7215~~this subsection (B) for a period of two years or more creates a presumption that there is no right to resume the use above the reduced level. Nonconforming use status is limited to the greatest level of use that has been consistently maintained since the use became nonconforming. The presumption may be rebutted by substantial evidentiary proof that the long-term fluctuations are inherent in the type of use being considered.

(C) In determining the status of a nonconforming use, the Planning Director shall determine that, at the time of enactment or amendment of the Zoning Code provision disallowing the use, the nature, scope and intensity of the use, as determined above, was established in compliance with all land use procedures, standards and criteria applicable at that time. A final and effective County decision allowing the use shall be accepted as a rebuttable presumption of such compliance.

(D) Except for nonconforming uses considered under MCC 36.~~7210~~ 7214 (B), the Planning Director may impose conditions to any verification of nonconforming use status to insure compliance with said verification.

~~(E) Any decision on verification of nonconforming use status shall be processed as a Type II permit as described in MCC Chapter 37.~~

(~~F~~E) An applicant may prove the ~~existence,~~ continuity, nature and extent of the nonconforming use only for the 10-year period immediately preceding the date of application. Evidence proving the ~~existence,~~ continuity, nature and extent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, ~~lawfully~~ existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of application. Evidence proving the continuity, nature and extent of the use for the 10-year period preceding application does not create a rebuttable presumption that the use lawfully existed at the time the applicable zoning ordinance or regulation was adopted.

(~~G~~F) For purposes of verifying a nonconforming use, the Planning Director shall not require an applicant for verification to prove the existence, continuity, nature and extent of the use for a period exceeding 20 years immediately proceeding the date of application. Evidence proving the continuity, nature and extent of the use for the 20-year period preceding application does not create a rebuttable presumption that the use lawfully existed at the time the applicable zoning ordinance or regulation was adopted.

33.5710 Exemptions

(A) The following activities are exempt from the requirements of MCC 33.5700 through 33.5745 and 33.6500 through 33.6535. Operators or land owners have the burden of qualifying for any exemption.

(1) Mining on forest lands auxiliary to forestry operations occurring in compliance with the Forest Practices Act as administered by the Oregon Department of Forestry.

(2) Lawful mining operating under a DOGAMI "Grant of Total Exemption" on December 3, 1994 on property owned or controlled by the operator. Abandonment, restoration, or alteration of this use shall be in compliance with the non-conforming use provisions of MCC 33.7200 through 33.~~7215~~7214.

* * *

34.5710 Exemptions

(A) The following activities are exempt from the requirements of MCC 34.5700 through 34.5745 and 34.6500 through 34.6534. Operators or land owners have the burden of qualifying for any exemption.

(1) Mining on forest lands auxiliary to forestry operations occurring in compliance with the Forest Practices Act as administered by the Oregon Department of Forestry.

(2) Lawful mining operating under a DOGAMI "Grant of Total Exemption" on December 3, 1994 on property owned or controlled by the operator. Abandonment, restoration, or alteration of this use shall be in compliance with the non-conforming use provisions of MCC 34.7200 through 34.~~7215~~7214.

* * *

35.5710 Exemptions

(A) The following activities are exempt from the requirements of MCC 35.5700 through 35.5745 and 35.6500 through 35.6535. Operators or land owners have the burden of qualifying for any exemption.

(1) Mining on forest lands auxiliary to forestry operations occurring in compliance with the Forest Practices Act as administered by the Oregon Department of Forestry.

(2) Lawful mining operating under a DOGAMI "Grant of Total Exemption" on December 3, 1994 on property owned or controlled by the operator. Abandonment, restoration, or alteration of this use shall be in compliance with the non-conforming use provisions of MCC 35.7200 through 35.~~7215~~7214.

* * *

36.5710 Exemptions.

(A) The following activities are exempt from the requirements of MCC 36.5700 through 36.5745 and 36.6500 through 36.6536. Operators or land owners have the burden of qualifying for any exemption.

(1) Mining on forest lands auxiliary to forestry operations occurring in compliance with the Forest Practices Act as administered by the Oregon Department of Forestry.

(2) Lawful mining operating under a DOGAMI "Grant of Total Exemption" on December 3, 1994 on property owned or controlled by the operator. Abandonment, restoration, or alteration of this use shall be in compliance with the non-conforming use provisions of MCC 36.7200 through 36.~~7215~~7214.

* * *

Section 5. § § 33.7205, 34.7205, 35.7205 and 36.7205 are renumbered and amended as follows:

33.~~7205~~ 7209 Restoration or Replacement Due to Fire, other Casualty or Natural Disaster

~~(A)~~ After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 33.~~7215~~7204, the Planning Director may authorize restoration or replacement of that nonconforming use based on findings that:

(~~1~~A) The restoration or replacement is made necessary by fire, other casualty or natural disaster, and

(~~2~~B) The application for restoration or replacement must be ~~commenced~~ submitted within one year from the date of occurrence of the fire, casualty or natural disaster.

~~(B) Any decision on restoration or replacement of a nonconforming use due to fire, other casualty or natural disaster shall be processed as a Type II permit as described in MCC Chapter 37.~~

34.~~7205~~ 7209 Restoration or Replacement Due to Fire, other Casualty or Natural Disaster

~~(A)~~ After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 34.~~7215~~7204, the Planning Director may authorize restoration or replacement of that nonconforming use based on findings that:

(~~1~~A) The restoration or replacement is made necessary by fire, other casualty or natural disaster, and

(~~2~~B) The application for restoration or replacement must be ~~commenced~~ submitted within one year from the date of occurrence of the fire, casualty or natural disaster.

~~(B) Any decision on restoration or replacement of a nonconforming use due to fire, other casualty or natural disaster shall be processed as a Type II permit as described in MCC Chapter 37.~~

35.~~7205~~ 7209 Restoration or Replacement Due to Fire, other Casualty or Natural Disaster

~~(A)~~ After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 35.~~7215~~7204, the Planning Director may authorize restoration or replacement of that nonconforming use based on findings that:

(~~1~~A) The restoration or replacement is made necessary by fire, other casualty or natural disaster, and

(~~2~~B) The application for restoration or replacement must be ~~commenced~~ submitted within one year from the date of occurrence of the fire, casualty or natural disaster.

~~(B) Any decision on restoration or replacement of a nonconforming use due to fire, other casualty or natural disaster shall be processed as a Type II permit as described in MCC Chapter 37.~~

36.~~7205~~ 7209 Restoration or Replacement Due to Fire, other Casualty or Natural Disaster.

~~(A)~~ After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 36.~~7215~~7204, the Planning Director may authorize restoration or replacement of that nonconforming use based on findings that:

(~~1~~A) The restoration or replacement is made necessary by fire, other casualty or natural disaster, and

(~~2~~B) The application for restoration or replacement must be ~~commenced~~ submitted within one year from the date of occurrence of the fire, casualty or natural disaster.

~~(B) Any decision on restoration or replacement of a nonconforming use due to fire, other casualty or natural disaster shall be processed as a Type II permit as described in MCC Chapter 37.~~

Section 6. **§ § 33.7210, 34.7210, 35.7210 and 36.7210 are renumbered and amended as follows:**

33.~~7210~~ 7214 Alteration, Expansion or Replacement of Nonconforming Uses

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

(B) After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 33.~~7215~~7204, the Planning Director shall authorize alteration of a nonconforming use when it is demonstrated that:

(1) The alteration, expansion or replacement is necessary to comply with state or local health or safety requirements, or

(2) The alteration is necessary to maintain in good repair the existing structures associated with the nonconformity.

(C) After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 33.~~7215~~7204, the Planning Director may authorize alteration, expansion or replacement of any nonconforming use when it is found that such alteration, expansion or replacement will not result in a greater adverse impact on the neighborhood. In making this finding, the Planning Director shall consider ~~all of~~ the ~~criteria~~ factors listed below. Adverse impacts to one of the ~~criterion~~ factors may, but shall not automatically, constitute greater adverse impact on the neighborhood.

* * *

34.~~7210~~ 7214 Alteration, Expansion or Replacement of Nonconforming Uses

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

(B) After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 34.~~7215~~7204, the Planning Director shall authorize alteration of a nonconforming use when it is demonstrated that:

(1) The alteration, expansion or replacement is necessary to comply with state or local health or safety requirements, or

(2) The alteration is necessary to maintain in good repair the existing structures associated with the nonconformity.

(C) After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 34.~~7215~~7204, the Planning Director may authorize alteration, expansion or replacement of any nonconforming use when it is found that such alteration, expansion or replacement will not result in a greater adverse impact on the neighborhood. In making this finding, the Planning Director shall

consider ~~all of~~ the ~~criteria~~ factors listed below. Adverse impacts to one of the ~~criterion~~ factors may, but shall not automatically, constitute greater adverse impact on the neighborhood.

* * *

35.~~7210~~ 7214 Alteration, Expansion or Replacement of Nonconforming Uses

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

(B) After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 35.~~7215~~7204, the Planning Director shall authorize alteration of a nonconforming use when it is demonstrated that:

(1) The alteration, expansion or replacement is necessary to comply with state or local health or safety requirements, or

(2) The alteration is necessary to maintain in good repair the existing structures associated with the nonconformity.

(C) After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 35.~~7215~~7204, the Planning Director may authorize alteration, expansion or replacement of any nonconforming use when it is found that such alteration, expansion or replacement will not result in a greater adverse impact on the neighborhood. In making this finding, the Planning Director shall consider ~~all of~~ the ~~criteria~~ factors listed below. Adverse impacts to one of the ~~criterion~~ factors may, but shall not automatically, constitute greater adverse impact on the neighborhood.

* * *

36.~~7210~~ 7214 Alteration, Expansion or Replacement of Nonconforming Uses.

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

(B) After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 36.~~7215~~7204, the Planning Director shall authorize alteration of a nonconforming use when it is demonstrated that:

(l) The alteration, expansion or replacement is necessary to comply with state or local health or safety requirements, or

(2) The alteration is necessary to maintain in good repair the existing structures associated with the nonconformity.

(C) After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 36.~~7215~~7204, the Planning Director may authorize alteration, expansion or replacement of any nonconforming use when it is found that such alteration, expansion or replacement will not result in a greater adverse impact on the neighborhood. In making this finding, the Planning Director shall consider ~~all of~~ the ~~criteria~~ factors listed below. Adverse impacts to one of the ~~criterion~~ factors may, but shall not automatically, constitute greater adverse impact on the neighborhood.

* * *

Section 7. § § 33.4105, 34.4105, 35.4105 and 36.4105, General Provisions, are amended as follows:

In the event of the erection of a new building or an addition to an existing building, or any change in the use of an existing building, structure or land which results in an intensified use by customers, occupants, employees or other persons, off-street parking and loading shall be provided according to the requirements of this Section. For nonconforming uses, the objectives of this section shall be evaluated under the criteria for the Alteration, Modification, and Expansion of Nonconforming Uses.

Section 8. §§ 33.2630, 35.2630 and 36.2630 are amended as follows:

33.2630 Conditional Uses

The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC 33.6300 to 33.6335:

(A) Commercial activities that are in conjunction with a farm use, except for facilities for processing crops that meet the standards for crop source, building size, and other applicable siting standards pursuant to 33.2625(~~N~~M).

* * *

(P) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

(Q) Park and ride lots.

(R) Realignment of roads, subject to the following limitations and the approval criteria in MCC 33.6315 and MCC 33.6340:

(1) "Realignment" means rebuilding an existing roadway on a new alignment where the new centerline shifts outside the existing right of way, and where the existing road surface is either removed, maintained as an access road or maintained as a connection between the realigned roadway and a road that intersects the original alignment.

(2) The realignment shall maintain the function of the existing road segment being re-aligned as specified in the acknowledged comprehensive plan.

(S) New access roads and collectors where the function of the road is to reduce local access to or local traffic on a state highway, subject to the following limitations and the approval criteria in MCC 33.6315 and MCC 33.6340:

(1) The roads shall be limited to two travel lanes.

(2) Private access and intersections shall be limited to rural needs or to provide adequate emergency access.

(T) Transportation facilities, services and improvements that serve local travel needs, and which:

(1) Are not otherwise listed as a use in this EFU district or in OAR 660-012-0065 "Transportation Improvements on Rural Lands;" and

(2) Satisfy the approval criteria in MCC 33.6315 and MCC 33.6340:

35.2630 Conditional Uses

The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC 35.6300 to 35.6335:

(A) Commercial activities that are in conjunction with a farm use, except for facilities for processing crops that meet the standards for crop source, building size, and other applicable siting standards pursuant to 35.2625(~~O~~N).

* * *

(P) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

(Q) Park and ride lots.

(R) Realignment of roads, subject to the following limitations and the approval criteria in MCC 35.6315 and MCC 35.6340:

(1) "Realignment" means rebuilding an existing roadway on a new alignment where the new centerline shifts outside the existing right of way, and where the existing road surface is either removed, maintained as an access road or maintained as a connection between the realigned roadway and a road that intersects the original alignment.

(2) The realignment shall maintain the function of the existing road segment being re-aligned as specified in the acknowledged comprehensive plan.

(S) New access roads and collectors where the function of the road is to reduce local access to or local traffic on a state highway, subject to the following limitations and the approval criteria in MCC 35.6315 and MCC 35.6340:

(1) The roads shall be limited to two travel lanes.

(2) Private access and intersections shall be limited to rural needs or to provide adequate

emergency access.

(T) Transportation facilities, services and improvements that serve local travel needs, and which:

(1) Are not otherwise listed as a use in this EFU district or in OAR 660-012-0065 "Transportation Improvements on Rural Lands;" and

(2) Satisfy the approval criteria in MCC 35.6315 and MCC 35.6340:

36.2630 Conditional Uses

The following uses may be permitted when found by the approval authority to satisfy the applicable provisions in MCC 36.6300 to 36.6335 or the criteria listed for the use:

(A) Commercial activities that are in conjunction with a farm use, except for facilities for processing crops that meet the standards for crop source, building size, and other applicable siting standards pursuant to 36.2625(~~N~~M) above. Uses under this provision shall be subject to the approval criteria in MCC 36.6315(1) through (7).

* * *

(L) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

(M) Park and ride lots.

(N) Realignment of roads, subject to the following limitations and the approval criteria in MCC 36.6315 and MCC 36.6340:

(1) "Realignment" means rebuilding an existing roadway on a new alignment where the new centerline shifts outside the existing right of way, and where the existing road surface is either removed, maintained as an access road or maintained as a connection between the realigned roadway and a road that intersects the original alignment.

(2) The realignment shall maintain the function of the existing road segment being re-aligned as specified in the acknowledged comprehensive plan.

(O) New access roads and collectors where the function of the road is to reduce local access to or local traffic on a state highway, subject to the following limitations and the approval criteria in MCC 36.6315 and MCC 36.6340:

(1) The roads shall be limited to two travel lanes.

(2) Private access and intersections shall be limited to rural needs or to provide adequate emergency access.

(P) Transportation facilities, services and improvements that serve local travel needs, and which:

(1) Are not otherwise listed as a use in this EFU district or in OAR 660-012-0065 "Transportation Improvements on Rural Lands;" and

(2) Satisfy the approval criteria in MCC 36.6315 and MCC 36.6340:

Section 9. §§ 33.6340, 35.6340 and 36.6340 are added as follows:

33.6340 Additional Approval Criteria For Certain Transportation Uses In The Exclusive Farm Use Zoning District

For the transportation uses listed in MCC 33.2630(R), (S), and (T), the Hearing Authority shall find that Multnomah County has:

(A) Identified reasonable build alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The County need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer.

(B) Assessed the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands.

(C) Selected from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.

35.6340 Additional Approval Criteria For Certain Transportation Uses In The Exclusive Farm Use Zoning District

For the transportation uses listed in MCC 35.2630(R), (S), and (T), the Hearing Authority shall find that Multnomah County has:

(A) Identified reasonable build alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The County need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer.

(B) Assessed the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands.

(C) Selected from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.

36.6340 Additional Approval Criteria For Certain Transportation Uses In The Exclusive Farm Use Zoning District

For the transportation uses listed in MCC 36.2630(N), (O), and (P), the Hearing Authority shall find that Multnomah County has:

(A) Identified reasonable build alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The County need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer.

(B) Assessed the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands.

(C) Selected from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.

PART II – SIGNS

Section 10. §§ 33.2825, 33.2025, 33.2225, 33.2425, 33.2625, 33.3125, 33.3325, 34.2625, 34.2825, 34.3125, 34.3525, 35.2025, 35.2225, 35.2625, 35.2825, 35.3125, 35.3325, 36.2025, 36.2625, 36.2825, 36.3125, 36.3325 and 36.3425 are amended as follows and references to those sections in §§ 33.2630, 34.2630, 35.2045, 35.2630 and 36.2630 will be corrected:

33.2825 Review Uses

* * *

~~(D) Signs, pursuant to the provisions of MCC 33.7400 through 33.7505.~~

(~~E~~D) Off-street parking and loading.

(~~F~~E) Property Line Adjustment pursuant to the provisions of MCC 33.2860.

(~~G~~F) Placement of structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~H~~G) Lots of Exception pursuant to the provisions of MCC 33.2860.

(~~I~~H) Wireless communication facilities that employ concealment technology or co-location as described in MCC 33.6177(B) pursuant to the applicable approval criteria of MCC 33.6175 through 33.6188.

(~~J~~I) Consolidation of Parcels and Lots pursuant to MCC 33.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 33.7797.

(~~K~~J) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 33.2820 Allowed Uses.

33.2025 Review Uses

* * *

~~(F) Signs, pursuant to the provisions of MCC 33.7400 through 33.7505.~~

(~~G~~F) Off-street parking and loading as required by MCC 33.4100 through 33.4220.

(~~H~~G) Lot Line Adjustment pursuant to all applicable approval criteria, including but not limited to the provisions of MCC 33.2070.

(~~I~~H) Placement of structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~J~~I) Wireless communications facilities that employ concealment technology or co-location as described in MCC 33.6177(B) pursuant to the applicable approval criteria of MCC 33.6175 through 33.6188.

(~~K~~J) Lots of Exception pursuant to all applicable approval criteria, including but not limited to MCC 33.2065, 33.2073 and 33.7700 et seq.

(~~L~~K) Consolidation of Parcels and Lots pursuant to MCC 33.7794.

(~~M~~L) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 33.2020 Allowed Uses.

33.2225 Review Uses

* * *

~~(F) Signs, pursuant to the provisions of MCC 33.7400 through 33.7505.~~

(~~G~~F) Off-street parking and loading as required by MCC 33.4100 through 33.4220.

(~~H~~G) Lot Line Adjustment pursuant to all applicable approval criteria, including but not limited to the provisions of MCC 33.2270.

(~~I~~H) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~J~~I) Wireless communications facilities that employ concealment technology or co-location as described in MCC 33.6177(B) pursuant to the applicable approval criteria of MCC 33.6175 through 33.6188.

(~~K~~J) Lots of Exception pursuant to all applicable approval criteria, including but not limited to MCC 33.2265, 33.2273 and 33.7700 et seq.

(~~L~~K) Consolidation of Parcels and Lots pursuant to MCC 33.7794.

(~~M~~L) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 33.2220 Allowed Uses.

33.2425 Review Uses

* * *

~~(F) Signs, pursuant to the provisions of MCC 33.7400 through 33.7505.~~

(~~G~~F) Off-street parking and loading as required by MCC 33.4100 through 33.4220.

(~~H~~G) Lot Line Adjustment pursuant to all applicable approval criteria, including but not limited to the provisions of MCC 33.2470.

(~~I~~H) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~J~~I) Wireless communications facilities that employ concealment technology or co-location as described in MCC 33.6177(B) pursuant to the applicable approval criteria of MCC 33.6175 through 33.6188.

(~~K~~J) Lots of Exception pursuant to all applicable approval criteria, including but not limited to MCC 33.2465, 33.2473 and 33.7700 et seq.

(~~L~~K) Consolidation of Parcels and Lots pursuant to MCC 33.7794.

(~~M~~L) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 33.2420 Allowed Uses.

33.2625 Review Uses

* * *

~~(J) Signs, pursuant to the provisions of MCC 33.7400 through 33.7505.~~

(~~K~~J) Off-street parking and loading pursuant to MCC 33.4100 through 33.4215.

(~~L~~K) Lot Line Adjustment pursuant to the provisions of MCC 33.2670.

(~~M~~L) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~N~~M) A facility for the processing of farm crops, or the production of biofuel as defined in ORS 215, that is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with the requirements of MCC 33.4100 through MCC 33.4215 (off-street parking), MCC 33.2660(C), (D) & (E) (yards), and MCC 33.7450 (signs).

(~~O~~N) Parking of no more than seven log trucks shall be allowed in an exclusive farm use zone notwithstanding any other provision of law except for health and safety provisions, unless the log truck parking will:

(1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(~~P~~O) Consolidation of Parcels and Lots pursuant to MCC 33.7794.

(~~Q~~P) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 33.2620, Allowed Uses.

33.3125 Review Uses

* * *

~~(D) Signs, pursuant to the provisions of MCC 33.7400 through 33.7505.~~

(~~E~~D) Off-street parking and loading.

(~~F~~E) Property Line Adjustment pursuant to the provisions of MCC 33.3160.

(~~G~~F) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~H~~G) Lots of Exception pursuant to the provisions of MCC 33.3160.

(~~I~~H) Wireless communication facilities that employ concealment technology or co-location as described in MCC 33.6177(B) pursuant to the applicable approval criteria of MCC 33.6175 through 33.6188.

(~~J~~I) Consolidation of Parcels and Lots pursuant to MCC 33.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 33.7797.

(~~K~~J) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 33.3120 Allowed Uses.

33.3325 Review Uses

* * *

~~(D) Signs pursuant to the provisions of MCC 33.7400 through 33.7505;~~

(~~E~~D) Off-street parking and loading;

(~~F~~E) Property Line Adjustment pursuant to the provisions of MCC 33.3360.

(~~G~~F) Placement of structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~H~~G) Lots of Exception pursuant to the provisions of MCC 33.3360.

(~~I~~H) Wireless communication facilities that employ concealment technology or co-location as described in MCC 33.6177(B) pursuant to the applicable approval criteria of MCC 33.6175 through 33.6188.

(~~J~~I) Consolidation of Parcels and Lots pursuant to MCC 33.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 33.7797.

(~~K~~J) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 33.3320 Allowed Uses.

34.2625 Review Uses

* * *

~~(J) Signs, pursuant to the provisions of MCC 34.7400 through 34.7505.~~

(~~K~~J) Off-street parking and loading pursuant to MCC 34.4100 through 34.4215.

(~~L~~K) Lot Line Adjustment pursuant to the provisions of MCC 34.2670.

(~~M~~L) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~N~~M) A facility for the processing of farm crops, or the production of biofuel as defined in ORS 215, that is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with the requirements of MCC 34.4100 through MCC 34.4215 (off-street parking), MCC 34.2660(C), (D) & (E) (yards), and MCC 34.7450 (signs).

(~~O~~N) Parking of no more than seven log trucks shall be allowed in an exclusive farm use zone notwithstanding any other provision of law except for health and safety provisions, unless the log truck parking will:

(1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(~~P~~O) Consolidation of Parcels and Lots pursuant to MCC 34.7794.

(~~Q~~P) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 34.2620, Allowed Uses.

34.2825 Review Uses

* * *

~~(D) Signs, pursuant to the provisions of MCC 34.7400 through 34.7505.~~

(~~E~~D) Off-street parking and loading.

(~~F~~E) Property Line Adjustment pursuant to the provisions of MCC 34.2860.

(~~G~~F) Placement of structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~H~~G) Lots of Exception pursuant to the provisions of MCC 34.2860.

(~~I~~H) Wireless communication facilities that employ concealment technology or co-location as described in MCC 34.6177(B) pursuant to the applicable approval criteria of MCC 34.6175 through 34.6188.

(~~J~~I) Consolidation of Parcels and Lots pursuant to MCC 34.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 34.7797.

(~~K~~J) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 34.2820 Allowed Uses.

34.3125 Review Uses

* * *

~~(D) Signs, pursuant to the provisions of MCC 34.7400 through 34.7505.~~

(~~E~~D) Off-street parking and loading.

(~~F~~E) Property Line Adjustment pursuant to the provisions of MCC 34.3160.

(~~G~~F) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be

submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~H~~G) Lots of Exception pursuant to the provisions of MCC 34.3160.

(~~I~~H) Wireless communication facilities that employ concealment technology or co-location as described in MCC 34.6177(B) pursuant to the applicable approval criteria of MCC 34.6175 through 34.6188.

(~~J~~I) Consolidation of Parcels and Lots pursuant to MCC 34.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 34.7797.

(~~K~~J) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 34.3120 Allowed Uses.

34.3325 Review Uses

* * *

~~(D) Signs pursuant to the provisions of MCC 34.7400 through 34.7505;~~

(~~E~~D) Off-street parking and loading;

(~~F~~E) Property Line Adjustment pursuant to the provisions of MCC 34.3360.

(~~G~~F) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~H~~G) Lots of Exception pursuant to the provisions of MCC 34.3360.

(~~I~~H) Wireless communication facilities that employ concealment technology or co-location as described in MCC 34.6177(B) pursuant to the applicable approval criteria of MCC 34.6175 through 34.6188.

(~~J~~I) Consolidation of Parcels and Lots pursuant to MCC 34.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 34.7797.

(~~K~~J) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 34.3320 Allowed Uses.

35.2025 Review Uses

* * *

~~(E) Signs, pursuant to the provisions of MCC 35.7400 through 35.7505.~~

(~~F~~E) Off-street parking and loading as required by MCC 35.4100 through 35.4220.

(~~G~~F) Lot Line Adjustment pursuant to all applicable approval criteria, including but not limited to the provisions of MCC 35.2070.

(~~H~~G) Placement of structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~I~~H) Wireless communications facilities that employ concealment technology or co-location as described in MCC 35.6177(B) pursuant to the applicable approval criteria of MCC 35.6175 through 35.6188.

(~~J~~I) Consolidation of Parcels and Lots pursuant to MCC 35.7794.

(~~K~~J) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 35.2020 Allowed Uses.

35.2225 Review Uses

* * *

~~(F) Signs, pursuant to the provisions of MCC 35.7400 through 35.7505.~~

(~~G~~F) Off-street parking and loading as required by MCC 35.4100 through 35.4220.

(~~H~~G) Lot Line Adjustment pursuant to all applicable approval criteria, including but not limited to the provisions of MCC 35.2270.

(~~I~~H) Placement of structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~J~~I) Wireless communications facilities that employ concealment technology or co-location as described in MCC 35.6177(B) pursuant to the applicable approval criteria of MCC 35.6175 through 35.6188.

(~~K~~J) Lots of Exception pursuant to all applicable approval criteria, including but not limited to MCC 35.2265, 35.2273 and 35.7700 et seq.

(~~L~~K) Consolidation of Parcels and Lots pursuant to MCC 35.7794.

(~~M~~L) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 35.2220 Allowed Uses.

35.2625 Review Uses

* * *

~~(J) Signs, pursuant to the provisions of MCC 35.7400 through 35.7505.~~

(~~K~~J) Off-street parking and loading pursuant to MCC 35.4100 through 35.4215.

(~~L~~K) Lot Line Adjustment pursuant to the provisions of MCC 35.2670.

(~~M~~L) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~N~~M) A facility for the processing of farm crops, or the production of biofuel as defined in ORS 215, that is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with the requirements of MCC 35.4100 through MCC 35.4215 (off-street parking), MCC 35.2660(C), (D) & (E) (yards), and MCC 35.7450 (signs).

(~~O~~N) Parking of no more than seven log trucks shall be allowed in an exclusive farm use zone notwithstanding any other provision of law except for health and safety provisions, unless the log truck parking will:

(1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(~~P~~O) Consolidation of Parcels and Lots pursuant to MCC 35.7794.

(~~Q~~P) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 35.2620, Allowed Uses.

35.2825 Review Uses

* * *

~~(D) Signs, pursuant to the provisions of MCC 35.7400 through 35.7505.~~

(~~E~~D) Off-street parking and loading.

(~~F~~E) Property Line Adjustment pursuant to the provisions of MCC 35.2860.

(~~G~~F) Placement of structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~H~~G) Lots of Exception pursuant to the provisions of MCC 35.2860.

(~~I~~H) Wireless communication facilities that employ concealment technology or co-location as described in MCC 35.6177(B) pursuant to the applicable approval criteria of MCC 35.6175 through 35.6188.

(~~J~~I) Consolidation of Parcels and Lots pursuant to MCC 35.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 35.7797.

(~~K~~J) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 35.2820 Allowed Uses.

35.3125 Review Uses

* * *

~~(D) Signs, pursuant to the provisions of MCC 35.7400 through 35.7505.~~

(~~E~~D) Off-street parking and loading.

(~~F~~E) Property Line Adjustment pursuant to the provisions of MCC 35.3160.

(~~G~~F) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~H~~G) Lots of Exception pursuant to the provisions of MCC 35.3160.

(~~I~~H) Wireless communication facilities that employ concealment technology or co-location as described in MCC 35.6177(B) pursuant to the applicable approval criteria of MCC 35.6175 through 35.6188.

(~~J~~I) Consolidation of Parcels and Lots pursuant to MCC 35.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 35.7797.

(~~K~~J) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 35.3120 Allowed Uses.

35.3325 Review Uses

* * *

~~(D) Signs pursuant to the provisions of MCC 35.7400 through 35.7505;~~

(~~E~~D) Off-street parking and loading;

(~~F~~E) Property Line Adjustment pursuant to the provisions of MCC 35.3360.

(~~G~~F) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~H~~G) Lots of Exception pursuant to the provisions of MCC 35.3360.

(~~I~~H) Wireless communication facilities that employ concealment technology or co-location as described in MCC 35.6177(B) pursuant to the applicable approval criteria of MCC 35.6175 through 35.6188.

(~~J~~I) Consolidation of Parcels and Lots pursuant to MCC 35.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 35.7797.

(~~K~~J) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 35.3320 Allowed Uses.

36.2025 Review Uses.

* * *

~~(F) Signs, pursuant to the provisions of MCC 36.7400 through 36.7505.~~

(~~G~~F) Off-street parking and loading as required by MCC 36.4100 through 36.4215.

(~~H~~G) Lot Line Adjustment pursuant to all applicable approval criteria, including but not limited to the provisions of MCC 36.2070.

(~~I~~H) Placement of structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~J~~I) Wireless communications facilities that employ concealment technology or co-location as described in MCC 35.6177(B) pursuant to the applicable approval criteria of MCC 36.6175 through 36.6188.

(~~K~~J) Lots of Exception pursuant to all applicable approval criteria, including but not limited to MCC 36.2065, 36.2073 and 36.7700 et seq.

(~~L~~K) Consolidation of Parcels and Lots pursuant to MCC 36.7794.

(~~M~~L) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 36.2020 Allowed Uses.

36.2625 Review Uses.

* * *

~~(J) Signs, pursuant to the provisions of MCC 36.7400 through 36.7505.~~

(~~K~~J) Off-street parking and loading pursuant to MCC 36.4100 through 36.4215.

(~~L~~K) Lot Line Adjustment pursuant to the provisions of MCC 36.2670.

(~~M~~L) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~N~~M) A facility for the processing of farm crops, or the production of biofuel as defined in ORS 215, that is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility. The siting standards are

the requirements of MCC 36.4100 through MCC 36.4215 (off-street parking), MCC 36.2660(C), (D) & (E) (yards), and MCC 36.7450 (signs).

(~~O~~N) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. A manufactured dwelling allowed under this provision is a temporary use for the term of the hardship suffered by the existing resident or relative as defined in ORS Chapter 215. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required. The Planning Director shall review the permit authorizing such manufactured homes every two years. Within three months of the end of the hardship, the Planning Director shall require the removal of such manufactured homes. A temporary residence approved under this section is not eligible for replacement under MCC 36.2620(J), (L), and (M). Oregon Department of Environmental Quality review and removal requirements also apply. As used in this subsection "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.

(1) The health hardship will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

(~~P~~Q) Parking of no more than seven log trucks shall be allowed in an exclusive farm use zone notwithstanding any other provision of law except for health and safety provisions, unless the log truck parking will:

(1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest; or

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(~~Q~~P) State or regional trail for which a master plan that is consistent with OAR Division 34 State and Local Park Planning has been adopted into the comprehensive plan. Development of the trail and accessory facilities shall be subject to the provisions for Design Review in 36.7000 through 36.7060, and any other applicable zoning code requirements; and

(1) Accessory facilities including but not limited to parking areas, may only be allowed in the EFU zone if there is no alternative location in another zone and;

(2) Accessory facilities which must be located in the EFU zone, shall be of a size and scale that is consistent with the rural character of the area.

(~~R~~Q) Consolidation of Parcels and Lots pursuant to MCC 36.7794.

(~~S~~R) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 36.2620, Allowed Uses.

36.2825 Review Uses.

* * *

~~(C) Signs, pursuant to the provisions of MCC 36.7400 through 36.7505.~~

(~~D~~C) Property Line Adjustment pursuant to the provisions of MCC 36.2860.

(~~E~~D) Placement of structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~F~~E) Wireless communications facilities that employ concealment technology or co-location as described in MCC 36.6177(B) pursuant to the applicable approval criteria of MCC 36.6175 through 36.6188.

(~~G~~F) State or regional trail for which a master plan that is consistent with OAR Division 34 State and Local Park Planning has been adopted into the comprehensive plan. Development of the trail and accessory facilities shall be subject to the provisions for Design Review in 36.7000 through 36.7060, and any other applicable zoning code requirements. Accessory facilities shall be of a size and scale that is consistent with the rural character of the area.

(~~H~~G) Lots of Exception pursuant to the provisions of MCC 36.2860.

(~~I~~H) Consolidation of Parcels and Lots pursuant to MCC 36.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 36.7797.

(~~J~~I) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 36.2820 Allowed Uses.

36.3125 Review Uses.

* * *

~~(C) Signs, pursuant to the provisions of MCC 36.7400 through 36.7505.~~

(~~D~~C) Property Line Adjustment pursuant to the provisions of MCC 36.3160.

(~~E~~D) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent

structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~F~~E) Wireless communications facilities that employ concealment technology or co-location as described in MCC 36.6177(B) pursuant to the applicable approval criteria of MCC 36.6175 through 36.6188.

(~~G~~F) State or regional trail for which a master plan that is consistent with OAR Division 34 State and Local Park Planning has been adopted into the comprehensive plan. Development of the trail and accessory facilities shall be subject to the provisions for Design Review in 36.7000 through 36.7060, and any other applicable zoning code requirements. Accessory facilities shall be of a size and scale that is consistent with the rural character of the area.

(~~H~~G) Lots of Exception pursuant to the provisions of MCC 36.3160.

(~~I~~H) Consolidation of Parcels and Lots pursuant to MCC 36.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 36.7797.

(~~J~~I) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 36.3120 Allowed Uses.

36.3325 Review Uses.

* * *

~~(D) Signs pursuant to the provisions of MCC 36.7400 through 36.7505;~~

(~~E~~D) Off-street parking and loading;

(~~F~~E) Property Line Adjustment pursuant to the provisions of MCC 36.3360.

(~~G~~F) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~H~~G) Lots of Exception pursuant to the provisions of MCC 36.3360.

(~~I~~H) Wireless communications facilities that employ concealment technology or co-location as described in MCC 36.6177(B) pursuant to the applicable approval criteria of MCC 36.6175 through 36.6188.

(~~J~~I) Consolidation of Parcels and Lots pursuant to MCC 36.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 36.7797.

(~~K~~J) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 36.2820 Allowed Uses.

36.3425 Review Uses.

* * *

~~(B) Signs pursuant to the provisions of MCC 36.7400 through 36.7505;~~

(~~C~~B) Property Line Adjustment pursuant to the provisions of MCC 36.3460.

(~~D~~C) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(~~E~~D) Type B home occupation as provided for in MCC 36.6650 through 36.6660.

(~~F~~E) Wireless communications facilities that employ concealment technology or co-location as described in MCC 36.6177(B) pursuant to the applicable approval criteria of MCC 36.6175 through 36.6188.

(~~G~~F) Temporary uses when approved pursuant to MCC 36.0510 and 36.0515.

(~~H~~G) Lots of Exception pursuant to the provisions of MCC 36.3460.

(~~I~~H) Consolidation of Parcels and Lots pursuant to MCC 36.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 36.7797.

(~~J~~I) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the "accessory structures" standard in MCC 36.3420 Allowed Uses.

34.2630 Conditional Uses

The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC 34.6300 to 34.6335:

(A) Commercial activities that are in conjunction with a farm use, except for facilities for processing crops that meet the standards for crop source, building size, and other applicable siting standards pursuant to 34.2625(~~N~~M).

* * *

35.2045 Use Compatibility Standards

Specified uses of MCC 35.2025 (C)~~,~~ and (D) ~~and (E)~~ and MCC 35.2030 (A), (B) and (C) may be allowed upon a finding that:

* * *

Section 11. §§ 33.2820, 33.2020, 33.2220, 33.2420, 33.2620, 33.3120, 33.3320, 34.2620, 34.2820, 34.3120, 34.3320, 35.2020, 35.2220, 35.2620, 35.2820, 35.3120, 35.3320, 36.2020, 36.2620, 36.2820, 36.3120, 36.3320, 36.3420, 36.3520 and 36.7450 are amended as follows:

33.2820 Allowed Uses

* * *

(I) Signs, as provided in this chapter.

(J) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

33.2020 Allowed Uses

* * *

(V) Signs, as provided in this chapter.

33.2220 Allowed Uses

* * *

(V) Signs, as provided in this chapter.

33.2420 Allowed Uses

* * *

(V) Signs, as provided in this chapter.

33.2620 Allowed Uses

* * *

(AA) Signs, as provided in this chapter.

33.3120 Allowed Uses

* * *

(I) Signs, as provided in this chapter.

(J) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

33.3320 Allowed Uses

* * *

(I) Signs, as provided in this chapter.

(J) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

34.2620 Allowed Uses

* * *

(AA) Signs, as provided in this chapter.

34.2820 Allowed Uses

* * *

(I) Transportation facilities and improvements that serve local ~~and farm to market travel~~ needs or are part of the adopted Multnomah County Functional Classification of Trafficways ~~map and~~ plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

(J) Signs, as provided in this chapter.

34.3120 Allowed Uses

* * *

(I) Transportation facilities and improvements that serve local ~~and farm to market travel~~ needs or are part of the adopted Multnomah County Functional Classification of Trafficways ~~map and~~ plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

(J) Signs, as provided in this chapter.

34.3320 Allowed Uses

* * *

(J) Signs, as provided in this chapter.

35.2020 Allowed Uses

* * *

(V) Signs, as provided in this chapter.

35.2220 Allowed Uses

* * *

(V) Signs, as provided in this chapter.

35.2620 Allowed Uses

* * *

(AA) Signs, as provided in this chapter.

35.2820 Allowed Uses

* * *

(I) Signs, as provided in this chapter.

(J) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

35.3120 Allowed Uses

* * *

(I) Signs, as provided in this chapter.

(J) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

35.3320 Allowed Uses

* * *

(I) Signs, as provided in this chapter.

(J) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

36.2020 Allowed Uses.

* * *

(W) Signs, as provided in this chapter.

36.2620 Allowed Uses.

* * *

(AA) Signs, as provided in this chapter.

36.2820 Allowed Uses.

* * *

(I) Signs, as provided in this chapter.

(J) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

36.3120 Allowed Uses.

* * *

(J) Signs, as provided in this chapter.

(K) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

36.3320 Allowed Uses

* * *

(I) Signs, as provided in this chapter.

(J) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

36.3420 Allowed Uses.

* * *

(I) Signs, as provided in this chapter.

(J) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

36.3520 Allowed Uses.

* * *

(I) Signs, as provided in this chapter.

(J) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

36.7450 Signs Generally in the EFU, CFU, MUA-20, RR, PH-RC, OCI, and OR Zones.

For all uses and sites in the above listed zones, the following types, numbers, sizes and features of signs are allowed. All allowed signs must also be in conformance with the sign development regulations of MCC 36.7460 through 36.7500.

* * *

Section 12. The amendments to Chapter 38 Columbia River Gorge National Scenic Area shall be effective upon notification of approval by the Columbia River Gorge Commission and, if necessary, concurrence by the Secretary of Agriculture.

FIRST READING: January 22, 2009

SECOND READING AND ADOPTION: January 29, 2009

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By_____
Sandra N. Duffy, Assistant County Attorney

SUBMITTED BY:
M. Cecilia Johnson, Director, Department of Community Services

BEFORE THE PLANNING COMMISSION
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. PC 08-002

Recommend to the Board of County Commissioners the adoption of an ordinance amending the non-conforming uses section of MCC Chapters 33, 34, 35, and 36 to clarify concepts and provisions as well as modify the definition of of non-conforming use and improve the sequencing of the subsections.

The Planning Commission Finds:

a. The Planning Commission is authorized by Multnomah County Code Chapter 37 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan.

b. The individual Code chapters should be periodically updated and improvements adopted. As part of that effort the Planning Commission sees a need to need to update and reorganize the Non-Conforming Use section.

c. The proposed amendments will ensure the provisions of the non-conforming use section will flow logically by placing the verification section before the alteration, modification, and expansion section, modify the definition of non-conforming use, and clarify the applicability of off-street parking codes to alterations of non-conforming uses in each chapter.

d. No regulations are being proposed that further restrict the use of property and no mailed notice to individual property owners is required ("Ballot Measure 56" notice).

e. A public hearing was held on October 6, 2008 before the Planning Commission for the proposed amendment where all interested persons were given an opportunity to appear and be heard. Notice of the Planning Commission hearing was published in the "Oregonian" newspaper and on the Land Use Planning Program website.

The Planning Commission Resolves:

The proposed Ordinance amending MCC Chapters 33, 34, 35 and 36 is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 3rd day of November, 2008.

PLANNING COMMISSION
FOR MULTNOMAH COUNTY, OREGON

John Ingle, Chair

BEFORE THE PLANNING COMMISSION
for MULTNOMAH COUNTY, OREGON

RESOLUTION NO. PC-08-004

Recommend to the Board of Commissioners adoption of an ordinance amending Multnomah County Code Chapters 29, 33, 34, 35, 36, 38, 11.15, and 11.45 to revise definitions of transportation facilities and amend the list of uses allowed in the various zones to include certain transportation facilities.

The Planning Commission of Multnomah County Finds:

a. The Planning Commission is authorized by Multnomah County Code Chapters 33.0140, 34.0140, 35.0140, 36.0140 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption, revision, or repeal of Ordinances intended to implement the Multnomah County Comprehensive Plan.

b. The individual zoning code chapters and related implementing regulations should be periodically updated to improve consistency.

c. The amendments to the code chapters add certain transportation facilities as allowed uses in exception zone districts, as uses allowed conditionally in Exclusive Farm Use districts, and amend definitions of transportation facilities for consistency .

d. No regulations are being proposed that further restrict the use of property and no mailed notice to individual property owners is required (Ballot Measure 56 Notice).

e. The Planning Commission held a public hearing on November 3, 2008 where all interested persons were given an opportunity to appear and be heard. Notice of the Planning Commission hearing was published in the "Oregonian" newspaper and on the Land Use Planning program web site.

The Planning Commission of Multnomah County Resolves:

1. The proposed ordinance amending MCC Chapters 29, 33, 34, 35, 36, 38, 11.15, and 11.45 is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 3rd day of November, 2008.

PLANNING COMMISSION
FOR MULTNOMAH COUNTY, OREGON

John Ingle, Chair

BEFORE THE PLANNING COMMISSION
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 08-011

Recommend to the Board of County Commissioners the adoption of an ordinance amending MCC Chapters 33, 34, 35, and 36 by making "housekeeping" code changes related to signs.

The Planning Commission Finds:

a. The Planning Commission is authorized by Multnomah County Code Chapter subsections 33.0140, 34.0140, 35.0140, 36.0140, 37.0710 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan.

b. Periodic review and enactment of "housekeeping" amendments of the Zoning Code is needed as technical errors and unclear provisions are found.

c. The recommended changes include amending the base zone districts to list signs as an allowed use rather than a review use, and amend Chapter 38 to add signs as an allowed use in the Orient Commercial Industrial Zone District and update list of zones where signs are allowed.

d. No regulations are being proposed that further restrict the use of property and no mailed notice to individual property owners is required ("Ballot Measure 56" notice). Notice of the Planning Commission hearing was published in the "Oregonian" newspaper and on the Land Use Programs web site.

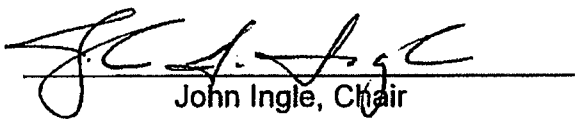
e. The Planning Commission held a public hearing on November 3, 2008 where all interested persons were given an opportunity to appear and be heard.

The Planning Commission Resolves:

The proposed Ordinance amending MCC Chapters 33, 34, 35, and 36, is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 3rd day of November, 2008.

PLANNING COMMISSION
FOR MULTNOMAH COUNTY, OREGON



John Ingle, Chair

MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST (revised 09/22/08)

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-5 DATE 01-22-09
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only	
Meeting Date:	01/22/09
Agenda Item #:	R-5
Est. Start Time:	10:35 AM
Date Submitted:	01/08/09

BUDGET MODIFICATION: DCJ - 13

Agenda Title:	**BUDGET MODIFICATION DCJ-13 Adding City of Portland Pass-Through Funding for Prostitution Alternative Services**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.

Requested Meeting Date:	January 22, 2009	**Amount of Time Needed:**	3 minutes
Department:	Dept of Community Justice	**Division:**	Employee, Community & Clinical Services
Contact(s):	Shaun Coldwell		
Phone:	503-988-3961 **Ext.** 83961	**I/O Address:**	503/250
Presenter(s):	Kathleen Treb		

General Information

1. **What action are you requesting from the Board?**
   The Department of Community Justice (DCJ) requests approval of budget modification DCJ-13 to appropriate $145,833 for December 1, 2008-June 30, 2009 from the City of Portland, which is to be passed through to Lifeworks Northwest to operate New Options for Women (NOW).

   This is a program designed to assist girls and women involved in prostitution. New Options for Women has operated in the past, through money from Multnomah County Community Justice and the Department of County Human Services. Through a series of budget cuts, NOW closed their doors approximately two years ago.

2. **Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**
   The City of Portland has designated $250,000 to be used through November 2009, to assist up to 60 women in their efforts to leave prostitution. The program will provide alcohol and drug treatment, mental health services, mentoring, housing and employment search assistance.

The City currently works closely with Multnomah County on the Services Coordination Team, which is a collaborative approach to reduce crime in the down town area of the city. Based on the success of this program, the City has adapted that model for reducing the effects of prostitution on 82nd Avenue and Sandy Boulevard.

Through a procurement process the City of Portland Police Bureau has selected Lifeworks Northwest to provide services for women involved in prostitution. The Department of Community Justice has been asked to again participate in the planning and ongoing implementation of this program. DCJ will manage the contract with Lifeworks NW.

Of the $250,000 designated for this project, $145,833 will be added to the Fiscal Year 2009 DCJ Program Offer #50043 (Adult Offender Mental Health Services). The remaining $104,167 will be included in DCJ's Fiscal Year 2010 budget. Based on mutual agreement, the County will not receive administrative costs for this service.

3. **Explain the fiscal impact (current year and ongoing).**

   Budget Modification DCJ-13 increases The Department of Community Justice's Fiscal Year 2009 budget by $145,833 in funding from the City of Portland. An additional $104,167 is available for Fiscal Year 2010.

4. **Explain any legal and/or policy issues involved.**

   n/a

5. **Explain any citizen and/or other government participation that has or will take place.**

   The City has had extensive involvement with neighborhood associations in the development of a model to address prostitution on 82nd Avenue. and Sandy Boulevard.

ATTACHMENT A

Budget Modification

If the request is a Budget Modification, please answer all of the following in detail:

- **What revenue is being changed and why?**

  The Department of Community Justice's Fiscal Year 2009 budget will be increased by $145,833 in funding from the City of Portland. The City of Portland has designated the funding to be passed through to Lifeworks Northwest.

- **What budgets are increased/decreased?**

  Budget Modification DCJ-13 adds $145,833 in City of Portland funding to the Fiscal Year '09 DCJ Program Offer #50043 (Adult Offender Mental Health Services).

- **What do the changes accomplish?**

  The funding will be contracted to Lifeworks Northwest to assist up to 60 prostitutes in getting off of the streets.

- **Do any personnel actions result from this budget modification? Explain.**

  n/a

- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**

  The City of Portland has designated these funds to be passed through to Lifeworks Northwest. No funding is provided for Multnomah County's overhead costs.

- **Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?**

  This is one-time-only funding.

- **If a grant, what period does the grant cover?**

  The $250,000 is designated to be spent by November 30, 2009. Of this amount, $145,833 will be spent in Fiscal Year 2009, and the remaining $104,167 will be included in the Fiscal Year 2010 budget.

- **If a grant, when the grant expires, what are funding plans?**

  The program will discontinue.

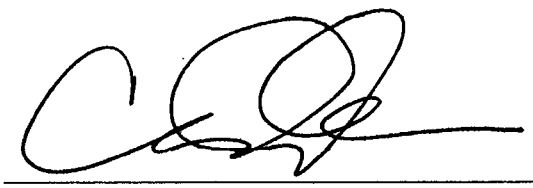
NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

ATTACHMENT B

BUDGET MODIFICATION: DCJ - 13

Required Signatures

Elected Official or Department/ Agency Director: for Scott Taylor **Date:** 01/08/09

Budget Analyst:  **Date:** 01/08/09

Department HR: _____ **Date:** _____

Countywide HR: _____ **Date:** _____

Budget Modification ID: DCJ-13

EXPENDITURES & REVENUES

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with SAP.

Budget/Fiscal Year: 2008

Line No.	Fund Center	Fund Code	Program #	Func. Area	Accounting Unit: *Internal Order*	Accounting Unit: *Cost Center*	Accounting Unit: *WBS Element*	Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
1	50-05	27671	50043	50			CJ002.PROST.ALTS	50200	-	(145,833)	(145,833)		IG-OP-Local
2	50-05	27671	50043	50			CJ002.PROST.ALTS	60160	0	145,833	145,833		Pass Through Payments
3										0			
4										0			
5										0			
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28										0			
29										0			
											0	0	**Total - Page 1**
											0	0	**GRAND TOTAL**

MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST (long form)

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-6 DATE 01-22-09
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only	
Meeting Date:	01/22/09
Agenda Item #:	R-6
Est. Start Time:	10:40 AM
Date Submitted:	01/07/09

BUDGET MODIFICATION: PROJECT REALLOCATION: FPM 09-02

Agenda Title:	**Reallocation of Facilities Capital Project Funds FPM 09-02, Capital Repair And Maintenance Mini-Fund**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Requested Meeting Date:	January 22, 2009	**Amount of Time Needed:**	5 minutes
Department:	County Management	**Division:**	FPM
Contact(s):	John Lindenthal, Alan Proffitt		
Phone:	503-988-4213 **Ext.** x84213	**I/O Address:**	274/1
Presenter(s):	John Lindenthal		

General Information

1. What action are you requesting from the Board?

Requested action is to add $182,000 to the FY09 Capital Repair and Maintenance Mini-Fund (CP10.09.04). This will change the total FY09 budget authorization from $175,000 to $357,000.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

The Board included the following Budget Note in the FY05 Adopted Budget. No reallocation of funds from capital or maintenance projects shall occur without review and approval from the Chief Financial Officer. Projects that will exceed their budgeted appropriation in excess of five percent up to $25,000 will need to be approved by the Chief Financial Officer; over $25,000 will need to be brought back to the Board for approval. Facilities shall report to the Board on a semi-annual basis the progress of capital projects and the financial status of capital and maintenance projects." This filing is in response to that requirement and complies with the new County Administrative Procedure, Fin-15,

created to implement this process.

The Capital Repair and Maintenance mini-fund is funded each year to respond to unanticipated breakages and major maintenance in Tier 1 buildings. There has been quite a draw on the fund this budget year including major sewer pipe failures at the Multnomah and Elections buildings. These two emergency projects have used up all available funds in the mini-fund and more. This action will allow the Elections sewer failure to be fully funded and allow some funding for the rest of the fiscal year in this mini-fund.

3. Explain the fiscal impact (current year and ongoing).

Fiscal year FY09: No overall fiscal impact. Transfer $182,000 budget expenditure authority from the following projects: JJC Grill Vent Replacement (CP10.06.27) - $24,000; JJC Paint Exterior Grates (CP10.08.23) - $34,000; Elections Truss Upgrades (CP10.09.19) - $50,000; Multnomah Bldg Window Replacement (CP10.09.31) - $24,000; A&E Consultations for AP (CP10.09.07) - $50,000

The JJC Paint Exterior Grates project and JJC Grill Vent projects were bid and completed under budget.

The Elections Truss upgrade project was deemed not necessary at this time and the bid as an alternate to the Elections Remodel was not accepted.

The Multnomah Building Window Replacement was deemed unnecessary at this time after an investigation by the project and property manager.

The A&E Consultations AP will be reduced from $75,000 to $25,000 for FY09.

4. Explain any legal and/or policy issues involved.

None.

5. Explain any citizen and/or other government participation that has or will take place.

None.

ATTACHMENT A

Budget Modification

If the request is a Budget Modification, please answer all of the following in detail:

- **What revenue is being changed and why?**

  N/A

- **What budgets are increased/decreased?**

  No budget change except at project level.

- **What do the changes accomplish?**

  N/A

- **Do any personnel actions result from this budget modification? Explain.**

  No.

- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**

  N/A

- **Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?**

  N/A

- **If a grant, what period does the grant cover?**

  N/A

- **If a grant, when the grant expires, what are funding plans?**

  N/A

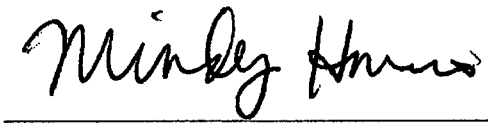
NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

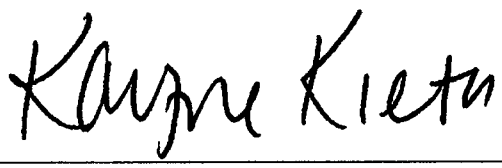
ATTACHMENT B

BUDGET MODIFICATION: PROJECT REALLOCATION: FPM 09-02

Required Signatures

Facilities and Property Management Director: **Date:** 01/07/09

Chief Financial Officer:  **Date:** 01/07/09

Budget Director:  **Date:** 01/07/09

Project Reallocation Formal Board Approval: FPM09-02

EXPENDITURES & REVENUES

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Line No.	Fund Center	Fund Code	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
			Formal FPM	*Cost Center*	*WBS Element*						
1	72-50	2509			CP10.09.04		(175,000)	(357,000)	(182,000)		Capital Repair
2	72-50	2509			CP10.06.27		(57,107)	(33,107)	24,000		JJC Replace grill vents all registers
3	72-50	2509			CP10.08.23		(140,000)	(106,000)	34,000		Panting Exterior Grates - B311 JJC
4	72-50	2509			CP10.09.19		(50,000)	0	50,000		Seismic Upgrade - Roof Truss B414
5	72-50	2509			CP10.09.07		(75,000)	(25,000)	50,000		A&E and Consultations for AP
6	72-50	2509			CP10.09.31		(25,000)	(1,000)	24,000		Replace Windows
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MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST (long form)

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-7 DATE 01.22.09
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only	
Meeting Date:	01/22/09
Agenda Item #:	R-7
Est. Start Time:	10:43 AM
Date Submitted:	01/07/09

BUDGET MODIFICATION: PROJECT REALLOCATION: FPM 09-03

Agenda Title:	**Reallocation of Facilities Capital Project Funds FPM 09-03, Justice Center Jail Shower Repair Project CP08.08.62**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Requested Meeting Date:	January 22, 2009	**Amount of Time Needed:**	5 minutes
Department:	County Management	**Division:**	FPM
Contact(s):	John Lindenthal, Gail Hochhalter		
Phone:	503-988-3206 **Ext.** x83206	**I/O Address:**	274/1
Presenter(s):	John Lindenthal		

General Information

1. What action are you requesting from the Board?

Requested action is to transfer $140,000 to the Justice Center Jail Shower Repair project (CP08.08.62) from the Justice Center Cooling Tower upgrade project (CP08.07.24). This will change the total FY09 project budget authorization from $125,000 to $265,000.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

The Board included the following Budget Note in the FY05 Adopted Budget. No reallocation of funds from capital or maintenance projects shall occur without review and approval from the Chief Financial Officer. Projects that will exceed their budgeted appropriation in excess of five percent up to $25,000 will need to be approved by the Chief Financial Officer; over $25,000 will need to be brought back to the Board for approval. Facilities shall report to the Board on a semi-annual basis the progress of capital projects and the financial status of capital and maintenance projects." This filing is in response to that requirement and complies with the new County Administrative Procedure, Fin-15,

created to implement this process.

This Justice Center shower project has been on hold due to lack of funding. There are 50 showers at the Justice Center that are currently damaged and pose a potential safety risk to personnel. This project will involve the use of a finish product which has proven effective in State jails and in a prototype completed on the 7th floor jail earlier this year.

3. **Explain the fiscal impact (current year and ongoing).**

   Fiscal year FY09: No overall fiscal impact. Transfer $140,000 budget expenditure authority from the Justice Center Cooling Tower Energy Upgrade Project (CP 08.07.24.) to the Justice Center Shower Repair project (CP08.08.62). The Justice Center Cooling Tower Energy Upgrade Project bid was under budget and is not expected to exceed the remaining budget after the funds are transferred.

4. **Explain any legal and/or policy issues involved.**

   None.

5. **Explain any citizen and/or other government participation that has or will take place.**

   None.

ATTACHMENT A

Budget Modification

If the request is a Budget Modification, please answer all of the following in detail:

- **What revenue is being changed and why?**

  N/A

- **What budgets are increased/decreased?**

  No budget change except at project level.

- **What do the changes accomplish?**

  N/A

- **Do any personnel actions result from this budget modification? Explain.**

  No.

- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**

  N/A

- **Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?**

  N/A

- **If a grant, what period does the grant cover?**

  N/A

- **If a grant, when the grant expires, what are funding plans?**

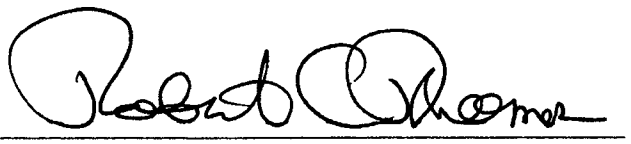
  N/A

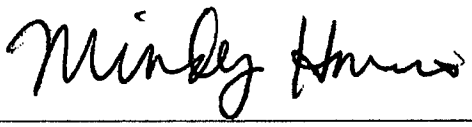
NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

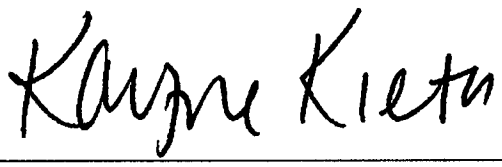
ATTACHMENT B

BUDGET MODIFICATION: PROJECT REALLOCATION: FPM 09-03

Required Signatures

Facilities and Property Management Director:  **Date:** 01/07/09

Chief Financial Officer:  **Date:** 01/07/09

Budget Director:  **Date:** 01/07/09

Project Reallocation Formal Board Approval: FPM09-03

EXPENDITURES & REVENUES

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Line No.	Fund Center	Fund Code	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
			Formal FPM	*Cost Center*	*WBS Element*						
1	72-50	2509			CP08.08.62		(125,000)	(265,000)	(140,000)		MCDC Jail Shower Repair
2	72-50	2509			CP08.07.24		(238,000)	(98,000)	140,000		MCDC Cooling Tower Energy Upgrade
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MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST

(revised 09/22/08)

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-8 DATE 01-22-09
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only	
Meeting Date:	01/22/09
Agenda Item #:	R-8
Est. Start Time:	10:45 AM
Date Submitted:	01/08/09

BUDGET MODIFICATION: DCHS-20

Agenda Title:	**BUDGET MODIFICATION DCHS-20 Reallocating $131,788 of the Mental Health and Addiction Services Division (MHASD) Appropriation and Increasing the Developmental Disabilities Services Division (DDSD) Appropriation by $26,360 to Add a Permanent 0.60 FTE Physician (Child Psychiatrist) Position. The duties will be shared by the two divisions.**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.

Requested Meeting Date:	January 22, 2009	**Amount of Time Needed:**	5 minutes
Department:	County Human Services	**Division:**	**MHASD and DDSD**
Contact(s):	Kathy Tinkle		
Phone:	503-988-3691 **Ext.** 26858	**I/O Address:**	167/620
Presenter(s):	Karl Brimner and Patrice Botsford		

General Information

1. **What action are you requesting from the Board?**

   The Department of County Human Services recommends approval of Budget Modification DCHS-20 to add a new permanent 0.60 FTE Physician (Child Psychiatrist) position for Mental Health and Addiction Services Division (MHASD) System of Care for Children & Families and Developmental Disability Services Division (DDSD).

2. **Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

   This position provides professional and comprehensive consultation on clinical psychiatric and medical issues to clinical staff and supervisors regarding mental health treatment services for children and their families. The position plays a pivotal role in the planning and establishment of innovative treatment programs and protocols, as well as, actively participating in the development of policies, tools and procedures for child and family care teams. This role spans Child Psychiatric

consultation oversight of both MHASD and DDSD and coordinates between MHASD and DDSD the dually diagnosed children, assists in educating the MHASD system regarding how to work with DDSD clients and provides training to DDSD staff and providers regarding major mental health illnesses.

The duties of this position were previously filled through a professional services agreement in MHASD. With the resignation of the previously contracted consultant, it was determined that a permanent hire arrangement would better meet the needs of the County and the clients served.

The funding for the new permanent position will be budgeted in DDSD program offer #25012 and in MHASD program offers #25055 and #25067.

3. **Explain the fiscal impact (current year and ongoing).**
   This budget modification reallocates $131,788 from Professional Services and Pass- Through expense to personnel expense in MHASD and increases the DDSD appropriation from the State Mental Health Grant (SMHG) service element 48 (Case Management) by $26,360. The duties will be shared by the two divisions. (MHASD @ 20 hrs per week and DDSD @ 4 hours per week).

   Personnel costs increase by $158,148 to fund the new 0.60 FTE Physician position.

   Professional Services and Pass-Through expenses decrease by $113,680 and $18,108 respectively.

   Service reimbursement from the Federal/State fund to the Risk Management fund increases by $12,372.

4. **Explain any legal and/or policy issues involved.**
   N/A

5. **Explain any citizen and/or other government participation that has or will take place.**
   N/A

ATTACHMENT B

BUDGET MODIFICATION: DCHS - 20

Required Signatures

Elected Official or Department/ Agency Director: Kathy Sinkle for Joanne Fuller **Date:** 01/08/09

Budget Analyst: [signature] **Date:** 01/08/09

Department HR: Paula Brunt **Date:** 01/08/09

Countywide HR: _____ **Date:** _____

ATTACHMENT A

Budget Modification

If the request is a Budget Modification, please answer all of the following in detail:

- **What revenue is being changed and why?**

  This budget modification increases the Developmental Disabilities Division appropriation from the State Mental Health Grant service element 48 (Case Management) by $26,360. The additional revenue funds DDSD's portion of the new 0.60 FTE Physician (Child Psychiatrist) position.

- **What budgets are increased/decreased?**

  Developmental Disabilities Division appropriation increases by $26,360.

  Risk Management's budget increases by a total of $12,372.

- **What do the changes accomplish?**

  The change requested in this budget modification reallocates previously approved funding in MHASD from Professional Services and Pass-Through expense and increases DDSD FY09 resources from the SMHG by $26,360. This will allow for the creation of a permanent 0.60 FTE Physician (Child Psychiatrist) position.

- **Do any personnel actions result from this budget modification? Explain.**

  Yes. Budget Modification DCHS-20 adds a permanent 0.60 FTE Physician (Child Psychiatrist) position to the Department of County Human Services' fiscal year 2009 budget.

- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**

  The additional SMHG revenue does not cover indirect charges.

- **Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?**

  The additional revenue is part of the current FY2007-2009 biennial allocation from the State of Oregon.

- **If a grant, what period does the grant cover?**

  The current allocation covers the period from July 1, 2007 to June 30, 2009.

- **If a grant, when the grant expires, what are funding plans?**

  This is an on-going grant.

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

Budget Modification ID: DCHS-20

EXPENDITURES & REVENUES

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with SAP.

Budget/Fiscal Year: 2009

Line No.	Fund Center	Fund Code	Program #	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
					Internal Order	*Cost Center*	*WBS Element*						
1	20-80	3002	25067	40			MA SC CH PP XIX	60170	43,680	0	(43,680)		Professional Services
2	20-80	3002	25067	40			MA SC CH PP XIX	60000	0	31,333	31,333		Permanent
3	20-80	3002	25067	40			MA SC CH PP XIX	60130	0	8,930	8,930		Salary Related
4	20-80	3002	25067	40			MA SC CH PP XIX	60140	0	3,417	3,417		Insurance Benefits
5													
6	20-80	3002	25055A	40			MA SN CR CALL XIX	60160	38,686	20,578	(18,108)		Pass-Through
7	20-80	3002	25055A	40			MA SN CR CALL XIX	60170	80,000	10,000	(70,000)		Professional Services
8	20-80	3002	25055A	40			MA SN CR CALL XIX	60000	716,559	779,766	63,207		Permanent
9	20-80	3002	25055A	40			MA SN CR CALL XIX	60130	218,851	236,860	18,009		Salary Related
10	20-80	3002	25055A	40			MA SN CR CALL XIX	60140	179,405	186,297	6,892		Insurance Benefits
11													
12	20-50	81048	25012	40			DD KIDS 48	50190	(2,600,614)	(2,626,974)	(26,360)		IG-OP-Fed thru St
13	20-50	81048	25012	40			DD KIDS 48	60000	1,376,193	1,395,101	18,908		Permanent
14	20-50	81048	25012	40			DD KIDS 48	60130	417,393	422,782	5,389		Salary Related
15	20-50	81048	25012	40			DD KIDS 48	60140	396,450	398,513	2,063		Insurance Benefits
16													
17	72-10	3500		20		705210		50316		(12,372)	(12,372)		Svc Reimb F/S to Risk
18	72-10	3500		20		702510		60330		12,372	12,372		Claims Paid
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Budget Modification: DCHS-20

ANNUALIZED PERSONNEL CHANGE

Change on a full year basis even though this action affects only a part of the fiscal year (FY).

							ANNUALIZED			
Fund	Job #	HR Org	CC/WBS/IO	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
3002	9490	63307	MA SC CH PP XIX	Physician	713603	0.17	31,333	8,930	3,417	43,680
3002	9490	63307	MA SN CR CALL XIX	Physician	713603	0.33	63,207	18,009	6,892	88,108
81048	9490	63307	DD KIDS 48	Physician	713603	0.10	18,908	5,389	2,063	26,360
										0
										0
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										0
										0
										0
										0
										0
				TOTAL ANNUALIZED CHANGES		0.60	113,448	32,328	12,372	158,148

CURRENT YEAR PERSONNEL DOLLAR CHANGE

Calculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.

				Full Year			CURRENT YEAR			
Fund	Job #	HR Org	CC/WBS/IO	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
3002	9490	63307	MA SC CH PP XIX	Physician	713603	0.17	31,333	8,930	3,417	43,680
3002	9490	63307	MA SN CR CALL XIX	Physician	713603	0.33	63,207	18,009	6,892	88,108
81048	9490	63307	DD KIDS 48	Physician	713603	0.10	18,908	5,389	2,063	26,360
										0
										0
										0
										0
										0
										0
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				TOTAL CURRENT FY CHANGES		0.60	113,448	32,328	12,372	158,148

Note: Position belongs to MHAS - 4 hours a week (17%) will be charged to DDSD

MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST (revised 09/22/08)

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-9 DATE 01.22.09
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only	
Meeting Date:	01/22/09
Agenda Item #:	R-9
Est. Start Time:	10:48 AM
Date Submitted:	01/12/09

Agenda Title:	**NOTICE OF INTENT for Aging and Disabilities Services Division to Apply for a $25,000 Digital TV Keeping Seniors Connected Campaign Grant from the National Association of Area Agencies on Aging**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.

Requested Meeting Date:	January 22, 2009	**Amount of Time Needed:**	5 Minutes
Department:	Dept. of County Human Services	**Division:**	Aging & Disablity Services
Contact(s):	Kathy Tinkle		
Phone:	503-988-3691 **Ext.** 83691	**I/O Address:**	167/1/620
Presenter(s):	Mary Shortall		

General Information

1. What action are you requesting from the Board?

The Department of County Human Services (DCHS), Aging and Disability Services Division (ADSD) is requesting approval of this Notice of Intent to apply for the $25,000 Digital TV: Keeping Seniors Connected Campaign grant from the National Association of Area Agencies on Aging (N4A). This Notice of Intent is retroactive due to the short filing timeline of the application and approval of the grant.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

The National Association of Area Agencies on Aging is implementing the - Digital TV: Keeping Seniors Connected Campaign grant to provide individualized assistance to older persons to effectively transition to digital programming.

The purpose of the project is to conduct an on-the-ground, community-based campaign to ensure that the most vulnerable older Americans who currently rely on over-the-air television signals are provided the education and one-to-one assistance to successfully make the conversion to digital

programming. The project will also provide individualized assistance to older persons to effectively transition to digital programming. Training and technical assistance will also be provided to staff and volunteers. This action will impact Program Offer #25020 - ADS Access & Early Intervention Services. The impact of the Digital TV grant is that ADS will contract with a provider to conduct more targeted outreach and provide assistance for vulnerable older adults.

On January 7, 2009 ADSD was notified that their grant applicant was approved and funded in the amount of $25,000.

3. **Explain the fiscal impact (current year and ongoing).**

   The one time only $25,000 grant would cover additional ADS pass-through that will result in increased outreach. The impact of the grant is that we will provide more targeted outreach and assistance to seniors. A budget modification will be processed to appropriate the funds.

4. **Explain any legal and/or policy issues involved.**

   There are no legal and/or policy issues associated with applying for this grant.

5. **Explain any citizen and/or other government participation that has or will take place.**

   ADSD is currently working closely with key stakeholders to help educate seniors about the DTV transition. These funds will allow us to provide more hands-on support to eliminate technology barriers for seniors

ATTACHMENT A

Grant Application/Notice of Intent

If the request is a Grant Application or Notice of Intent, please answer all of the following in detail:

- **Who is the granting agency?**
  National Association of Area Agencies on Aging (N4A)
- **Specify grant (matching, reporting and other) requirements and goals.**
  No matching required, funding is being used to help expand capacity for outreach.
- **Explain grant funding detail – is this a one time only or long term commitment?**
  This is a one time only grant
- **What are the estimated filing timelines?**
  No later than January 2009
- **If a grant, what period does the grant cover?**
  Fiscal Year 2009 (January-April 2009)
- **When the grant expires, what are funding plans?**
  No plans to continue funding when grant expires
- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**
  Grantor will not pay indirect and overhead cost.

ATTACHMENT B

Required Signatures

Elected Official or Department/ Agency Director: Kathy Sinkle for Joanne Fuller **Date:** 01/12/09

Budget Analyst: **Date:** 01/12/09

MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST (short form)

Board Clerk Use Only	
Meeting Date:	01/22/09
Agenda Item #:	R-10
Est. Start Time:	10:50 AM
Date Submitted:	12/11/08

Agenda Title: **Adoption of 2009 State & Federal Legislative Agenda**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Requested Meeting Date:	January 22, 2009	**Amount of Time Needed:**	15 minutes
Department:	Non-Departmental	**Division:**	Chair's Office
Contact(s):	Phillip Kennedy-Wong		
Phone:	(503) 988-5895 **Ext.** 85895	**I/O Address:**	503/6
Presenter(s):	Phillip Kennedy-Wong.		

General Information

1. **What action are you requesting from the Board?**
   It is requested that the Board adopt the recommended 2009 State and Federal Legislative Agenda.
2. **Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**
   The 2009 State and Federal Legislative Agenda represent the priorities of the Board to the Oregon Legislature and the 111th US Congress. The agenda informs lawmakers and the public what issues the County will be advocating for or opposing. Further, the Board's adoption of the agenda authorizes county representatives to embark on lobbying efforts to advance the agenda.
3. **Explain the fiscal impact (current year and ongoing).**
   None.
4. **Explain any legal and/or policy issues involved.**
   None.
5. **Explain any citizen and/or other government participation that has or will take place.**

Required Signature

Elected Official or Department/ Agency Director: TED WHEELER **Date:** 01/15/09

BOGSTAD Deborah L

From: KENNEDY-WONG Phillip

Sent: Wednesday, December 17, 2008 11:26 AM

To: LEE Beckie; WIREN Corie; KAFOURY Deborah; MCKEEL Diane; SHIPRACK Judith C; #ALL CHAIR'S OFFICE; #ALL DISTRICT 1; #ALL DISTRICT 2; #ALL DISTRICT 3; #ALL DISTRICT 4; #DRM

Cc: NEBURKA Julie Z; BOGSTAD Deborah L; KARNES Ana; #DCHS LEGISLATIVE COMMITTEE; ZIEDENBERG Jason H; ABDELLATIF Vanetta M; JOHNSON KaRin R; KIRK Christine A; MARCY Scott; SCHILLING Karen C; SULLIVAN Theresa A; WALRUFF Randy P; WEST Kathleen S

Subject: UPDATE: Multco State & Fed Leg Agnda Adoption Schedule

Importance: High

Greetings all,

Just wanted to give everyone a quick update on the adoption schedule for the County's state and federal legislative agenda as well as other announcements. Included are important dates to note.

January 15 - Board Briefing: Department presentations on impacts of Governor's Recommended 2009-2011 Budget if adopted. During the December 9 Board Work Session, Commissioners requested more information on how the Governor's Recommended 2009-2011 Budget affects each County department. County departments should be prepared to present their internal assessment. Roughly 10 minutes allotted for each department. Please contact me to let me know if your department will be presenting and how much time your department needs. *Karyne Kieta and Julie Neburka: do you want to provide an overview?*

January 22 – Board Adoption of State and Federal Legislative Agenda. Any changes or corrections requested by Commissioners or County Departments to the agenda need to be made by January 16th. Your cooperation is appreciated.

County response to Federal Economic Stimulus Package: The Chair's Office is drafting a letter and a list of county projects that could be eligible for federal economic stimulus dollars. A draft will be circulated among commissioners and commissioners-elect for their signature once completed. The project list is based on 1) how quick the project can be implemented; 2) how many jobs could be created; and 3) how well they match w/ the announced presidential and congressional priorities. The bulk of the list is backlogged maintenance. Facilities Management, Community Services, and Kat West helped with the list. In addition to projects, the letter will include LIHEAP, Byrne Grant requests, and FMAP.

Salem and Washington, DC Travel: If you plan on traveling to Salem or Washington, DC on County business any time next year, please let me know. There may be an opportunity for you to lobby on the County's legislative agenda. I will be working with the Commissioners to schedule their travel to Salem and Washington, DC. I'll try to send out their schedule once it's known. If you are interested in pairing your travel with any Commissioners, please let me know. If you would like to time your travel to coincide with key legislative milestones, please let me know as well.

Department Coordination on County's Federal Agenda: I will be working with Jana McClellan to schedule monthly conference calls for each Department with the County's federal lobbying firm. The purpose of the calls will be several fold: reporting on the progress of the county's federal agenda, strategizing and coordinating activities, and briefing the lobbying firm on county developments.

Bill Tracking Training: Tomorrow's and Friday's training are still scheduled unless otherwise notified. They are in the Multnomah Building's basement computer training room.

State Budgeting Training: I am working to reschedule the training on the state budgeting process for early January. I'll keep you posted when it's scheduled.

Salem Orientation for Commissioner and Department Staff: If you plan on being in Salem a lot this session and would like an orientation to the Legislature, I am more than happy to give a personal or group orientations.

There will be more announcements to come thanks. Don't hesitate to call me with any questions or requests for assistance.

-Phill
(503) 830-4746, cell

Multnomah County Oregon

PROPOSED
2009 State Legislative Priorities

January 2009

BOARD OF COUNTY COMMISSIONERS
501 SE HAWTHORNE, SUITE 600
PORTLAND, OREGON 97214
(503) 988-5895

TED WHEELER ● CHAIR
DEBORAH KAFOURY ● DISTRICT 1
JEFF COGEN ● DISTRICT 2
JUDY SHIPRACK ● DISTRICT 3
DIANE MCKEEL ● DISTRICT 4

Summary

Multnomah County faces a revenue shortfall of over $35 million in FY 2010. This represents over 10% of our General Fund budget. In addition, the Governor's Recommended Budget includes deep cuts to human services, and we estimate this will reduce county services for the most vulnerable in our community by another $20 million in FY 2010. This comes at a time when demand for county services is increasing as more people find themselves in dire situations.

We recognize that Oregon is facing a severe economic crisis and the Legislature has limited funds to address all the services and programs needed. For that reason, the following legislative priorities of the Multnomah County Board of Commissioners focus on policy changes and funding requests that maintain safety net services and give the county necessary tools to meet the urgent and growing needs of our citizens.

Priority List

1. Restore Local Control

State preemptions and other restrictions on local government discourage creative solutions to local needs and undermine local authority. Multnomah County must have all available tools at its disposal to meet the unique concerns and needs of its residents.

- Lift current preemptions and ensure no new preemptions are adopted.

2. Restore Cuts in Governor's Recommended Budget

The Governor's budget includes devastating cuts to numerous programs that serve Multnomah County's neediest citizens. Multnomah County is seeking to restore these reductions, especially those affecting our county's fragile mental health system and alcohol and drug services.

3. Restore Critical Gap in Mental Health System

Since the closure of a Portland mental health triage center, first responders that treat persons suffering from a mental health crisis do not have a viable and cost effective alternative to hospital emergency rooms or the County Jail. This has led to improper care and expense to first responders and local area hospital emergency rooms.

- Funding to complete a sub-acute mental health crisis evaluation and treatment facility that will offer adults short-term mental health treatment in a secure environment.

Multnomah County Oregon

PROPOSED
2009 State & Federal Legislative Agenda

PROPOSED

January 2009

BOARD OF COUNTY COMMISSIONERS
501 SE HAWTHORNE, SUITE 600
PORTLAND, OREGON 97214
(503) 988-5895

TED WHEELER ● CHAIR
DEBORAH KAFOURY ● DISTRICT 1
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DIANE MCKEEL ● DISTRICT 4

Board of County Commissioners Statement

The Multnomah County Board of County Commissioners is pleased to present its 2009 state and federal legislative agenda. This agenda is the result of collaboration among commissioners, engaging community members, consulting with our partners within and outside the county, and soliciting technical advice from county professionals.

With the nation in its worst economic crisis since the Great Depression, Multnomah County is faced with significant challenges.

- The FY2010 county budget will have a gap of close to $35 million, roughly 10 percent of the General Fund budget. The gap may grow further due to the unforeseeable depth of the nation's economic crisis.
- Multnomah County is taking steps to institute greater accountability resulting from Cascadia Behavioral Health's financial crisis in 2008. The aftermath revealed a fragile mental health system that is grossly under-funded, lacks capacity and essential services such as alternatives to costly hospitalization.
- The county is confronted with aging infrastructure in dire need of replacement. The Sellwood Bridge Project has no guarantee of financing. The downtown and east county courthouses need to be replaced.
- The passage of Measure 57 creates an unfunded mandate amidst a dramatic revenue shortfall for both the state and the county.
- Preemptions limit the county's ability to use creative local revenue options to address any of the needs above.

In the coming sessions of the Oregon Legislature and the 111th Congress, Multnomah County will press for legislation that strengthen essential public services critical to job creation and protects vulnerable populations. The citizens of Multnomah County expect and deserve essential public services, including services such as health clinics, mental health care, drug and alcohol addiction treatment, senior and disabled services, school based health clinics, disease control, safety of Willamette River bridges, law enforcement/corrections, property tax assessment, elections and many others. Citizens also expect the state of Oregon and the federal government to provide essential public services and to work in partnership on levels of their government.

Multnomah County's 2009 state and federal legislative agenda seeks tools to improve fiscal stability while acquiring the necessary resources to meet the urgent needs of its citizens.

Sincerely,

Ted Wheeler, Chair | Deborah Kafoury, District 1 | Jeff Cogen, District 2

Judy Shiprack, District 3 | Diane McKeel, District 4

PROPOSED

NOT FOR DISTRIBUTION

Multnomah County Oregon
Economic Snapshot

	Multnomah County	Oregon
Population, 2006 estimate	717,880	3,791,075
Median household income, 2004	$42,334	$42,568
Persons below poverty, 2004	14.2%	12.9%
No. of Businesses (non-farm), 2005	24,146	108,571
Size of workforce (non-farm), 2005	391,797	1,409,576
Unemployment Rate (Seasonally adjusted October 2008)	6.7%	8.1%

PROPOSED

MULTNOMAH COUNTY

2009-2011 STATE AGENDA
POLICY AGENDA

RESTORE LOCAL CONTROL

ISSUE: *State preemptions and other restrictions on local government discourage creative solutions to local problems and undermine local authority. Multnomah County needs to have all the tools in its toolbox to meet the needs of its residents.*

PRIORITY: Multnomah County supports lifting current preemptions and ensuring that no new preemptions are adopted.

FUND STATE MANDATES

ISSUE: *Multnomah County is bearing the brunt of underfunded services required by the State in corrections, health and human services, and other areas including court facilities. As a result, Multnomah County has supplemented what it receives from the state with County General Funds in order to meet its legal obligations. Given the economic situation and growing community needs, the General Fund is not able to sustain these services.*

PRIORITY: Multnomah County supports adequate funding to cover actual costs of providing state required services. This includes:

- 95 percent funding level of transfer area agencies on aging and disabilities;
- incorporation of workload staffing standards and utilization rates as basis for funding human services;
- funding adequately mental health involuntary commitment investigators and emergency holds in acute care;
- funding implementation of Measure 57 treatment services, sanctions and local corrections options; and
- funding for planning Urban and Rural Reserves;

PUBLIC SAFETY

ISSUE: *The passage of Measure 57 added another unfunded mandate to Multnomah County. The costs of corrections are increasing and without adequate funding or a different approach, the state corrections system will be compromised.*

PRIORITY: Multnomah County supports innovative state policies that enable counties to be more effectively utilized in the corrections system. This includes:

- discretionary immunity for juvenile detention directors;
- direct contracting for close custody, secure beds and community based placements,
- local control arrangements to utilize the Wapato Jail facility;
- funding for drug and alcohol addiction treatment services for county jail prisoners; and
- seed funding for the Multnomah County Regional Justice Network.

PROOF

REINVEST IN TRANSPORTATION INFRASTRUCTURE

ISSUE: *Multnomah County lacks the resources to adequately maintain 6 regional bridges and over 300 miles of road.*

PRIORITY: Multnomah County supports a state transportation funding package that provides the funding and tools to maintain its roads and bridges on a long term basis. This includes:

- an increase in revenues for operations and maintenance of transportation infrastructure;
- a 50/30/20 revenue formula among state, counties, and cities; and
- an increase of the gas tax;

CLOSE GAPS IN MENTAL HEALTH SYSTEM

ISSUE 1: *Since the 2001 closure of a Portland mental health triage center operated by Providence, first responders that treat persons suffering a mental health crisis do not have a viable and cost effective alternative to hospital emergency rooms or the County jail to take these persons for proper treatment. This has led to improper care and expense to emergency responders and local area hospitals. The lack of a sub-acute crisis evaluation and treatment facility in Multnomah County is a huge gap in the mental health system.*

PRIORITY: Multnomah County and the City of Portland seek state funding for capital costs and operations of a 16-bed sub-acute mental health crisis evaluation and treatment facility.

REDUCE UNINSURED POPULATION

ISSUE: *Since the 2002 recession, the state has reduced significantly the Oregon Health Plan Standard population, leaving thousands of Oregonians without health care coverage. The consequences have dramatically driven up costs for the county's health clinics and for hospital emergency rooms. Changes to enrollment have resulted in a loss of matching state and federal dollars to Multnomah County to pay for residential treatment services.*

PRIORITY: Multnomah County supports:

- steps to increase OHP's Standard and Plus populations including the coverage of single males in need of residential addictions treatment. Increasing OHP enrollment is the key to reducing overall costs in health and human services for the state, counties, and hospitals by increasing federal matching dollars.
- the recommendations of the Oregon Health Fund Board in the Aim Report including the creation of an Oregon Health Authority.

REMOVE BARRIERS TO SUSTAINABILITY INITIATIVES

ISSUE: *Specific state laws inhibit Multnomah County residents and county operations from being environmentally sound and sustainable. Small changes to state law will allow county operations and residents to promote the local economy, reduce pollution and the carbon footprint, and conserve natural resources.*

PRIORITY: Multnomah County supports changes to state law that:

- give local governments the option to prefer local food products in the procurement process; and
- allow local governments to establish local improvement districts (LIDs) for energy efficiency and renewable energy improvements to property, where property owners could voluntarily participate in a loan program for sustainable energy upgrades; and
- creates a legal definition of "grey" water for non-potable purposes such as irrigation to encourage water conservation.

REFORM PROPERTY TAX LIMITATION

ISSUE: *Measure 50 created a permanent structural deficit for local government in Oregon. Multnomah County cannot afford to provide services with revenues generated by a property tax rate that grows slower than real market inflation. Further, the Measure 50 property tax system is inequitable to homeowners with equal valued homes but taxed unequally.*

PRIORITY: Multnomah County supports a legislative referral to voters of a ballot measure that reforms property tax limitation. In particular, Multnomah County favors reform that:

- supports equalizing assessed values to make taxes proportionate to market values;
- provides tax relief for seniors on fixed incomes and low-income renters; and
- provides adequate revenues for essential public services.

PROPOSED

MULTNOMAH COUNTY

2009-2011 STATE AGENDA
BUDGET AGENDA

Multnomah County faces $35 million deficit in its General Fund for FY2010. The cuts in Governor's 2009-2011 Recommended Budget presents an additional $20 million loss to Multnomah County in human services, public safety, and other core areas.

Multnomah County asks the Governor and Legislature to consider the following principles when making budget decisions:

1) **Ensure that services for vulnerable populations are protected.**
2) **Ensure that state cuts do not create an additional unfunded mandate for Multnomah County.**

PROPOSED

COUNTY PROGRAMS IMPACTED BY THE STATE BUDGET	
DEPT. OF COUNTY HUMAN SERVICES	DEVELOPMENTAL DISABILITIES Administration and Support
	DEVELOPMENTAL DISABILITIES Services for Children
	AGING AND DISABILITIES SERVICES Access & Early Intervention Services
	AGING AND DISABILITIES SERVICES Adult Care Home Program
	AGING AND DISABILITIES SERVICES Long Term Care
	AGING AND DISABILITIES SERVICES Adult Protective Services
	AGING AND DISABILITIES SERVICES Administration
	Note: for all AGING AND DISABILITIES SERVICES programs receiving Medicaid funding
	MENTAL HEALTH Quality Management and Protective Services
	Mental Health Crisis Services
	MENTAL HEALTH Commitment Services - Waitlist Reduction for State Hospital Admissions
	MENTAL HEALTH Commitment Services - Involuntary Investigation Services
	MENTAL HEALTH Commitment Services - Emergency Holds for Uninsured Individuals
	MENTAL HEALTH Residential Services - Transitional Housing for Adults
	MENTAL HEALTH Residential Services - Residential Services for Adults
	Early Psychosis Intervention Services
	Adult Addictions Treatment Continuum - A/D Residential Treatment
	Adult Addictions Treatment Continuum - Adult Outpatient A/D Treatment
	Youth Gang Prevention
	Housing Stabilization for Vulnerable Populations
	Runaway Youth Services
	Social & Support Services for Educational Success
	Anti-Poverty Services
	Child Development Services
DEPT. OF COMMUNITY JUSTICE	Gang Transition Svcs - GRIT
	Gang Transition Svcs - EMGET
	Individualized Svcs - FLEX
	OCCF JCP Prevention
	Juvenile Crime Prevention - Basic
	OYA JCP Diversion
	State Mental Health
	CASA
	Parole Hearing
	DOC 1145
	DOC Measure 57 (new)
	DOC Subsidy

	DOC AIP
	DOC Sex Offender DepoProvera
	DOC Prisoner Re-Entry
	OYA Timber Backfill
	OYA SRTP
COUNTY HEALTH DEPARTMENT	La Clinica
	Public Health and Regional Health Systems Emergency
	Communicable Disease Prevention & Control
	STD/HIV/Hep C Community Prevention Program
	Services for Persons Living with HIV
	Early Childhood Svcs for First Time Parents
	Early Childhood Svcs for High Risk Prenatal
	Early Childhood Svcs for High Risk Infants and Children
	Immunization
	Lead Poisoning Prevention
	Medicaid/Medicare Eligibility
	Dental Services
	Women, Infants and Children (WIC)
	North Portland Health Clinic
	Northeast Health Clinic
	Westside Health Clinic
	Westside Health Clinic Van and Homeless Outreach
	Mid County Health Clinic
	East County Health Clinic
	School Based Health Centers
	Pharmacy
	Health Planning and Evaluation
	Chronic Disease Prevention
LIBRARY	Early Childhood Resources
SHERIFF'S OFFICE	MCIJ
	River Patrol
	Fac. Security Unit
DEPT. OF COMMUNITY SERVICES	Transportation - Road & Bridge Services and Capital

PROOF

EMERGING ISSUES

Multnomah County will be tracking the following issues of interest in the 2009 Legislative Session.

- Court Facilities Funding
- Access to Oregon State Police use of the National Fingerprint Database
- Oregon Tort Reform Act
- Tax Conservation and Supervising Commission Cost Sharing
- Oregon Health Fund Board Recommendations
- Expedited Partnership Therapy legislation
- Governor's Climate Change Initiatives
- Recommendations of the Domestic Violence Fatality Review Team

MULTNOMAH COUNTY

111th CONGRESS FEDERAL AGENDA
APPROPRIATIONS/REAUTHORIZATION AGENDA

PUBLIC INFRASTRUCTURE

SELLWOOD BRIDGE

The Sellwood Bridge is the busiest two-lane bridge in Oregon with over 30,000 daily vehicle crossing. The 90-year old bridge rates very low in federal safety standards as a result of its age and the geological movement of the West Hills buckling the structure. Weight restrictions have been in place since 2004, affecting freight trucks and buses as well as the local economy. Multnomah County has completed the Sellwood Bridge Project DEIS and will select a Locally Preferred Alternative in February 2009. Construction is scheduled to begin in 2012 pending federal and local match. The cost is estimated between $280 million $360 million in 2012 YOE.

PRIORITY: Multnomah County seeks an earmark of $100 Million in SAFE TEA-LU. The County is committed to raising the remainder from state and local sources.

BEAVER CREEK CULVERTS

The lower Beaver Creek in Multnomah County is critical habitat to federally endangered species including Lower Columbia River Chinook Salmon and Steelhead Trout, and candidate species including Lower Columbia River Coho Salmon. The existing waterway and wetland are neither conducive to fish passage nor other wildlife.

PRIORITY: Multnomah County seeks $6 million for the replacement of the 3 downstream-most culverts, (Troutdale Rd., Stark St., and Cochran Rd.) with larger culverts or bridges, opening 4.6 miles of Beaver Creek to fish passage. Included is restoration of natural substrate under bridges and culverts; stabilization of stream bed to ensure no head-cutting occurs; removal of non-native exotic (plant) species and replant with native species along bank; and, enhance a forested wetland adjacent to the Stark St. crossing by removal of non-native species with native species. This would improve habitat for many wildlife species including neotropical migratory birds that use riparian habitat for nesting and cover, small mammals that use riparian areas as migration corridors, and native amphibians and reptiles that would utilize wetland habitats.

SANDY RIVER TRAIL CONNECTIONS

The National Scenic Area Act authorized $10 million for construction of recreation facilities in the Columbia River Gorge, a national recreational area along the Oregon/Washington border. Only half of the funds have been appropriated and none have been expended in Multnomah County. Consistent with the intent of the Act, the Columbia Gorge Management Plan prioritizes trail construction at the Sandy River Delta, Gorge Gateway area and Lewis and Clark State Park.

PRIORITY: Recognizing increasing public demand for recreational opportunities in this "Gateway to the Gorge", Multnomah County seeks $5 million to implement the Sandy River Connections Concept Plan was completed in January 2008 and all of the parties have agreed to support its implementation.

MENTAL HEALTH SUPPORTIVE HOUSING

The greatest impediment to diverting mentally ill persons from the criminal justice system is the lack of supportive housing. When the Courts sentence mentally ill persons to treatment programs, the defendants often have trouble getting into public housing. Without supportive housing, successful diversion is difficult to attain for this vulnerable population. There is a need for permanent supportive housing with services and rent assistance for difficult to place homeless persons with mental illnesses.

PRIORITY: Multnomah County with the support of Oregon Circuit Court Judge Julie Frantz, District Attorney Michael Schrunk, and the Metropolitan Public Defender Director John Connors seeks $900,000 to purchase and rehabilitate a 10-unit housing complex to fulfill this critical need. Further, Multnomah County supports federal policies and funding that create alternatives to jail or hospital emergency rooms for the mentally ill.

PUBLIC SAFETY

SECOND CHANCE ACT

Multnomah County is meeting the needs of thousands of people who return from prison and jail to our communities a year. Research has shown that when the issues of employment, housing, mental health, and aDdiction are addressed for the population of people reentering our communities from jail, the likelihood of the commission of more crime and the consumption of more public resources is greatly reduced.

PRIORITY: Multnomah County is seeking a $2 million federal allocation to support re-entry services provided by its' Department of Community Justice. These funds will be used to increase the number of people receiving transitional services as they leave prison and jail by a third, to double the number of transitional housing beds available for returning offenders, increase outpatient treatment slots, and retain mentors and an employment specialist.

ELDER ABUSE ACT

While seniors comprise just 13 percent of the general population; they posses 50 percent of the total wealth, making them disproportionately targeted for financial fraud and abuse. As seniors live longer, they become increasingly vulnerable to financial manipulation, abuse and neglect. Those over the age of 85 are the fastest growing demographic Multnomah Country.
Last year, Multnomah County received 3,244 reports of abuse. Of those complaints reported, 2,486 were perpetrated against those 65 and older. In total, the county experienced a 22 percent increase in elder abuse allegations in just one year, and that number represents only the number of cases actually reported. It is estimated that for every one case of elder abuse, neglect, exploitation, or self-neglect reported to authorities, approximately five go unreported.

PRIORITY: Multnomah County seeks $625,000 for investigating financial fraud, prosecuting perpetrators, gathering forensic data, providing support services to victims, educating the public and senior care providers, providing forensic nursing, coordinating services among agencies; and providing enhanced referral services.

UNOFFICIAL

ENERGY INDEPENDENCE

WILLAMETTE RIVER BRIDGES HYDRO TURBINE FEASIBILITY STUDY

The Willamette River has the potential to produce hydroelectricity, an alternative energy source, for the Portland region. With 5 bridges over the Willamette River under its authority, Multnomah County could place energy producing hydro-turbines on each bridge. This enormous potential merits study. If proven likely to produce significant energy, hydro-turbines could be used throughout the Pacific Northwest and elsewhere.

PRIORITY: Multnomah County seeks an earmark of $150,000 to conduct a feasibility study on the placement of hydro-turbines on 5 Willamette River bridges in Portland.

PROPOSED

MULTNOMAH COUNTY

111th CONGRESS FEDERAL AGENDA
POLICY AGENDA

HEALTH CARE

REINSTATEMENT OF ENROLLMENT FOR MEDICAID ELIGIBILITY OF DISADVANTAGED YOUTH ACT(REMEDY)

Many disadvantaged youth are enrolled in Medicaid before winding up in the juvenile justice system, but can lose their eligibility once they enter the system. When this happens, harder for communities to pay for critical treatment and rehabilitative services. Various legislative proposals have called for the amendments to title XIX and XXI of the Social Security Act to provide for the reinstatement of enrollment for medical assistance and child health assistance of certain youth who were enrolled for such assistance immediately before becoming inmates of public institutions upon the release of such youth from such institutions.

PRIORITY: Multnomah County supports the passage of legislation that ensures that young people maintain their Medicaid coverage, regardless of their delinquency status.

Restoring the Partnership for County Health Care Costs Act of 2008

An estimated 21 percent of persons booked in Multnomah County's jails in pre-trial status have private or public health insurance coverage, i.e. Oregon Health Plan, Medicaid, Medicare, or SSI. Health care costs in county jails could be reimbursed, providing much needed relief for the county's fiscal health.

PRIORITY: Multnomah County supports the passage of this legislation with an amendment that requires private health insurance to reimburse for health care provided by county jail staff.

STATE CHILDREN HEALTH'S INSURANCE PROGRAM

There are over 117,000 children under the age of 18 years in Oregon that do not have health insurance. Reauthorization of the SCHIP would help close this gap in Oregon. In FY2008, Multnomah County had over 17,000 children under the age of 18 visit its health clinics.

PRIORITY: Multnomah County supports the reauthorization of the State Children Health Insurance Program.

BENEFITS RECOVERY/ SUPPORT SERVICES FOR SSI/SSDI APPLICANTS

National studies estimate that as many as 60 percent of people who are homeless have some level of disability, including mental health or addictions. In many cases, the nature of such disabilities makes it impossible for such a person to successfully complete the benefits eligibility process. Locally, only about 11 percent of those eligible receive benefits, such as SSI and SSDI. Without such benefits, individuals are either without services or have to be served with scarce local (non-federal) community funds. Many end up costing taxpayers more because they wind up in jail, in hospitals or fall through the cracks of other safety net resources.

PRIORITY: Multnomah County seeks help funding the Homeless Benefits Recovery Project as a way to assist chronically homeless individuals with mental illness, addictions or other disabilities in accessing federal benefits and services to which they are entitled but have not been able to receive them. Under the project, services will include eligibility screening, appeals process advocacy, case management, medical and other documentation. Also, the project will bridge services to individuals evaluated to be potentially eligible while the appeals process continues. Benefits Recovery is a key strategy in an ongoing effort by the county and the city of Portland 10-

year Plan to End Homelessness.

PROPOSED

EMERGING ISSUES

Multnomah County will be tracking the following issues of interest in the 111th Congress.

- Changes to Medicaid/Extension of Medicaid Waiver
- Juvenile Accountability Block Grants
- Juvenile Justice and Delinquency Prevention Act
- Federal sex offender probation and parole policies
- Management/Labor policies affecting public employees
- Opportunities for funding early childhood development to prevent criminal behavior
- Youth Promise Act
- Creation of National Commission on Mentally Ill Offenders in Corrections
- Capital grants for court buildings and mental health housing
- Support services for SSI/SSDI applicants

PROPOSED

NOT FOR DISTRIBUTION

Services Provided By Multnomah County

The People

Commissioner
Deborah Kafoury
District 1

Commissioner
Jeff Cogen
District 2

Chair
Ted Wheeler

Commissioner
Judy Shipack
District 3

Commissioner
Diane McKeel
District 4

Department of Community Justice

- Adult Probation and Parole Felony Field Supervision
- Community Service
- Day Reporting Center: Jail Sanctions Alternative
- Domestic Violence Supervision
- GED and Employment Preparation for Adult Offenders
- Adult Pre-Trial Services
- Residential and Outpatient Alcohol and Drug Program
- Juvenile Probation
- Juvenile Detention
- Community-Based Detention Alternatives
- Education Provided in Detention
- Gang Transitional Services

Department of Community Services

- Animal Shelter
- Elections
- Land Use
- Roads and Bridges

Department of County Human Services

- Adult Foster Care Homes
- Alcohol and Drug Treatment
- Assisting Seniors and People with Disabilities
- Case Management for People with Developmental Disabilities
- Domestic Violence Prevention
- Energy Assistance
- Gambling Addiction Treatment
- Homeless Youth
- Mental Health Services
- Oregon Project Independence
- Public Guardianship
- SUN Community Schools
- Weatherization

Department of County Management

- Excise Tax Collection
- Assessment and Taxation
- Budget
- Employee Benefits
- Human Resources
- Labor Relations
- PERS
- Finance/Risk Management
- Facilities and Property Mgmt.
- Diversity and Equity
- Deferred Comp.
- Sustainability
- Emergency Management
- Fleet
- Distribution
- Warehouse
- Records Management

Department of Health

- Early Childhood Services
- Immunizations
- Lead Poisoning Prevention
- Medicaid Eligibility
- Outreach for Women Infant and Children (WIC)
- Providing Medical and Dental Services in Health Centers
- Restaurant Inspections
- School Based Health Centers
- Surveillance of Communicable Diseases
- Vector Control

Department of Libraries

- Early literacy services
- School age services
- Lifelong learning programs
- Reference and information services
- Public access computing
- Community gathering places
- Lending books and other media
- Outreach programs for at-risk populations

For more info: Phillip Kennedy-Wong (503) 830-4746, Multnomah County Gov't Relations Mgr.

PROPOSED

For Information:
Phillip Kennedy-Wong
Government Relations Manager
Multnomah County
501 SE Hawthorne Blvd., Ste. 600
Portland, OR 97214
(503) 988-5895
phillip.kennedy-wong@co.multnomah.or.us

Multnomah County Oregon

2009 State & Federal Legislative Agenda

Adopted January 22, 2009

BOARD OF COUNTY COMMISSIONERS
501 SE HAWTHORNE, SUITE 600
PORTLAND, OREGON 97214
(503) 988-5895

TED WHEELER ● CHAIR
DEBORAH KAFOURY ● DISTRICT 1
JEFF COGEN ● DISTRICT 2
JUDY SHIPRACK ● DISTRICT 3
DIANE MCKEEL ● DISTRICT 4

Board of County Commissioners Statement

The Multnomah County Board of County Commissioners is pleased to present its 2009 state and federal legislative agenda. This agenda is the result of collaboration among commissioners, engaging community members, consulting with our partners within and outside the county, and soliciting technical advice from county professionals.

With the nation in its worst economic crisis since the Great Depression, Multnomah County is faced with significant challenges.

- The FY2010 county budget will have a gap of close to $35 million, roughly 10 percent of the General Fund budget. The gap may grow further due to the unforeseeable depth of the nation's economic crisis.

- Multnomah County is taking steps to institute greater accountability resulting from Cascadia Behavioral Health's financial crisis in 2008. The aftermath revealed a fragile mental health system that is grossly under-funded, lacks capacity and essential services such as alternatives to costly hospitalization.

- The county is confronted with aging infrastructure in dire need of replacement. The Sellwood Bridge Project has no guarantee of financing. The downtown and east county courthouses need to be replaced.

- The passage of Measure 57 creates an unfunded mandate amidst a dramatic revenue shortfall for both the state and the county.

- Preemptions limit the county's ability to use creative local revenue options to address any of the needs above.

In the coming sessions of the Oregon Legislature and the 111th Congress, Multnomah County will press for legislation that strengthen essential public services critical to job creation and protects vulnerable populations. The citizens of Multnomah County expect and deserve essential public services, including services such as health clinics, mental health care, drug and alcohol addiction treatment, senior and disabled services, school based health clinics, disease control, safety of Willamette River bridges, law enforcement/corrections, property tax assessment, elections and many others. Citizens also expect the state of Oregon and the federal government to provide essential public services and to work in partnership on levels of their government.

Multnomah County's 2009 state and federal legislative agenda seeks tools to improve fiscal stability while acquiring the necessary resources to meet the urgent needs of its citizens.

Sincerely,

Ted Wheeler, Chair

Deborah Kafoury, District 1

Jeff Cogen, District 2

Judy Shiprack, District 3

Diane McKeel, District 4

Multnomah County Oregon
Economic Snapshot

	Multnomah County	Oregon
Population, 2006 estimate	**717,880**	**3,791,075**
Median household income, 2004	**$42,334**	**$42,568**
Persons below poverty, 2004	**14.2%**	**12.9%**
No. of Businesses (non-farm), 2005	**24,146**	**108,571**
Size of workforce (non-farm), 2005	**391,797**	**1,409,576**
Unemployment Rate (Seasonally adjusted October 2008)	**6.7%**	**8.1%**

RESTORE LOCAL CONTROL

ISSUE: *State preemptions and other restrictions on local government discourage creative solutions to local problems and undermine local authority. Multnomah County needs to have all the tools in its toolbox to meet the needs of its residents.*

PRIORITY: Multnomah County supports lifting current preemptions and ensuring that no new preemptions are adopted.

FUND STATE MANDATES

ISSUE: *Multnomah County is bearing the brunt of underfunded services required by the State in corrections, health and human services, and other areas including court facilities. As a result, Multnomah County has supplemented what it receives from the state with County General Funds in order to meet its legal obligations. Given the economic situation and growing community needs, the General Fund is not able to sustain these services.*

PRIORITY: Multnomah County supports adequate funding to cover actual costs of providing state required services. This includes:

- 95 percent funding level of transfer area agencies on aging and disabilities;
- incorporation of workload staffing standards and utilization rates as basis for funding human services;
- funding adequately mental health involuntary commitment investigators and emergency holds in acute care;
- funding implementation of Measure 57 treatment services, sanctions and local corrections options; and
- funding for planning Urban and Rural Reserves;

PUBLIC SAFETY

ISSUE: *The passage of Measure 57 added another unfunded mandate to Multnomah County. The costs of corrections are increasing and without adequate funding or a different approach, the state corrections system will be compromised.*

PRIORITY: Multnomah County supports innovative state policies that enable counties to be more effectively utilized in the corrections system. This includes:

- discretionary immunity for juvenile detention directors;
- direct contracting for close custody, secure beds and community based placements,
- local control arrangements to utilize the Wapato Jail facility;
- funding for drug and alcohol addiction treatment services for county jail prisoners; and
- seed funding for the Multnomah County Regional Justice Network.

REINVEST IN TRANSPORTATION INFRASTRUCTURE

ISSUE: *Multnomah County lacks the resources to adequately maintain 6 regional bridges and over 300 miles of road.*

PRIORITY: Multnomah County supports a state transportation funding package that provides the funding and tools to maintain its roads and bridges on a long term basis. This includes:

- an increase in revenues for operations and maintenance of transportation infrastructure;
- a 50/30/20 revenue formula among state, counties, and cities; and
- an increase of the gas tax;

CLOSE GAPS IN MENTAL HEALTH SYSTEM

ISSUE 1: *Since the 2001 closure of a Portland mental health triage center operated by Providence, first responders that treat persons suffering a mental health crisis do not have a viable and cost effective alternative to hospital emergency rooms or the County jail to take these persons for proper treatment. This has led to improper care and expense to emergency responders and local area hospitals. The lack of a sub-acute crisis evaluation and treatment facility in Multnomah County is a huge gap in the mental health system.*

PRIORITY: Multnomah County and the City of Portland seek state funding for capital costs and operations of a 16-bed sub-acute mental health crisis evaluation and treatment facility.

REDUCE UNINSURED POPULATION

ISSUE: *Since the 2002 recession, the state has reduced significantly the Oregon Health Plan Standard population, leaving thousands of Oregonians without health care coverage. The consequences have dramatically driven up costs for the county's health clinics and for hospital emergency rooms. Changes to enrollment have resulted in a loss of matching state and federal dollars to Multnomah County to pay for residential treatment services.*

PRIORITY: Multnomah County supports:

- steps to increase OHP's Standard and Plus populations including the coverage of single males in need of residential addictions treatment. Increasing OHP enrollment is the key to reducing overall costs in health and human services for the state, counties, and hospitals by increasing federal matching dollars.
- the recommendations of the Oregon Health Fund Board in the Aim Report including the creation of an Oregon Health Authority.

REMOVE BARRIERS TO SUSTAINABILITY INITIATIVES

ISSUE: *Specific state laws inhibit Multnomah County residents and county operations from being environmentally sound and sustainable. Small changes to state law will allow county operations and residents to promote the local economy, reduce pollution and the carbon footprint, and conserve natural resources.*

PRIORITY: Multnomah County supports changes to state law that:

- give local governments the option to prefer local food products in the procurement process; and
- allow local governments to establish local improvement districts (LIDs) for energy efficiency and renewable energy improvements to property, where property owners could voluntarily participate in a loan program for sustainable energy upgrades; and
- creates a legal definition of "grey" water for non-potable purposes such as irrigation to encourage water conservation.

REFORM PROPERTY TAX LIMITATION

ISSUE: *Measure 50 created a permanent structural deficit for local government in Oregon. Multnomah County cannot afford to provide services with revenues generated by a property tax rate that grows slower than real market inflation. Further, the Measure 50 property tax system is inequitable to homeowners with equal valued homes but taxed unequally.*

PRIORITY: Multnomah County supports a legislative referral to voters of a ballot measure that reforms property tax limitation. In particular, Multnomah County favors reform that:

- supports equalizing assessed values to make taxes proportionate to market values;
- provides tax relief for seniors on fixed incomes and low-income renters; and
- provides adequate revenues for essential public services.

MULTNOMAH COUNTY

2009-2011 STATE AGENDA
BUDGET AGENDA

Multnomah County faces $35 million deficit in its General Fund for FY2010. The cuts in Governor's 2009-2011 Recommended Budget presents an additional $20 million loss to Multnomah County in human services, public safety, and other core areas.

Multnomah County asks the Governor and Legislature to consider the following principles when making budget decisions:

1) **Ensure that services for vulnerable populations are protected.**
2) **Ensure that state cuts do not create an additional unfunded mandate for Multnomah County.**

COUNTY PROGRAMS IMPACTED BY THE STATE BUDGET	
DEPT. OF COUNTY HUMAN SERVICES	DEVELOPMENTAL DISABILITIES Administration and Support
	DEVELOPMENTAL DISABILITIES Services for Children
	AGING AND DISABILITIES SERVICES Access & Early Intervention Services
	AGING AND DISABILITIES SERVICES Adult Care Home Program
	AGING AND DISABILITIES SERVICES Long Term Care
	AGING AND DISABILITIES SERVICES Adult Protective Services
	AGING AND DISABILITIES SERVICES Administration
	Note: for all AGING AND DISABILITIES SERVICES programs receiving Medicaid funding
	MENTAL HEALTH Quality Management and Protective Services
	Mental Health Crisis Services
	MENTAL HEALTH Commitment Services - Waitlist Reduction for State Hospital Admissions
	MENTAL HEALTH Commitment Services - Involuntary Investigation Services
	MENTAL HEALTH Commitment Services - Emergency Holds for Uninsured Individuals
	MENTAL HEALTH Residential Services - Transitional Housing for Adults
	MENTAL HEALTH Residential Services - Residential Services for Adults
	Early Psychosis Intervention Services
	Adult Addictions Treatment Continuum - A/D Residential Treatment
	Adult Addictions Treatment Continuum - Adult Outpatient A/D Treatment
	Youth Gang Prevention
	Housing Stabilization for Vulnerable Populations
	Runaway Youth Services
	Social & Support Services for Educational Success
	Anti-Poverty Services
	Child Development Services
DEPT. OF COMMUNITY JUSTICE	Gang Transition Svcs - GRIT
	Gang Transition Svcs - EMGET
	Individualized Svcs - FLEX
	OCCF JCP Prevention
	Juvenile Crime Prevention - Basic
	OYA JCP Diversion
	State Mental Health
	CASA
	Parole Hearing
	DOC 1145
	DOC Measure 57 (new)
	DOC Subsidy

	DOC AIP
	DOC Sex Offender DepoProvera
	DOC Prisoner Re-Entry
	OYA Timber Backfill
	OYA SRTP
COUNTY HEALTH DEPARTMENT	La Clinica
	Public Health and Regional Health Systems Emergency
	Communicable Disease Prevention & Control
	STD/HIV/Hep C Community Prevention Program
	Services for Persons Living with HIV
	Early Childhood Svcs for First Time Parents
	Early Childhood Svcs for High Risk Prenatal
	Early Childhood Svcs for High Risk Infants and Children
	Immunization
	Lead Poisoning Prevention
	Medicaid/Medicare Eligibility
	Dental Services
	Women, Infants and Children (WIC)
	North Portland Health Clinic
	Northeast Health Clinic
	Westside Health Clinic
	Westside Health Clinic Van and Homeless Outreach
	Mid County Health Clinic
	East County Health Clinic
	School Based Health Centers
	Pharmacy
	Health Planning and Evaluation
	Chronic Disease Prevention
LIBRARY	Early Childhood Resources
SHERIFF'S OFFICE	MCIJ
	River Patrol
	Fac. Security Unit
DEPT. OF COMMUNITY SERVICES	Transportation - Road & Bridge Services and Capital

EMERGING ISSUES

Multnomah County will be tracking the following issues of interest in the 2009 Legislative Session.

- Court Facilities Funding
- Access to Oregon State Police use of the National Fingerprint Database
- Oregon Tort Reform Act
- Tax Conservation and Supervising Commission Cost Sharing
- Oregon Health Fund Board Recommendations
- Expedited Partnership Therapy legislation
- Governor's Climate Change Initiatives
- Recommendations of the Domestic Violence Fatality Review Team

PUBLIC INFRASTRUCTURE

SELLWOOD BRIDGE

The Sellwood Bridge is the busiest two-lane bridge in Oregon with over 30,000 daily vehicle crossing. The 90-year old bridge rates very low in federal safety standards as a result of its age and the geological movement of the West Hills buckling the structure. Weight restrictions have been in place since 2004, affecting freight trucks and buses as well as the local economy. Multnomah County has completed the Sellwood Bridge Project DEIS and will select a Locally Preferred Alternative in February 2009. Construction is scheduled to begin in 2012 pending federal and local match. The cost is estimated between $280 million $360 million in 2012 YOE.

PRIORITY: Multnomah County seeks an earmark of $100 Million in SAFE TEA LU. The County is committed to raising the remainder from state and local sources.

BEAVER CREEK CULVERTS

The lower Beaver Creek in Multnomah County is critical habitat to federally endangered species including Lower Columbia River Chinook Salmon and Steelhead Trout, and candidate species including Lower Columbia River Coho Salmon. The existing waterway and wetland are neither conducive to fish passage nor other wildlife.

PRIORITY: Multnomah County seeks $6 million for the replacement of the 3 downstream-most culverts, (Troutdale Rd., Stark St., and Cochran Rd.) with larger culverts or bridges, opening 4.6 miles of Beaver Creek to fish passage. Included is restoration of natural substrate under bridges and culverts; stabilization of stream bed to ensure no head-cutting occurs; removal of non-native exotic (plant) species and replant with native species along bank; and, enhance a forested wetland adjacent to the Stark St. crossing by removal of non-native species with native species. This would improve habitat for many wildlife species including neotropical migratory birds that use riparian habitat for nesting and cover, small mammals that use riparian areas as migration corridors, and native amphibians and reptiles that would utilize wetland habitats.

SANDY RIVER TRAIL CONNECTIONS

The National Scenic Area Act authorized $10 million for construction of recreation facilities in the Columbia River Gorge, a national recreational area along the Oregon/Washington border. Only half of the funds have been appropriated and none have been expended in Multnomah County. Consistent with the intent of the Act, the Columbia Gorge Management Plan prioritizes trail construction at the Sandy River Delta, Gorge Gateway area and Lewis and Clark State Park.

PRIORITY: Recognizing increasing public demand for recreational opportunities in this "Gateway to the Gorge", Multnomah County seeks $5 million to implement the Sandy River Connections Concept Plan was completed in January 2008 and all of the parties have agreed to support its implementation.

MENTAL HEALTH SUPPORTIVE HOUSING

The greatest impediment to diverting mentally ill persons from the criminal justice system is the lack of supportive housing. When the Courts sentence mentally ill persons to treatment programs, the defendants often have trouble getting into public housing. Without supportive housing, successful diversion is difficult to attain for this vulnerable population. There is a need for permanent supportive housing with services and rent assistance for difficult to place homeless persons with mental illnesses.

PRIORITY: Multnomah County with the support of Oregon Circuit Court Judge Julie Frantz, District Attorney Michael Schrunk, and the Metropolitan Public Defender Director John Connors seeks $900,000 to purchase and rehabilitate a 10-unit housing complex to fulfill this critical need. Further, Multnomah County supports federal policies and funding that create alternatives to jail or hospital emergency rooms for the mentally ill.

PUBLIC SAFETY

SECOND CHANCE ACT

Multnomah County is meeting the needs of thousands of people who return from prison and jail to our communities a year. Research has shown that when the issues of employment, housing, mental health, and aDdiction are aDdressed for the population of people reentering our communities from jail, the likelihood of the commission of more crime and the consumption of more public resources is greatly reduced.

PRIORITY: Multnomah County is seeking a $2 million federal allocation to support re-entry services provided by its' Department of Community Justice. These funds will be used to increase the number of people receiving transitional services as they leave prison and jail by a third, to double the number of transitional housing beds available for returning offenders, increase outpatient treatment slots, and retain mentors and an employment specialist.

ELDER ABUSE ACT

While seniors comprise just 13 percent of the general population; they posses 50 percent of the total wealth, making them disproportionately targeted for financial fraud and abuse. As seniors live longer, they become increasingly vulnerable to financial manipulation, abuse and neglect. Those over the age of 85 are the fastest growing demographic Multnomah Country.
Last year, Multnomah County received 3,244 reports of abuse. Of those complaints reported, 2,486 were perpetrated against those 65 and older. In total, the county experienced a 22 percent increase in elder abuse allegations in just one year, and that number represents only the number of cases actually reported. It is estimated that for every one case of elder abuse, neglect, exploitation, or self-neglect reported to authorities, approximately five go unreported.

PRIORITY: Multnomah County seeks $625,000 for investigating financial fraud, prosecuting perpetrators, gathering forensic data, providing support services to victims, educating the public and senior care providers, providing forensic nursing, coordinating services among agencies; and providing enhanced referral services.

ENERGY INDEPENDENCE

WILLAMETTE RIVER BRIDGES HYDRO TURBINE FEASIBILITY STUDY

The Willamette River has the potential to produce hydroelectricity, an alternative energy source, for the Portland region. With 5 bridges over the Willamette River under its authority, Multnomah County could place energy producing hydro-turbines on each bridge. This enormous potential merits study. If proven likely to produce significant energy, hydro-turbines could be used throughout the Pacific Northwest and elsewhere.

PRIORITY: Multnomah County seeks an earmark of $150,000 to conduct a feasibility study on the placement of hydro-turbines on 5 Willamette River bridges in Portland.

HEALTH CARE

REINSTATEMENT OF ENROLLMENT FOR MEDICAID ELIGIBILITY OF DISADVANTAGED YOUTH ACT(REMEDY)

Many disadvantaged youth are enrolled in Medicaid before winding up in the juvenile justice system, but can lose their eligibility once they enter the system. When this happens, harder for communities to pay for critical treatment and rehabilitative services. Various legislative proposals have called for the amendments to title XIX and XXI of the Social Security Act to provide for the reinstatement of enrollment for medical assistance and child health assistance of certain youth who were enrolled for such assistance immediately before becoming inmates of public institutions upon the release of such youth from such institutions.

PRIORITY: Multnomah County supports the passage of legislation that ensures that young people maintain their Medicaid coverage, regardless of their delinquency status.

Restoring the Partnership for County Health Care Costs Act of 2008

An estimated 21 percent of persons booked in Multnomah County's jails in pre-trial status have private or public health insurance coverage, i.e. Oregon Health Plan, Medicaid, Medicare, or SSI. Health care costs in county jails could be reimbursed, providing much needed relief for the county's fiscal health.

PRIORITY: Multnomah County supports the passage of this legislation with an amendment that requires private health insurance to reimburse for health care provided by county jail staff.

STATE CHILDREN HEALTH'S INSURANCE PROGRAM

There are over 117,000 children under the age of 18 years in Oregon that do not have health insurance. Reauthorization of the SCHIP would help close this gap in Oregon. In FY2008, Multnomah County had over 17,000 children under the age of 18 visit its health clinics.

PRIORITY: Multnomah County supports the reauthorization of the State Children Health Insurance Program.

BENEFITS RECOVERY/ SUPPORT SERVICES FOR SSI/SSDI APPLICANTS

National studies estimate that as many as 60 percent of people who are homeless have some level of disability, including mental health or addictions. In many cases, the nature of such disabilities makes it impossible for such a person to successfully complete the benefits eligibility process. Locally, only about 11 percent of those eligible receive benefits, such as SSI and SSDI. Without such benefits, individuals are either without services or have to be served with scarce local (non-federal) community funds. Many end up costing taxpayers more because they wind up in jail, in hospitals or fall through the cracks of other safety net resources.

PRIORITY: Multnomah County seeks help funding the Homeless Benefits Recovery Project as a way to assist chronically homeless individuals with mental illness, addictions or other disabilities in accessing federal benefits and services to which they are entitled but have not been able to receive them. Under the project, services will include eligibility screening, appeals process advocacy, case management, medical and other documentation. Also, the project will bridge services to individuals evaluated to be potentially eligible while the appeals process continues. Benefits Recovery is a key strategy in an ongoing effort by the county and the city of Portland 10-

year Plan to End Homelessness.

EMERGING ISSUES

Multnomah County will be tracking the following issues of interest in the 111th Congress.

- Changes to Medicaid/Extension of Medicaid Waiver
- Juvenile Accountability Block Grants
- Juvenile Justice and Delinquency Prevention Act
- Federal sex offender probation and parole policies
- Management/Labor policies affecting public employees
- Opportunities for funding early childhood development to prevent criminal behavior
- Youth Promise Act
- Creation of National Commission on Mentally Ill Offenders in Corrections
- Capital grants for court buildings and mental health housing
- Support services for SSI/SSDI applicants

Services Provided By Multnomah County

The People

Commissioner
Deborah Kafoury
District 1

Commissioner
Jeff Cogen
District 2

Chair
Ted Wheeler

Commissioner
Judy Shiprack
District 3

Commissioner
Diane McKeel
District 4

Department of Community Justice

- Adult Probation and Parole Felony Field Supervision
- Community Service
- Day Reporting Center: Jail Sanctions Alternative
- Domestic Violence Supervision
- GED and Employment Preparation for Adult Offenders
- Adult Pre-Trial Services
- Residential and Outpatient Alcohol and Drug Program
- Juvenile Probation
- Juvenile Detention
- Community-Based Detention Alternatives
- Education Provided in Detention
- Gang Transitional Services

Department of Community Services

- Animal Shelter
- Elections
- Land Use
- Roads and Bridges

Department of County Human Services

- Adult Foster Care Homes
- Alcohol and Drug Treatment
- Assisting Seniors and People with Disabilities
- Case Management for People with Developmental Disabilities
- Domestic Violence Prevention
- Energy Assistance
- Gambling Addiction Treatment
- Homeless Youth
- Mental Health Services
- Oregon Project Independence
- Public Guardianship
- SUN Community Schools
- Weatherization

Department of County Management

- Excise Tax Collection
- Assessment and Taxation
- Budget
- Employee Benefits
- Human Resources
- Labor Relations
- PERS
- Finance/Risk Management
- Facilities and Property Mgmt.
- Diversity and Equity
- Deferred Comp.
- Sustainability
- Emergency Management
- Fleet
- Distribution
- Warehouse
- Records Management

Department of Health

- Early Childhood Services
- Immunizations
- Lead Poisoning Prevention
- Medicaid Eligibility
- Outreach for Women Infant and Children (WIC)
- Providing Medical and Dental Services in Health Centers
- Restaurant Inspections
- School Based Health Centers
- Surveillance of Communicable Diseases
- Vector Control

Department of Libraries

- Early literacy services
- School age services
- Lifelong learning programs
- Reference and information services
- Public access computing
- Community gathering places
- Lending books and other media
- Outreach programs for at-risk populations

For more info: Phillip Kennedy-Wong (503) 830-4746, Multnomah County Gov't Relations Mgr.

For Information:
Phillip Kennedy-Wong
Government Relations Manager
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phillip.kennedy-wong@co.multnomah.or.us

MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST

Board Clerk Use Only	
Meeting Date:	01/22/09
Agenda Item #:	R-11
Est. Start Time:	11:05 AM
Date Submitted:	01/13/09

Agenda Title: **Multnomah County's Public Safety/Animal Welfare Response to the Winter Storms in Late December 2008**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Date Requested:	January 22, 2009	**Time Requested:**	45 mins
Department:	Non-Departmental	**Division:**	Commissioner District 4
Contact(s):	Sam Peterson		
Phone:	503-988-5213 **Ext.** 22738	**I/O Address:**	503/600
Presenter(s):	Chief Deputy Ron Bishop, MSCO-Corrections; Chief Deputy Tim Moore, MSCO-Patrol; Scott Taylor, DCJ Director; David Houghton, Emergency Management Director; Michael Oswald, Animal Services.		

General Information

1. **What action are you requesting from the Board?**
   None, informational only.
2. **Please provide sufficient background information for the Board and the public to understand this issue.**
   County Public Safety organizations and Animal Services will discuss their response and coordinated efforts during the December 2008 Storms, as well a day-to-day operations.
3. **Explain the fiscal impact (current year and ongoing).**
   none
4. **Explain any legal and/or policy issues involved.**
   none
5. **Explain any citizen and/or other government participation that has or will take place.**
   none

Required Signature

Elected Official or Department Director: Diane McKeel **Date:** 01/13/09

MULTNOMAH COUNTY SHERIFF'S OFFICE

501 SE HAWTHORNE BLVD., SUITE 350 • PORTLAND, OR 97214

Exemplary service for a safe, livable community

BOB SKIPPER
SHERIFF

503 988-4300 PHONE
503 988-4500 TTY
www.mcso.us

Multnomah County Sheriff's Office Corrections Division Response to the Recent Snow Event December 2008/January 2009

The following is a list of actions taken by the members of the MCSO Corrections Division during the recent storm event. This is not a conclusive list but a sample of the efforts made to provide service to members of the community. Additionally, the service and efforts were made by both sworn and civilian.

Staffing

- Members used mass transit which proved to be problematic as they were not on schedule.
- Staff who had vehicles able to operate in the inclement conditions picked up members regardless of discipline.
- Members rented hotel rooms near there assigned work locations to ensure that they were able to report for duty.
- Members stayed and "camped out" in facilities using offices for accommodations.

Operations

- Members worked various assignments often covering multiple posts when other members were still pending arrival.
- Prior to Court be canceled, court security deputies cleared the entrances to the Courthouse so the public and court staff could enter safely.
- Prior to Court being canceled, court security deputies responded to the MCDC to help with operations and offset overtime, then stayed when Court was canceled.
- The MCSO Corrections Records Unit fielded what was described as a "dramatic increase" in calls from the public asking for information ranging from road conditions, location of warming centers and weather reports. Information was provided as requested.
- The MCSO Laundry, with aid of the inmate work crews laundered blankets for the warming centers in the Portland area, a total of 1,900 pounds.
- Upon request, two Inmate Work Crews, a total of twenty inmates and two deputies responded to Estacada in Clackamas to aid in filling sandbags to protect public assets such as City Hall and the Library.
- MCSO Work Crews responded to multiple county facilities (MCIJ, Hansen, MCDC, Multnomah building, county libraries, county health clinics, animal services, food bank in Gresham, warming shelters, gateway children center, head start program, JDH, court house) to assist with snow removal.
- Members assisted stranded motorists
- MCSO Work Crews cleaned kennels at animal control from snow drifts
- MCSO Work Crews removed trees roads in East County
- MCSO Work Crews responded to requests from ODOT for crews to clean debris from storm drains to prevent flooding in metropolitan area
- MCSO Corrections Transport Unit provided necessary service with no delays to the Courts
- In the aftermath work crews have continued with tree removal, cleared mud slides, cleared gravel from sidewalk areas and picking up tire chains along state highways.

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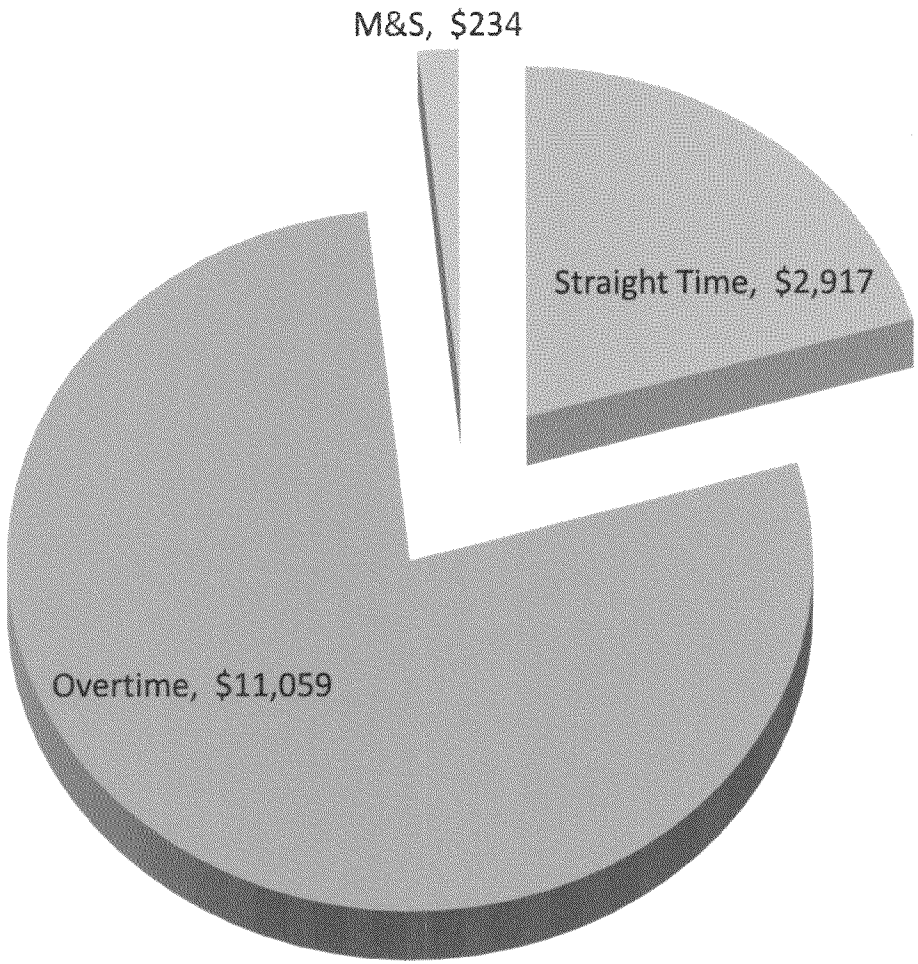
Enforcement Division Response to weather related events December 2008/January 2009.

- As snow levels increased, standard patrol vehicles became unusable, high-centering on snow berms and secondary roads. This necessitated using four wheel drive vehicles with studs and or chains for the duration of the weather events. Marked 4WD police vehicles from every section of the Enforcement Division were redeployed and used in patrol 24 hours per day.
- Outlying areas of the county presented challenges for response to both emergency and non emergency calls. Both the east and west sections of the patrol districts have elevation changes and road design issues which complicate responding during a weather event.
- As the roads in core areas of Multnomah County became passable again, the West Hills, Corbett/Larch Mountain and the gorge continued to have travel hazards for many days.
- Call load for routine police response and weather related traffic incidents remained constant throughout the event.
- Several motorists attempted travel on I-84 after blizzard conditions closed the roadway, requiring response by multiple public agencies.

Highlighted Major Events

- Response to multiple traffic crashes and stranded citizens in situations that were not safe. This continued throughout the weather events.
- During December, two persons were witnessed jumping off bridges into the Willamette River – extensive searches of the areas were not successful. Neither body has been recovered due to high water. On 12-10-08, a person who attempted suicide was pulled out of the Columbia River and is recovering.
- On 12-30-08, MCSO dispatched to a 1000 foot radio tower in danger of collapse within a residential area in unincorporated Multnomah County. This incident required deployment of over 30 MCSO personnel, conducting voluntary evacuation notices, closing streets throughout the area, operating an incident command post and other activities. Personnel pulled from all other functions to staff this event for 27 hour duration. Great cooperation from American Red Cross, Portland Fire Bureau and Sheriff's Office Search and Rescue volunteers.
- Burglary and Att Assault on elderly female in her home on 12-31-08 required staffing shifts to deal with this incident. Suspect in custody with assistance from Multnomah County Code Enforcement Officer and Troutdale Police Department.
- Time sensitive civil process work was not accomplished because the above events required all personnel to be dedicated to other tasks. When critical events subsided, the staff, supervisors and command all worked to catch up the backlog in time sensitive civil process.
- Flooding and landslide events on January 2nd and 3rd, 2009. Columbia River Highway inundated with slides and road closures, as well as NE Sandy Blvd, Oxbow Drive, sections of Highway 30 and other local streets. Police response limited to Priority 1 calls due to staff dealing with road closure and traffic issues.
- MCSO detectives respond to double homicide on December 31st as part of East County Major Crimes Team. East Metro Gang Enforcement Team also involved in this incident and the aftermath.
- On 12-22-08, multiple boats sinking, boat house roofs collapsing and docks sinking due to storm ice reported. River Patrol, with US Coast Guard and Portland/Gresham Fire, created a safety plan for houseboat residents.

MCSO Costs By Category for the December 16 - 25 Deep Freeze Event
Data as of Jan 14, 2009