

ANNOTATED MINUTES

Tuesday, February 4, 1992 - 8:30 AM  
Multnomah County Courthouse, Room 602

EXECUTIVE SESSION

E-1      *The Multnomah County Board of Commissioners Will Meet in Executive Session to Discuss Real Property Transactions Pursuant to ORS 192.660(1)(e)*

**EXECUTIVE SESSION HELD. FOLLOW UP SESSION TO BE SCHEDULED.**

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Tuesday, February 4, 1992 - 9:30 AM  
Multnomah County Courthouse, Room 602

PLANNING ITEM

*Chair Gladys McCoy convened the meeting at 9:40 a.m., with Vice-Chair Sharron Kelley, Commissioners Pauline Anderson, Rick Bauman and Gary Hansen present.*

P-1      PR 6-91; ZC 6-91; CS 6-91 and  
WRG 7-92      PUBLIC HEARING, ON THE RECORD, TESTIMONY LIMITED TO  
30 MINUTES PER SIDE in the Matter of Review of the December 2, 1991 Planning Commission Decision DENYING Requests for a Comprehensive Plan Revision, Zone Change Request, Community Service Use for a Marina and a Willamette River Greenway Permit, to Allow the Development of a 170-Space Boat Marina in the Multnomah Channel, for Property Located at 14460 NW GILLIHAN ROAD.

**MARK HESS PRESENTED STAFF REPORT. BOARD DISCLOSURE OF POTENTIAL EX PARTE CONTACTS. GREG HATHAWAY AND KEN LARSON TESTIMONY IN SUPPORT OF A REVERSAL OF THE PLANNING COMMISSION DECISION. JEFF KLEINMAN, PAUL KETCHAM, JEFF JOSLIN, PATRICIA SNOW AND NANCY CHASE TESTIMONY IN SUPPORT OF PLANNING COMMISSION DECISION AND RESPONSE TO BOARD QUESTIONS. JOHN DuBAY RESPONSE TO BOARD QUESTIONS. MARK VALESKE, STU SANDLER AND MR. KLEINMAN TESTIMONY IN SUPPORT OF PLANNING COMMISSION DECISION. MR. HATHAWAY, PAUL FISHMAN, SUMNER SHARP TESTIMONY IN SUPPORT OF A REVERSAL OF THE PLANNING COMMISSION DECISION AND RESPONSE TO BOARD QUESTIONS.**

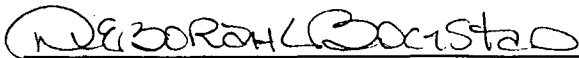
*The Board recessed at 11:05 a.m. and reconvened at 11:10 a.m.*

**MR. HESS RESPONSE TO BOARD QUESTIONS. COMMISSIONER ANDERSON MOVED AND COMMISSIONER BAUMAN SECONDED, TO DENY APPLICANT'S APPEAL**

**AND UPHOLD THE PLANNING COMMISSION DECISION. BOARD COMMENTS. PLANNING COMMISSION DECISION DENYING REQUESTS UNANIMOUSLY AFFIRMED. MR. HESS ADVISED THE FINAL ORDER WILL BE SUBMITTED WITHIN TWO WEEKS.**

*There being no further business, the meeting was adjourned at 11:16 a.m.*

OFFICE OF THE BOARD CLERK  
for MULTNOMAH COUNTY, OREGON



Deborah L. Bogstad

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Tuesday, February 4, 1992 - 1:30 PM  
Multnomah County Courthouse, Room 602

**BOARD BRIEFINGS**

- B-1      *Presentation and Discussion of Recommendations of the 1991 Multnomah County Salary Commission. Presented by Keith Crawford, Rian Brown, Brenda Carpenter, Judith Clark and Leslie Jasper.*

**GARY BLACKMER, KEITH CRAWFORD AND JUDITH CLARK PRESENTATION AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION OF RECOMMENDED ANNUAL SALARY INCREASE OF \$45,219 FOR COMMISSIONERS AND \$52,816 FOR CHAIR, EFFECTIVE JANUARY 1, 1992, WITH AN ADJUSTMENT OF 75 PERCENT OF THE PERCENT CHANGE IN THE PORTLAND CONSUMER PRICE INDEX FOR THE 12 MONTH PERIOD ENDING JUNE 30, 1992, EFFECTIVE JANUARY 1, 1993. DISCUSSION OF SUGGESTED ALTERNATIVES TO ACCEPTING SALARY COMMISSION RECOMMENDATIONS.**

- B-2      *Presentation of Committee Report on City/County Consolidation. Presented by Merlin Reynolds and Members of the Governance Committee.*

**MERLIN REYNOLDS INTRODUCED TOM SIMPSON, KELLY BACON AND COMMITTEE CHAIR BOB ORINGDULPH. MR. ORINGDULPH, ROBERT SCANLAN, CHUCK HERNDON, MARY ANNE NORMANDIN, DEBRAH BOKOWSKI AND ED WASHINGTON PRESENTATION AND DISCUSSION REGARDING RECOMMENDATIONS THAT COUNTY CHAIR INITIATE A MEETING WITH A CROSS SECTION OF LEADERS FROM MULTNOMAH, CLACKAMAS AND WASHINGTON COUNTIES TO DISCUSS COST EFFICIENCIES AND EFFECTIVENESS IN GOVERNMENT AND ESTABLISH A BROAD BASED REGIONALLY REPRESENTED COMMITTEE TO RESEARCH AND**

**DEVELOP A PLAN FOR RESTRUCTURING GOVERNMENTAL SERVICES. CHAIR McCOY ADVISED PARALLEL COMMITTEES WOULD BE INVITED TO PARTICIPATE. NED LOOK COMMENTED AND OFFERED TO SHARE REPORT WITH METRO CHARTER COMMITTEE.**

**B-3** *Bi-Monthly Status Report Concerning the Donald E. Long Detention Facility. Presented by Harold Ogburn.*

**HAL OGBURN AND CHIP LAZENBY PRESENTATION AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION. MR. OGBURN ADVISED RICK SCOTT HAS BEEN APPOINTED DEPUTY SUPERINTENDENT AND OTHER STAFF HIRED FOR THIRD BOYS UNIT TO BE OPENED THIS WEEK. PRELIMINARY DISCUSSION ON PROPOSED YOUTH TRAINING OPPORTUNITIES. CHAIR McCOY DIRECTED JJD STAFF TO SUBMIT A WRITTEN REPORT IN RESPONSE TO PREVIOUS BOARD QUESTIONS AND TO SEND WEEKLY SUMMARY CENSUS REPORTS AND/OR A MONTHLY GRAPH TO CHAIR McCOY FOR DISTRIBUTION TO BOARD.**

**B-4** *Discussion on the Youth Empowerment and Employment Project. Presented by Commissioner Gary Hansen.*

**MR. OGBURN, JAMES FRANCESCONI AND BOARD DISCUSSION CONCERNING REQUEST THAT COUNTY BECOME THE FISCAL AGENT FOR AND PROVIDE TWO STAFF POSITIONS TO ADMINISTER THE YOUTH EMPOWERMENT AND EMPLOYMENT PROJECT AND TO FURNISH \$100,000 TO THE PROGRAM FOR THE 92-93 FISCAL YEAR. MR. FRANCESCONI TO SUBMIT WRITTEN PROPOSAL AND BUDGET DETAILS TO VICE-CHAIR KELLEY. CHAIR McCOY DIRECTED THAT COUNTY COUNSEL AND BUDGET OFFICE STAFF REVIEW PROPOSAL AND OBTAIN SPECIFICS ON THE ROLE OF FISCAL AGENT.**

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*Thursday, February 6, 1992 - 9:30 AM  
Multnomah County Courthouse, Room 602*

**REGULAR MEETING**

*Chair Gladys McCoy convened the meeting at 9:30 a.m., with Vice-Chair Sharron Kelley, Commissioners Pauline Anderson, Rick Bauman and Gary Hansen present.*

**CONSENT CALENDAR**

**UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER ANDERSON, THE CONSENT CALENDAR (ITEMS C-1 THROUGH C-5) WAS**

**UNANIMOUSLY APPROVED.**

**JUSTICE SERVICES**

**SHERIFF'S OFFICE**

- C-1      *Ratification of an Intergovernmental Agreement Between the Oregon Public Utility Commission and Multnomah County, Providing Revenue for the Sheriff's Office Motor Carrier Safety Unit to Enforce Commercial Motor Vehicle Safety Rules and Regulations, for the Period October 1, 1991 to September 30, 1992*

**DEPARTMENT OF HEALTH**

- C-2      *Ratification of an Intergovernmental Agreement Between the City of Portland and Multnomah County, Amending the Contract Term from February 1, 1991 through December 31, 1991, and Providing County Reimbursement for the Cost of an .8 FTE Equivalent Community Health Nurse Working at Iris Court*
- C-3      *Ratification of an Intergovernmental Agreement Between the State Children's Services Division and Multnomah County, Providing a Community Health Nurse to Participate as a Member of the PROJECT TEAM Program for the Period January 2, 1992 through September 30, 1992*

**NON-DEPARTMENTAL**

- C-4      *In the Matter of the Appointment of Katherine Cheney to the CITIZEN INVOLVEMENT COMMITTEE, Term to Expire February 1, 1994*
- C-5      *In the Matter of the Reappointment of D'Norgia Price to the MERIT SYSTEM CIVIL SERVICE COUNCIL, Term to Expire June 4, 1997*

**REGULAR AGENDA**

**NON-DEPARTMENTAL**

- R-1      *RESOLUTION AND ORDER in the Matter of Adjusting Salaries for the County Chair and County Commissioners Based on Salary Adjustment Recommendations of the 1992 Salary Commission*

**GARY BLACKMER AND KEITH CRAWFORD PRESENTATION AND EXPLANATION OF SALARY COMMISSION RECOMMENDATIONS. DON HOLDEN, WARREN STOLLE AND SAM OAKLAND TESTIMONY IN OPPOSITION TO SALARY INCREASE. NANCY CHASE, PAUL NORR AND PAUL THALHOFER TESTIMONY IN SUPPORT OF SALARY INCREASE. COMMISSIONER ANDERSON MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF R-1. COMMISSIONER HANSEN MOVED AND COMMISSIONER BAUMAN SECONDED, TO AMEND THE EFFECTIVE DATE TO JULY 1, 1992. LARRY KRESSEL RESPONSE TO BOARD QUESTIONS. BOARD COMMENTS. COMMISSIONER KELLEY'S MOTION TO TABLE R-1 FAILED FOR LACK OF**



**A SECOND. MOTION TO AMEND EFFECTIVE DATE TO JULY 1, 1992 FAILED, WITH COMMISSIONERS BAUMAN AND HANSEN VOTING AYE, AND COMMISSIONERS ANDERSON, KELLEY AND McCOY VOTING NO. BOARD COMMENTS. RESOLUTION AND ORDER 92-22 APPROVED, WITH COMMISSIONERS ANDERSON, BAUMAN AND McCOY VOTING AYE, AND COMMISSIONERS KELLEY AND HANSEN VOTING NO.**

- R-2 *Budget Modification NOND #25 Requesting Authorization to Move Budgets to Implement Reorganization Pursuant to Ordinance No. 708 Adopted December 12, 1991, Wherein the Department of Human Services was Abolished and the Health Department and Department of Social Services were Created*

**COMMISSIONER BAUMAN MOVED AND COMMISSIONER ANDERSON SECONDED, APPROVAL OF R-2. DAVE WARREN EXPLANATION. BUDGET MODIFICATION UNANIMOUSLY APPROVED.**

- R-3 *RESOLUTION in the Matter of the Adoption of the 1991-92 Supplemental Budget for Multnomah County, Oregon, for the Fiscal Year July 1, 1991 to June 30, 1992, and Making the Appropriations Thereunder, Pursuant to ORS 294.435*

**COMMISSIONER BAUMAN MOVED AND COMMISSIONER ANDERSON SECONDED, APPROVAL OF R-3. MR. WARREN EXPLANATION. RESOLUTION 92-23 UNANIMOUSLY APPROVED.**

- R-4 *RESOLUTION in the Matter of Creating a Task Force on Ethics Guidelines for County Officials/Employees*

**UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, RESOLUTION 92-24 WAS UNANIMOUSLY APPROVED.**

- R-5 *First Reading and Possible Adoption of an ORDINANCE Relating to the Regulation of Solid Waste Haulers in Portions of Unincorporated Multnomah County in Order to Provide the Opportunity to Recycle to be Administered by the City of Portland, and Declaring an Emergency and Repealing Ordinance No. 541*

**PROPOSED ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. FRED NEAL EXPLANATION. UPON MOTION OF COMMISSIONER BAUMAN, SECONDED BY COMMISSIONER KELLEY, ORDINANCE 711 WAS UNANIMOUSLY APPROVED.**

- R-6 *ORDER Authorizing an Agreement with the City of Portland Relating to the Allocation and Payment to the County of a Portion of Franchise Fees Collected by the City which are Attributable to Solid Waste Collection in Certain Unincorporated Areas of the County*

**MR. NEAL REQUESTED A ONE WEEK DELAY FOR CHANGES TO THE INTERGOVERNMENTAL AGREEMENT. COMMISSIONER ANDERSON COMMENTS UPON MOTION OF COMMISSIONER BAUMAN, SECONDED BY COMMISSIONER KELLEY, IT WAS UNANIMOUSLY APPROVED TO CONTINUE R-6 TO THURSDAY, FEBRUARY 13, 1992.**

- R-7**      *First Reading of a Proposed ORDINANCE Amending Ordinance No. 646 (Firearms) by Expanding the List of Firearms in the Definition of "Assault Weapon", Clarifying Certain Language Pertaining to Excluded Firearms and Deleting Certain Provisions Concerning the Firearms Safety and Education Course*

**PROPOSED ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER BAUMAN MOVED AND COMMISSIONER ANDERSON SECONDED, APPROVAL OF THE FIRST READING. KATHY FERRELL PRESENTED PROPOSED AMENDMENTS. UPON MOTION OF COMMISSIONER BAUMAN, SECONDED BY COMMISSIONER KELLEY, IT WAS UNANIMOUSLY APPROVED TO AMEND THE SAFETY COURSE SECTION 4 AND INCREASE THE FEE SCHEDULE TO UP TO \$25.00. COMMISSIONER BAUMAN MOVED AND COMMISSIONER HANSEN SECONDED, TO DELETE SECTIONS 1, 2 AND 3 IN CONNECTION WITH THE LIST OF ASSAULT WEAPONS. MAUREEN LEONARD EXPLANATION AND RESPONSE TO BOARD QUESTIONS. MOTION TO DELETE SECTIONS 1, 2 AND 3 UNANIMOUSLY APPROVED. CLYDE CACERES AND JOHN NICHOLS TESTIMONY AND RESPONSE TO BOARD QUESTIONS. FIRST READING OF AMENDED ORDINANCE UNANIMOUSLY APPROVED. SECOND READING SCHEDULED FOR THURSDAY, FEBRUARY 13, 1992.**

**DEPARTMENT OF SOCIAL SERVICES**

- R-8**      *Budget Modification DSS #61 Requesting Authorization to Add \$5,000 of Bequeathed Funds to Aging Services Division to Increase Pass Through and Create an Emergency Assistance Fund for Low Income Seniors in Crisis*

**COMMISSIONER BAUMAN MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF R-8. JAN TUCKER EXPLANATION. BUDGET MODIFICATION UNANIMOUSLY APPROVED.**

- R-9**      *Ratification of an Intergovernmental Agreement Between Multnomah County and Mt. Hood Community College, Providing Community Development Block Grant Funds for Completion of the Gresham Literacy Coalition Project to Benefit Low and Moderate Income Gresham Residents, for the Period February 1, 1992 through January 31, 1993*

**COMMISSIONER BAUMAN MOVED AND COMMISSIONER**

**HANSEN SECONDED, APPROVAL OF R-9. CECILE PITTS  
EXPLANATION. AGREEMENT UNANIMOUSLY APPROVED.**

**DEPARTMENT OF ENVIRONMENTAL SERVICES**

- R-10      **RESOLUTION in the Matter of the Proposed Consolidations of County and City of Gresham Road Organizations and Fleet Management [Requesting Approval of the Concept Proposal, Directing Staff to Continue Working on the Proposal and Setting a Joint Public Hearing for Tuesday, February 11, 1992 at Gresham City Hall]**

**PAUL YARBOROUGH EXPLANATION, PRESENTATION OF CONCEPT PROPOSAL AND RESPONSE TO BOARD QUESTIONS. MAYOR GUSSIE McROBERT AND RICHARD LEONARD TESTIMONY IN SUPPORT. ARLENE COLLINS TESTIMONY IN SUPPORT OF ADDITIONAL PUBLIC INPUT. MR. YARBOROUGH RESPONSE TO MS. COLLINS AND COMMISSIONER BAUMAN. PAUL THALHOFER TESTIMONY IN OPPOSITION. UPON MOTION OF COMMISSIONER ANDERSON, SECONDED BY COMMISSIONER HANSEN, IT WAS UNANIMOUSLY APPROVED THAT A FIRST PUBLIC HEARING BE SCHEDULED FOR 7:00 PM, TUESDAY, FEBRUARY 11, 1992 AT GRESHAM CITY HALL, WITH ADDITIONAL PUBLIC HEARINGS TO BE SCHEDULED. BOARD DISCUSSION WITH CONSULTANT DON BARNEY CONCERNING TRANSPORTATION OPTIONS. MAUREEN LEONARD COMMENTS. CHAIR McCOY SUGGESTED THE WORK GROUP GET TOGETHER FOLLOWING THE HEARING TO DISCUSS DIRECTION THE CONSULTANTS SHOULD TAKE, AND DIRECTED THAT THE MATTER BE SCHEDULED AS A BRIEFING DISCUSSION ON TUESDAY, FEBRUARY 18, 1992.**

*The Board recessed at 12:03 p.m. and reconvened at 12:06 p.m.*

- R-11      **ORDER in the Matter of the Sale of County Real Property at East Burnside Street and 47th Avenue, Portland, Oregon to the City of Portland**

**BOB OBERST EXPLANATION. LARRY KRESSEL RESPONSE TO BOARD QUESTIONS. BOARD COMMENTS. UPON MOTION OF COMMISSIONER ANDERSON, SECONDED BY COMMISSIONER KELLEY, ORDER 92-25 WAS UNANIMOUSLY APPROVED.**

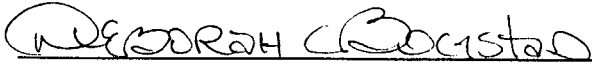
- R-12      **In the Matter of a Status Report Affecting Cancellation or Continuance of the Land Sale Contract 15428 Between Multnomah County, Oregon and Stephen M. Olson**

**LARRY BAXTER PRESENTED STATUS UPDATE. JOHN DuBAY RESPONSE TO BOARD QUESTIONS AND DISCUSSION. VALENCIA TOLLYER REPORTED ON STATUS OF VARIOUS CITY VIOLATIONS AND NEGOTIATIONS WITH**

**MR. OLSON. MR. DuBAY EXPLANATION OF ISSUE  
BEFORE THE BOARD. BOARD COMMENTS AND  
CONSENSUS TO UPHOLD CANCELLATION. BOARD  
ADVISED IT WOULD CONSIDER NEW CONTRACT UPON  
COMPLIANCE OF CERTAIN CONDITIONS AND  
SUCCESSFUL NEGOTIATIONS BETWEEN THE CITY OF  
PORTLAND, MULTNOMAH COUNTY AND MR. OLSON.**

*There being no further business, the meeting was adjourned at 12:25 p.m.*

**OFFICE OF THE BOARD CLERK  
for MULTNOMAH COUNTY, OREGON**

  
Deborah L. Bogstad

# 1

DATE 2/4/92

NAME Jeff Kleinman

ADDRESS 1207 SW 6

STREET

Portland OR

CITY

97204

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # \_\_\_\_\_

SUBJECT Alder Creek Marina

\_\_\_\_\_ FOR ☒ \_\_\_\_\_ AGAINST

PLEASE PRINT LEGIBLY!

# 2

DATE 2/4/92

NAME

Paul Ketchum  
Mary McCurdy 1000 Friends

ADDRESS

534 SW 3rd Suite 300

STREET

Portland, OR

CITY

97204

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # \_\_\_\_\_

SUBJECT

Alder Creek Marina

FOR

✓  
AGAINST

PLEASE PRINT LEGIBLY!

# 3

DATE 2/4/92

NAME Jeff Joslin

ADDRESS 14700 NW Gillman

STREET

Portland OR 97231

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # \_\_\_\_\_

SUBJECT Alder Creek Marina

\_\_\_\_\_ FOR \_\_\_\_\_☒ AGAINST  
PLEASE PRINT LEGIBLY!

# 4

DATE 2/4/92

NAME Patti Swan

ADDRESS OPRW 2501 SW 1st Ave

STREET

Portland, OR 97207

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # 9-1

SUBJECT Alder Creek Marina

\_\_\_\_\_ FOR ✓ \_\_\_\_\_ AGAINST

PLEASE PRINT LEGIBLY!



# 5

DATE 2/4/92

NAME Nancy Chase

ADDRESS 1620 SE 190<sup>th</sup>

STREET

Dr

CITY

O.R

97233

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # \_\_\_\_\_

SUBJECT Alder Creek Marina

\_\_\_\_\_ FOR ✓ \_\_\_\_\_ AGAINST

PLEASE PRINT LEGIBLY!

# 6

DATE 2/4/92

NAME Mark Valeske

ADDRESS 13010 NW Marina Way

STREET

Portland, OR.

CITY

97231

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # \_\_\_\_\_

SUBJECT Alder Creek Marina

\_\_\_\_\_  
FOR ✓ AGAINST  
PLEASE PRINT LEGIBLY!

# 7

DATE 2/4/92

NAME Stu Sandler

ADDRESS 19419 NW Reeder Rd.

STREET

Portland OR.

97231

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # \_\_\_\_\_

SUBJECT Alder Creek Marina

\_\_\_\_\_ FOR ☒ \_\_\_\_\_ AGAINST

PLEASE PRINT LEGIBLY!

# 8

DATE 2/4/92

NAME Jeff Kleinman

ADDRESS 1207 SW 6

STREET

Portland, OR.

CITY

97204

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # \_\_\_\_\_

SUBJECT Alder Creek Marina

\_\_\_\_\_ FOR ☒ \_\_\_\_\_ AGAINST

PLEASE PRINT LEGIBLY!



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES  
DIVISION OF PLANNING  
AND DEVELOPMENT  
2115 S.E. MORRISON STREET  
PORTLAND, OREGON 97214  
(503) 248-3043

BOARD OF COUNTY COMMISSIONERS  
GLADYS McCOY • CHAIR OF THE BOARD  
PAULINE ANDERSON • DISTRICT 1 COMMISSIONER  
GARY HANSEN • DISTRICT 2 COMMISSIONER  
RICK BAUMAN • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## MEMORANDUM

**To:** Board of County Commissioners  
**From:** Mark Hess, Planner *MH*  
**Date:** January 21, 1992  
**Subject:** NOTICE OF REVIEW of the Proposed "Alder Creek Marina";  
File#: PR 6-91/ ZC 6-91/ CS 6-91/ WRG 7-91

BOARD OF  
COUNTY COMMISSIONERS  
1992 JAN 21 PM 3:26  
MULTNOMAH COUNTY  
OREGON

The enclosed materials pertain to the December 2, 1991 Planning Commission denial of the proposed "Alder Creek Marina". A *Notice of Review* was filed on December 23, 1991. The Board hearing on the matter is scheduled for January 28, 1992.

Briefly, the applicant requested:

- a Plan Revision with *exceptions* for State Goals 3 (agriculture) and 14 (urbanization);
- a Zone Change from EFU to MUA-20;
- a Community Service Use designation for a 170-boat marina; and
- a Willamette River Greenway Permit for new uses in the Greenway.

### BACKGROUND:

The Planning Commission held a public hearing on the *Revised Application for "Alder Creek Marina"* on November 4, 1991. On that date, the Commission closed the oral portion of the hearing; the record remained open for 7-working-days (until November 14, 1991) to allow written evidence or rebuttal of evidence submitted during the hearing.

The record was held open an additional 4-working-days (until November 20, 1991) to allow parties to submit written rebuttal of any new material submitted during the first open record period. On December 2, 1991, the Commission deliberated and denied the requests based upon review of written and other materials in the record, and oral testimony heard at the November 4, 1991 hearing (see summary on pgs. 47-48 of the PC Decision).

*Notice of Review Packet*  
*Cover Memo; 1/21/92*

Enclosed materials include:

- "Revised Application for Alder Creek Marina" (9/27/91)
- 2 sets of Minutes (11/4/91 & 12/2/91 hearings)
- 2 sets of Transcripts (11/4/91 & 12/2/91 hearings)
- Packet I (11/14/91): copies of citizen and agency letters, a Staff memo, *etc.*;
- Packet II (11/14/91): copies of a "Revised Rebuttal" from the citizen groups;
- Packet III (11/4/91): applicant's notebook of *Response to Questions and Issues* ;
- Packet IV (11/19/91): rebuttal correspondence received from the second extension.
- Planning Commission Decision (dated 12/2/91)
- Notice of Review (form and text; 12/23/91)
- Bass and Panfish Club letter (1/9/92)
- David Fouts letter (1/16/92)
- ODFW letter (1/17/92)
- Alder Creek Marina Reasons For Approval (1/17/92)

Three other notebooks are available in the Clerk's office for review:

- Agency letters in the record
- Letters in favor
- Letters in opposition

If you have questions on these materials, feel free to call.

Meeting Date: ~~January 28, 1992~~

Agenda No.:

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM  
(For Non-Budgetary Items)

SUBJECT: Public Hearing - On The Record Only

BCC Informal _____	BCC Formal _____
(date)	(date)
DEPARTMENT _____ DES	DIVISION _____ Planning
CONTACT _____ Sharon Cowley	TELEPHONE _____ 2610
PERSON(S) MAKING PRESENTATION	Planning Staff

ACTION REQUESTED:

xx DENIAL

☐ INFORMATIONAL ONLY

☐ POLICY DIRECTION

☐ APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: 90 Minutes

CHECK IF YOU REQUIRE OFFICIAL WRITTEN NOTICE OF ACTION TAKEN: **XX**

BRIEF SUMMARY (include statement of rationale for action requested, as well as personnel and fiscal/budgetary impacts, if applicable):

PR 6-91 Review the Decision of the Planning Commission of December 2, 1991,  
ZC 6-91 denying requests for a comprehensive plan revision, zone change re-  
CS 6-91 quest, community service use for a marina and a Willamette River  
WRG 7-92 Greenway permit, all to allow the development of a 170-space boat  
marina in the Multnomah Channel, for property at 14460 NW Gilliam  
Road.

(If space is inadequate, please use other side)

SIGNATURES:

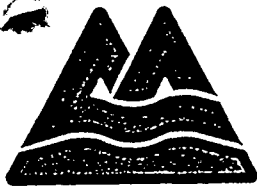
ELECTED OFFICIAL

Or

DEPARTMENT MANAGER

(All accompanying documents must have required signatures)

CLERK OF DISTRICT COURT  
COUNTY OF MULTNOMAH  
OREGON  
JAN 15 PM 4:38  
WILLIAM G. MILLER



# MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS  
ROOM 606, COUNTY COURTHOUSE  
1021 S.W. FOURTH AVENUE  
PORTLAND, OREGON 97204

GLADYS McCOY • CHAIR • 248-3308  
PAULINE ANDERSON • DISTRICT 1 • 248-5220  
GARY HANSEN • DISTRICT 2 • 248-5219  
RICK BAUMAN • DISTRICT 3 • 248-5217  
SHARRON KELLEY • DISTRICT 4 • 248-5213  
CLERK'S OFFICE • 248-3277

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**Date: 01/28/92   Time: 9:30 a.m.   Place: Room 602, Multnomah County Courthouse**

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**PR 6-91 Public Hearing - On The Record**

**ZC 6-91**

**CS 6-91** Review the Decision of the Planning Commission of December 2, 1991, Denying re-  
**WRG 7-91** quests for a comprehensive plan revision, zone change request, community service use  
for a marina and a Willamette River Greenway permit, to allow the development of a  
170-spaceboat marina in the Multnomah Channel, for property located at 14460 NW  
Gillihan Road.

## Scope of Review

On the Record

## Oral Argument

Each side has 30 minutes per side to present oral argument to the Board.

**At the hearing, only Oral Argument will be accepted. Persons wishing to submit Written Arguments must file 12 copies of the Written Argument with the Multnomah County Division of Planning and Development by 4:30 p.m. on Friday, January 17, 1992 (2115 SE Morrison Street)**

**PR 6-91/ZC 6-91/CS 6-91/WRG 7-91**



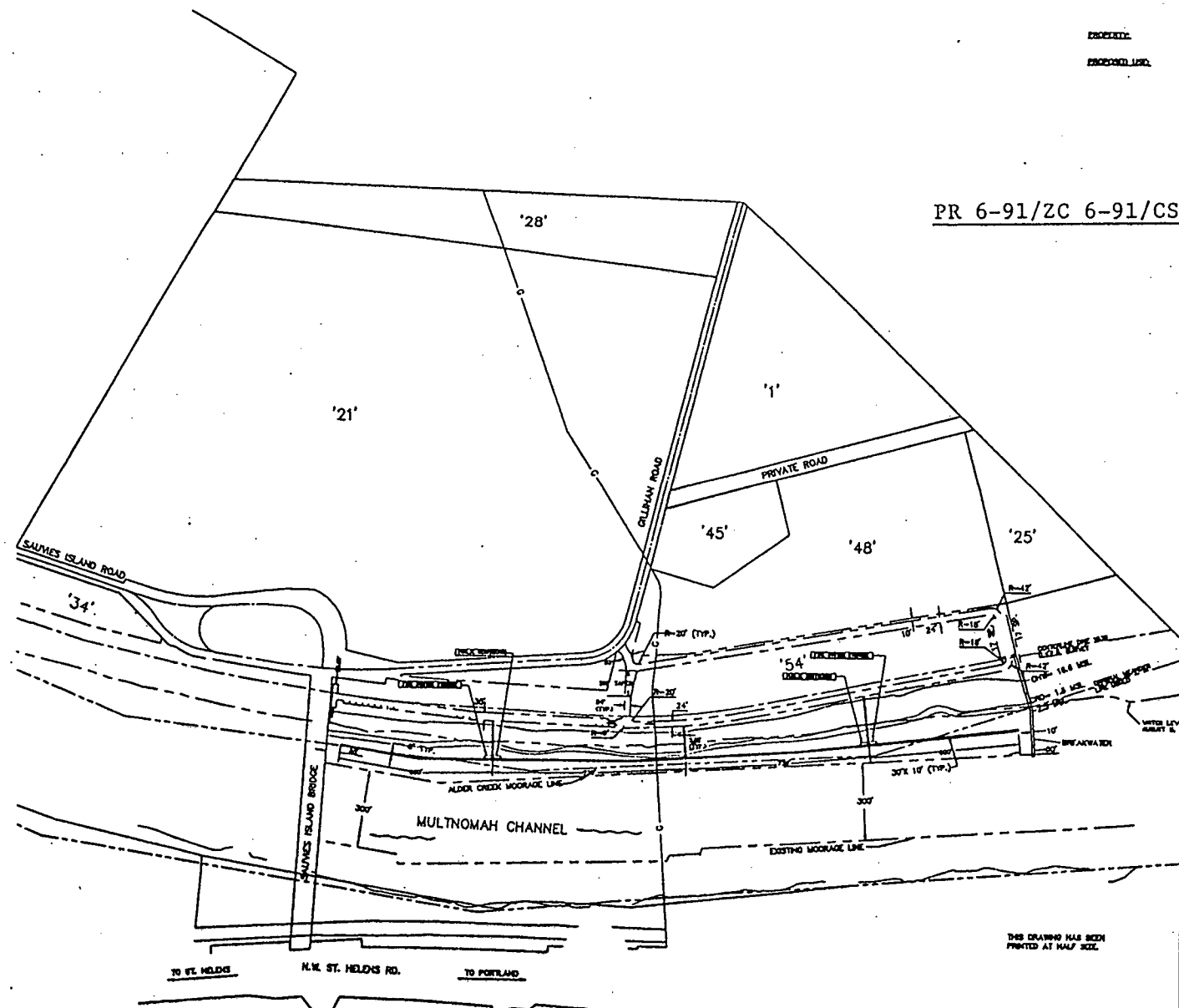
# NOTES

PROPOSED  
PROPOSED USE

TAX LOT 34-1 SECTION 28 TOWNSHIP 34N  
21.78 ACRES

- MARINA
- (2) CARETAKER ACCOMMODATIONS
  - (25) OPEN BOAT SLIPS
  - (40) COVERED BOAT SLIPS
  - (40) BOAT HOUSES
  - (2) PUBLIC RESTROOMS
  - (100) PARKING SPACES
  - (1) SHORELINE RIVER PATROL

PR 6-91/ZC 6-91/CS 6-91/WRG 7-91



THIS DRAWING HAS BEEN  
PRINTED AT HALF SIZE

1	1-18-91	REVISED SLIP AND PARKING
2	2-18-91	DELETE PUBLIC SERVICES NOTES
3	3-18-91	REVISED SLIP AND PARKING
4	4-18-91	PARKING, BOAT SLIPS AND NOTES
5	5-18-91	REVISION
6	6-18-91	REVISION
7	7-18-91	REVISION
8	8-18-91	REVISION
9	9-18-91	REVISION
10	10-18-91	REVISION
11	11-18-91	REVISION
12	12-18-91	REVISION
13	1-18-92	REVISION
14	2-18-92	REVISION
15	3-18-92	REVISION
16	4-18-92	REVISION
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ALDER CREEK MARIN,  
INOMAH COUNTY, OR  
SITE PLAN

# ALDER CREEK MARINA

KEN & PATTYE LARSON

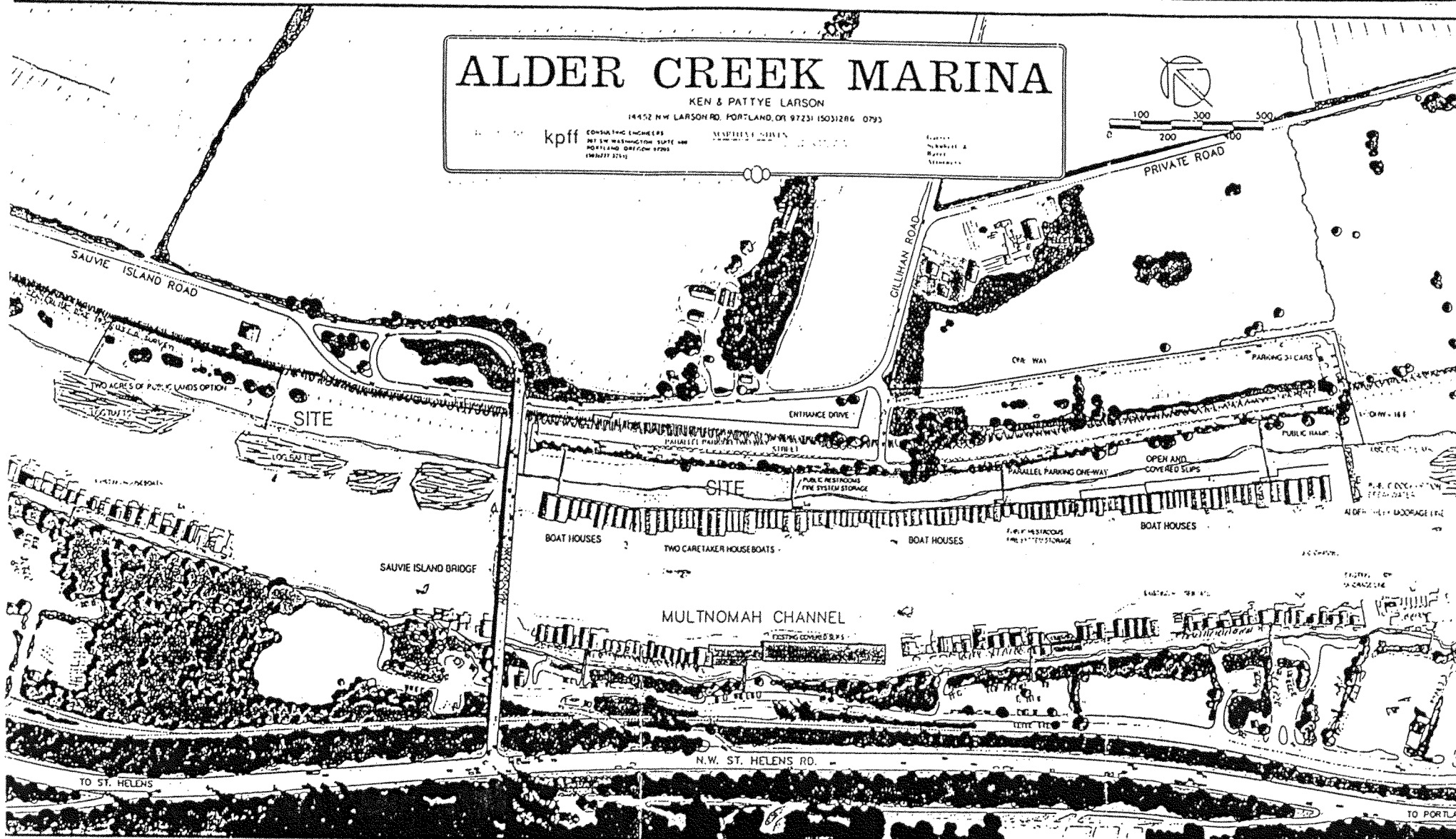
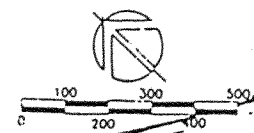
14452 NW LARSON RD. PORTLAND, OR 97231 (503) 286-0793

kpff

CONSULTING ENGINEERS  
101 SW WASHINGTON ST. SUITE 800  
PORTLAND, OREGON 97204  
(503) 227-3211

MARILYN STIVEN

Owner:  
Noblet &  
Baker  
Attorneys



PROPERTY:

TAX LOT "54" SECTION 28 2TNR1W W.M.

21.76 ACRES

PROPOSED USES:

MARINA AND ACCESSORY USES:

2 CARETAKER ACCOMMODATIONS

90 BOAT HOUSES

1 SHERIFF RIVER PATROL

75 OPEN BOAT SLIPS

2 PUBLIC RESTROOMS

55 COVERED BOAT SLIPS

100 PARKING SPACES

kpff

CONSULTING ENGINEERS  
7 S.W. WASHINGTON ST. SUITE 800  
PORTLAND, OREGON 97204

MARILYN F. STIVEN

Alder Creek

Meeting Date: ~~December 24, 1991~~ JAN 28 1992

Agenda No.: P-3

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM  
(For Non-Budgetary Items)

SUBJECT: Planning Commission Decision

BCC Informal \_\_\_\_\_ BCC Formal December 24, 1991  
(date) (date)

DEPARTMENT DES DIVISION Planning

CONTACT Sharon Cowley TELEPHONE 2610

PERSON(S) MAKING PRESENTATION Planning Staff

ACTION REQUESTED:

☐ INFORMATIONAL ONLY

☐ POLICY DIRECTION

☒ DENIAL

☐ APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: 5 Minutes

CHECK IF YOU REQUIRE OFFICIAL WRITTEN NOTICE OF ACTION TAKEN: xx

BRIEF SUMMARY (include statement of rationale for action requested, as well as personnel and fiscal/budgetary impacts, if applicable):

PR 6-91/ZC 6-91/CS 6-91/WRG 7-91

Decisions of the Planning Commission of December 2, 1991, with recommendations to the Board for denial of the requested comprehensive plan revision, change in zone designation, community service use for a marina and Willamette River Greenway Permit, all to locate a boat marina in the Multnomah Channel, for property located at 14460 NW Gillihan Road.

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL \_\_\_\_\_

Or

DEPARTMENT MANAGER \_\_\_\_\_

(All accompanying documents must have required signatures)

10400  
COUNTY COMMISSIONER  
991 DEC 16 PM 3:10  
MULTNOMAH COUNTY  
OREGON



**DEPARTMENT OF ENVIRONMENTAL SERVICES  
DIVISION OF PLANNING AND DEVELOPMENT  
2115 SE MORRISON STREET  
PORTLAND, OREGON 97214 (503) 248-3043**

**Decision**

**Decisions, Findings of Fact, and Conclusions  
December 2, 1991**

**PR 6-91, #67 Plan Revision from Agriculture to Multiple Use Agriculture  
ZC 6-91, #67 Zone Change from EFU to MUA-20  
CS 6-91, #67 Community Service Designation for a Marina  
WRG 7-91, #67 Willamette River Greenway Permit for New Uses in the Greenway**

Applicants request approval to develop a marina for 170 boats in Multnomah Channel. The proposal includes: 90 boathouses, 25 open boat slips, and 55 covered boat slips. The request includes two accessory uses moored in the channel (*i.e.*, 2 caretaker's floating homes and 2 public restrooms) The land adjoining the marina would have 100 parking spaces.

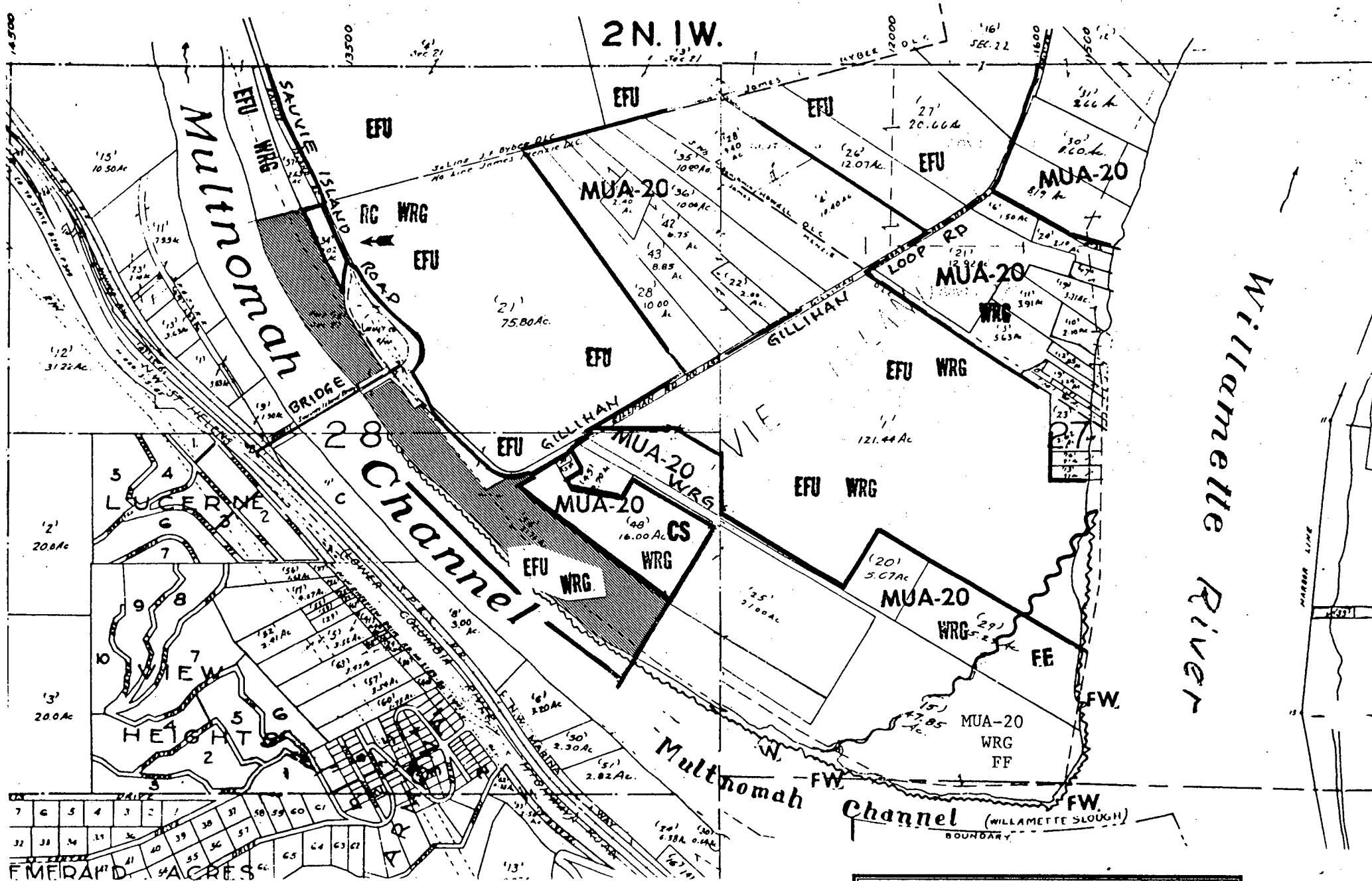
The proposal requires a Comprehensive Plan revision to take exceptions to Statewide Planning Goals 3 (Agriculture) and 14 (Urbanization); a Plan revision from Agriculture to Multiple Use Agriculture; a change of Sectional Zoning Maps #67, #68, and #70, changing the described property from EFU, FF, FW, and WRG to MUA-20, FF, FW, WRG, C-S, community service use.

**Location:** 14460 NW Gillihan Road  
**Legal:** Tax Lot '54', Section 28, 2N-1W, 1990 Assessor's Map  
**Site Size:** 21.8 Acres  
**Size Requested:** Same  
**Property Owner:** Clarence Koennecke  
21335 NW St. Helens Road  
Portland, Oregon 97231  
**Applicant:** Ken and Pattye Larson  
14452 NW Larson Road  
Portland, Oregon 97231  
**Comprehensive Plan:** Agriculture/Willamette River Greenway  
**Present Zoning:** EFU, Exclusive Farm Use/ FF, Flood Fringe/ FW, Floodway/  
WRG, Willamette River Greenway  
**Sponsor's Proposal:** Multiple Use Agriculture/Willamette River Greenway;  
MUA-20, FF, FW, WRG, C-S, Community Service District

**PLANNING COMMISSION DECISIONS:**

**#1 (PR 6-91) Deny the Comprehensive Plan Revision;**  
**#2 (ZC 6-91) Deny the Zone Change request;**  
**#3 (CS 6-91) Deny the Community Service Use for a marina;**  
**#4 (WRG 7-91) Deny the Willamette River Greenway Permit; all based on the follow-**  
**ing Findings and Conclusions.**

**PR 6-91/ ZC 6-91/ CS 6-91/ WRG 7-91**



**Zoning Map**  
 PR 6-91, ZC 6-91, CS 6-91, & WRG 7-91  
 Location: 14460 N W Gillihan Road  
 Scale: 1 inch to 1000 feet (approx)  
 Shading indicates subject property

# NOTES

PROPERTY:

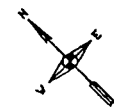
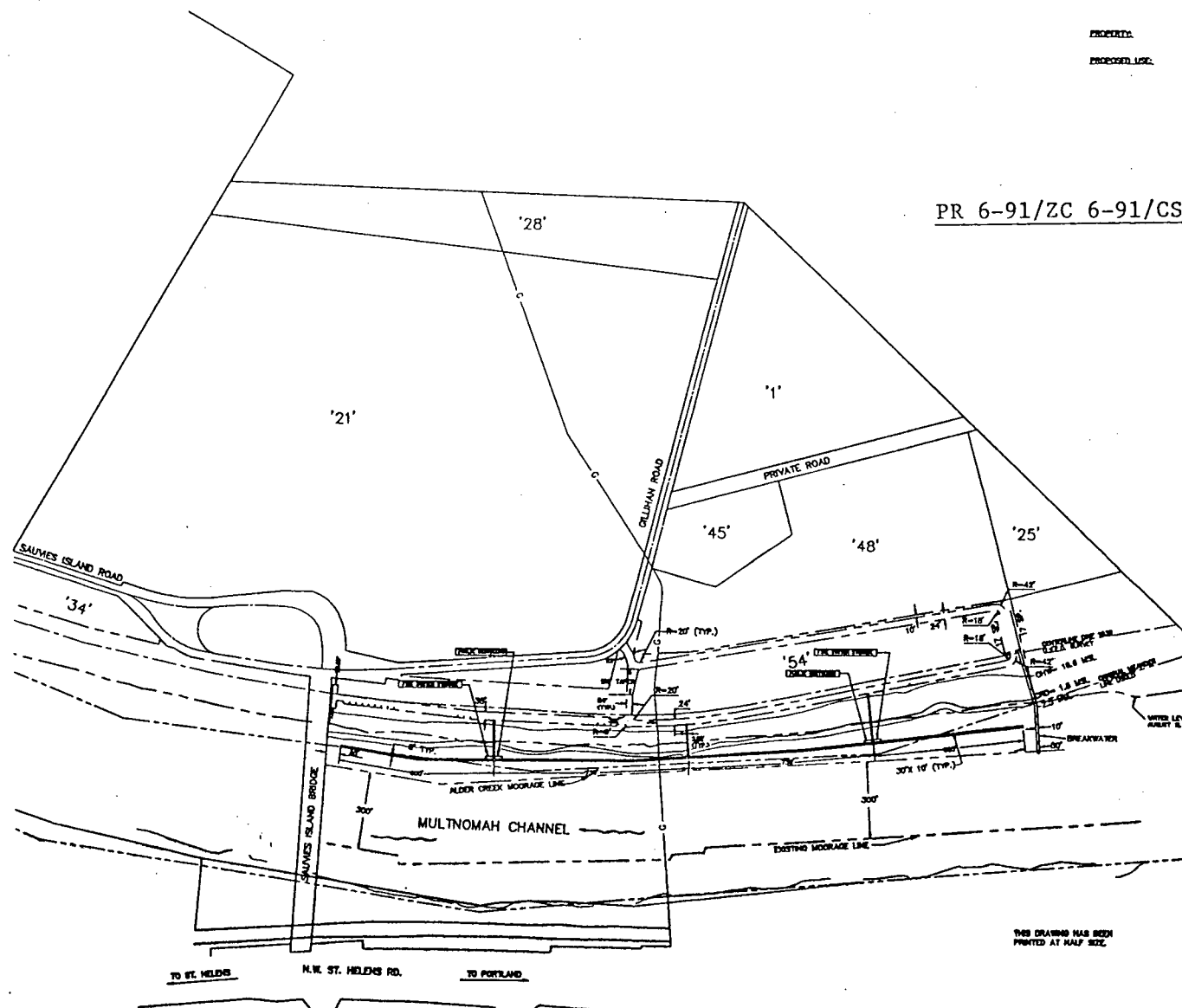
TAX LOT '34' SECTION 28 T29N1W W4E  
21.76 ACRES

PROPOSED USE:

MARINA

- (2) CARETAKER ACCOMMODATIONS
- (20) OPEN BOAT SLIPS
- (60) COVERED BOAT SLIPS
- (60) BOAT HOUSES
- (2) PUBLIC RESTROOMS
- (100) PARKING SPACES
- (1) SHERRIFF RIVER PATROL

PR 6-91/ZC 6-91/CS 6-91/WRG 7-91



1	5-28-91	REVISED SLIP AND PARKING	SL
2	4-18-91	DELETE PUBLIC SERVICES NOTES	SL
3	2-4-91	REVISED SLIP AND PARKING	SL
4	1-14-91	PARKING, BOAT SLIPS AND NOTES	SL
REVISION	DATE	DESCRIPTION	BY
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2	4-18-91	DELETE PUBLIC SERVICES NOTES	SL
3	2-4-91	REVISED SLIP AND PARKING	SL
4	1-14-91	PARKING, BOAT SLIPS AND NOTES	SL
5	8-7-91	REVISED SLIP AND PARKING	SL

THIS DRAWING HAS BEEN  
PRINTED AT HALF SIZE.

ALDER CREEK MARINA  
MULTNOMAH COUNTY, OREGON  
SITE PLAN



# ALDER CREEK MARINA

KEN & PATTY LARSON

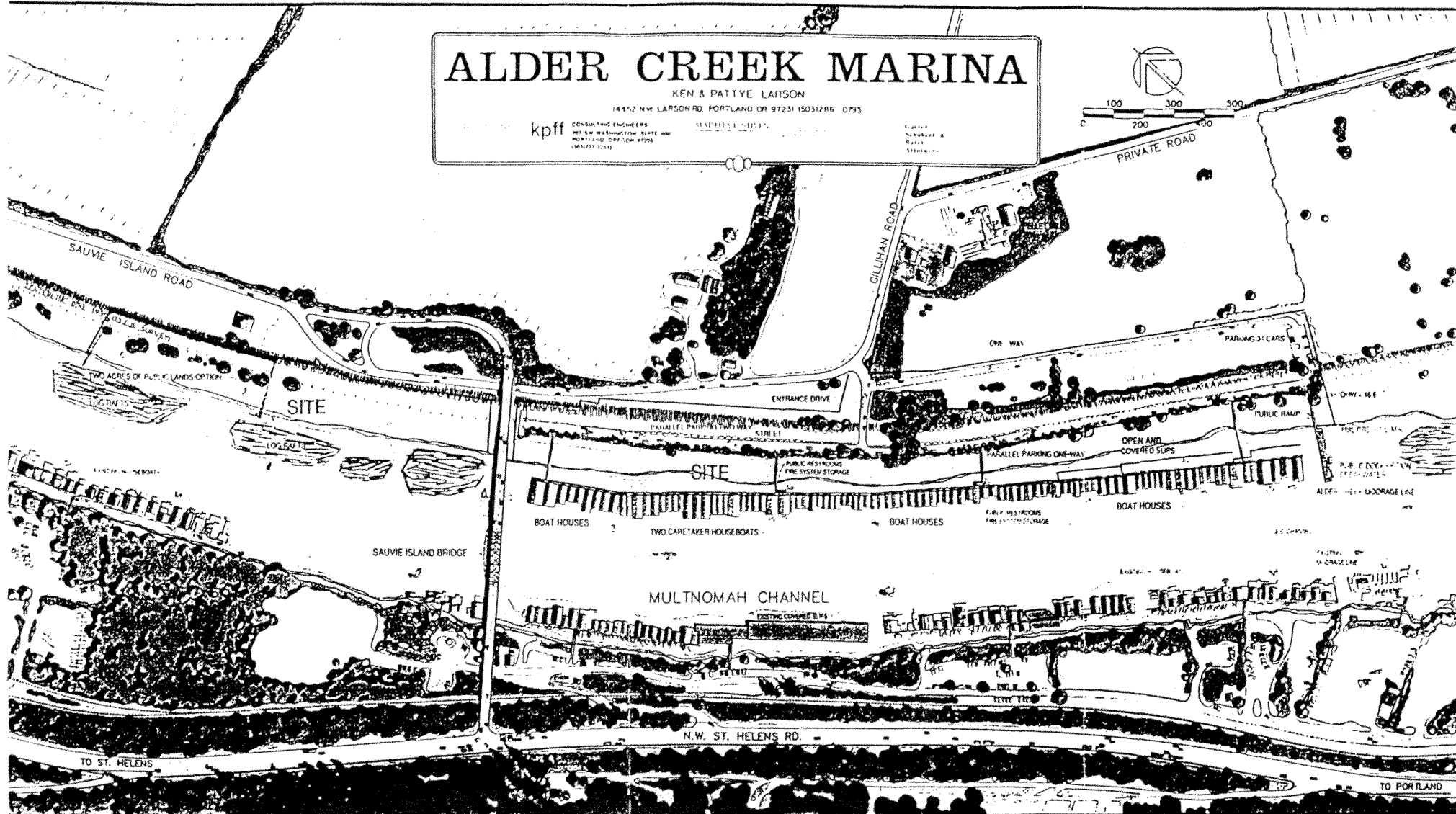
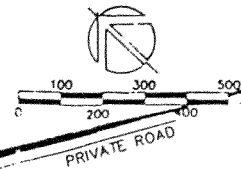
14412 N.W. LARSON RD. PORTLAND, OR 97231 (503) 286-0793

kpff

CONSULTING ENGINEERS  
101 SW WASHINGTON ST., SUITE 400  
PORTLAND, OREGON 97205  
(503) 777-3733

MARTHA F. STIVEN

Owner:  
Ken & Patty  
Larson



PROPERTY:

TAX LOT "54" SECTION 28 2TNR1W W.M.

PROPOSED USES:

MARINA AND ACCESSORY USES:

2 CARETAKER ACCOMMODATIONS  
25 OPEN BOAT SLIPS  
55 COVERED BOAT SLIPS

90 BOAT HOUSES  
2 PUBLIC RESTROOMS  
100 PARKING SPACES

1 SHERIFF RIVER PATROL

kpff

CONSULTING ENGINEERS  
707 S.W. WASHINGTON ST., SUITE 800  
PORTLAND, OREGON 97205

MARTHA F. STIVEN

planning and development services

**Alder Creek**  
Marina



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## FINDINGS OF FACT:

### 1. BACKGROUND:

The Planning Commission held a public hearing on the *Revised Application for "Alder Creek Marina"* on November 4, 1991. After hearing several hours of testimony from applicant's representatives, proponents and opponents, the Commission closed the oral portion of the hearing, but kept the record open for 7-working-days (until November 14, 1991) to allow written evidence or rebuttal of evidence submitted during the hearing.

The record was held open an additional 4-working-days (until November 20, 1991) to allow parties to submit written rebuttal of any new material submitted during the first open record period. Evidence received during the first and second extension periods was distributed to the Commission on November 21, 1991. On December 2, 1991, the Commission deliberated each of the requests. The decisions detailed herein are based upon review of written and other materials received in the record, and oral testimony heard at the November 4, 1991 hearing.

### 2. Summary of the Proposal:

The applicant provides a detailed project description in their application entitled "*Revised Application For Approval of Alder Creek Marina*" (dated September 27, 1991) on pages 1-3. The revised application modifies and supercedes an earlier "Alder Creek Marina" proposal dated May 24, 1991.

The proposed marina is located in Multnomah Channel, upstream of the Sauvie Island Bridge, on the Island side of the Channel. The proposed marina requires approval of a Plan Revision from Agriculture to Multiple Use Agriculture - with exceptions to Statewide Planning Goal 3 (Agricultural Lands) and Goal 14 (Urbanization) - a Zone Change from EFU to MUA-20, a Community Service Use, and a Willamette River Greenway Permit. The revised application packet is incorporated into this report by reference; however, all findings and conclusions have not been incorporated by this reference. Modifications to some findings and conclusions are identified in this decision.

The proposed marina facilities includes the following boat storage components:

<u># of boats</u>	<u>type of boat storage</u>
90	boat houses;
25	open boat slips;
<u>55</u>	<u>covered boat slips</u>
170	Total boat slips

The proposed marina includes the following accessory uses:

<u>number</u>	<u>type of accessory use</u>
2	caretaker's floating homes;
2	public restrooms
100	parking spaces

### 3. Site and Vicinity Information:

The 21.8-acre property lies along the east bank of Multnomah Channel, immediately north and south of the Sauvie Island Bridge. The Existing Land Uses description on pages 6 and 7 of the revised application is incorporated by reference. It states that "...uses along the site's shoreline consist of log rafts moored to dolphins." In addition, this area contains Larson's Marine Services, Inc., the applicant's existing water dependent construction activity (WDCA). WDCA are not allowed uses in the existing EFU zone, nor in the proposed MUA-20 zone. The houseboat/boathouse construction use is not a part of this application. The County agreed to suspend its zoning enforcement proceedings regarding the WDCA while the Planning Commission examines the matter and determines their interest (if any) in initiating a legislative amendment to allow WDCA in this or other locations [ref. Stipulated Dismissal Order No. 9003-01597 and C 3-90 file].

The proposed marina site is located on and adjacent to Sauvie Island. Almost all of the southern half of the island is prime, highly productive farmland. Areas immediately to the northeast of the site, across Gillihan Loop Road are cultivated farm lands. The Alder Creek Lumber Company operates near the site to the southeast, at the south tip of the Island. There is also pasture land, the ESCO fill site, and a feed mill to the southeast. The "Cracker Barrel" grocery store is located on Sauvie Island Road, at the northeast corner of the property.

To the west, there are several houseboat, boathouse, and boat slip moorages lining the opposite side of the Channel. The adjacent shoreline has accessory uses supporting the moorages. Lands west of Highway-30 are generally steep forested hillsides, with scattered rural residences. The Angel Brothers rock quarry site lies approximately 1/2 mile to the northwest, beyond Highway 30.

The County approved a CS use and WRG requests on the subject site in 1987 (CS 3-87/WRG 1-87). The prior approval allowed an expansion of a solid waste disposal site for foundry materials (e.g. sand, fire bricks, etc.) from ESCO Corporation's foundry operations. The fill activity has raised the elevation approximately 8-feet on about 10 acres in the southeast portion of the site (Application, page 7; Agricultural Analysis, pg. 2).

### 4. Comprehensive Plan and Zoning Designations.

The Comprehensive Framework Plan designates most of the east side of Multnomah Channel and Sauvie Island as Agriculture to recognize and protect the County's most significant farm area. The Comprehensive Plan designates the site Agriculture/Willamette River Greenway. The site is zoned EFU/FF/FW/WRG; Exclusive Farm Use District, Flood Fringe, Floodway, Willamette River Greenway. The site's Agriculture/EFU designations have been in place since 1977. The County amended the Comprehensive Plan Map for portions the Sauvie Island in 1983. The 1983 change

identified two Goal 3 Exception areas on the Sauvie Island side of Multnomah Channel. One area is in the vicinity of Reeder and Sauvie Island roads, where existing moorage/marina development lines the east bank for approximately 3/4 mile (Sauvie Island and Mayfair moorages); the County applied an MUA-20 designation to this section of the Channel. Another Goal 3 Exception was identified on the Island side of the Channel at the south tip of the Island, where the Alder Creek Lumber Company operates as a pre-existing use; the County applied an MUA-20 designation here as well.

## 5. Standards and Analysis:

The following sections present findings regarding the proposed Plan Revision/Goal Exception, Zone Change, Community Service Use, and Willamette River Greenway Permit. Each standard or criteria is presented in *bold italics*, applicant's responses are referenced (by Application page #), or excerpts from the application are presented in *italics*, followed by Commission findings. The decisions are based on separate findings and conclusions for each of the four requests. In fact, each is dependent upon the other associated requests. The Greenway Permit can only be approved if the CS use is also approved. The CS use can only be approved if the Zone Change is also approved; and the Zone Change can only be approved if the Plan Revision/Goal Exception is approved. Conversely, if the Plan Revision or Goal Exception is denied, the Zone Change, CS and WRG Permit requests must also be denied. Or, if the Plan Revision is approved, but the Zone Change fails, then the CS and WRG Permit also fails, and so on.

### A. PLAN REVISION REQUEST

*(1) MCC 11.05.180: Specifies standards for the plan and revisions.*

*A plan adopted or revised under this chapter shall comply with ORS 197.175(2)(a), 197.610-.625, and 197.732 if a goal exception is required, including any OAR's adopted pursuant to these statutes.*

### STATEWIDE PLANNING GOALS ANALYSIS:

**Comment:** The first Oregon Revised Statute (ORS) cited above [197.175(2)(a)] requires that County plan revisions comply with Statewide Planning Goals. The revised application presents findings relative to Statewide Planning Goals on pages 33-42. Findings below modify applicant's findings for **Goal 5** (Open Spaces, Scenic and Historic Areas, and Natural Resources), **Goal 8** (Recreation Needs), **Goal 11** (Public Facilities and Services), and **Goal 15** (Willamette River Greenway). The Commission accepts the application findings for Goal 6 (Air, Water, and Land Resources) and Goal 7 (Hazards). The Commission further finds that the other Goals are not applicable to the request, except as detailed in section 5(A)(2)(a), Goal Exceptions.

ORS 197.610-.625 establishes notice requirements, appeal and State acknowledgement procedures for proposed changes to a local plan. The record documents that timely notice of the "Alder Creek Marina" application was provided to the Department of Land Conservation and Development (DLCD).

ORS 197.732 provides standards for Goal Exceptions, see section 5(A)(2)(a) below.

**Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources**

The Commission disagrees with findings presented regarding compliance with certain Goal 5 resources. The proposed Plan Revision would facilitate development which adversely effects Goal 5 resources, including: open space, fish and wildlife habitat, and scenic areas. These resources are present at the site.

- **Goal 5 – Open Space Resources:** (Application, pgs. 33-34) Goal 5 describes Open Space as lands used for agricultural or forest uses and areas that conserve and enhance natural and scenic resources, and recreation opportunities. County programs must insure open space resources are protected.

*Applicant states that "...notwithstanding the placement of floating structures on the waterway upstream of the bridge, ... the impacts on the visual and open space qualities of the site can be mitigated through height and size variations in the siting of the boat houses and covered slips, selection of materials, colors and the addition of landscaping. ... A significant amount of land on the site will be left as open space and could continue to be eligible for agricultural purposes. ... Furthermore, the redesign allows for the log rafts to remain downstream of the Sauvie Island Bridge."* (Revised Application, pgs. 33-34)

The placement of 90 boat houses in a continuous row for 2600-feet would adversely effect open space resources on Multnomah Channel. Floating structures and moorages already line most of the west bank from the head of the Channel to 1/2 mile north of the Sauvie Island Bridge. The east bank, including the subject site, remains largely open. If the Channel were "double-loaded" with floating structures, the open space resource above the surface of the river would be greatly diminished. A local example of a "double-loaded" channel can be observed along the Oregon Slough south of Tomahawk Island. Here floating structures encroach into the river from both shores, creating an image akin to an urban street lined with buildings (as viewed from the river).

If the entire site is redesignated to MUA, it creates potential for further open space losses from future moorage or other water-related development. The log raft storage north of the Bridge does not obstruct or significantly effect views and vistas from the river to the shore or from the land to the river. The

proposed revision of this area to MUA would allow marinas (as a Community Service Use) and extend the "double-loaded" area on the Channel to approximately 3/4 mile.

The pastoral scene along the grass covered dike represents an open space resource protected by current Plan and Zone designations. This open pasture area would be replaced by parked cars and trucks lined up near the crest of the dike, and just 15-20-feet from the ordinary high water (OHW) line of the Channel.

**Conclusion:** Based on the findings above, rebuttal from the opposition, and evidence in the record, the proposed Plan Revision adversely effects open space resources by: facilitating "double loading" of the Channel with floating structures for 1/2 mile; setting the stage for further moorage development north of the Bridge on this and adjoining sites; and converting the open dike face to a parking area immediately adjacent to the river bank.

- **Goal 5 – Natural Resources (Fish and Wildlife Habitats):** (Application, pgs. 34-35) Goal 5 requires that County programs protect natural resources, including fish and wildlife areas and habitats. The July 1, 1991 Staff Report identified several concerns regarding fish and wildlife impacts; however, the revised marina design has substantially reduced those effects. Resource agencies, however, remain concerned over the projects's impacts to natural resources. The U.S. Fish and Wildlife service writes "...The service is still concerned about the potential impacts to fish and wildlife and the encroachment into public waterways that may result from the project. These concerns include: the loss of water surface area for public navigation and fishing; loss of riparian habitat; possible introduction of contaminants from concentration of boat use and maintenance; substantial increase in human disturbance; and cumulative impacts of marinas in the Columbia/Willamette River Systems."

The Oregon Department of Fish and Wildlife (ODFW) writes "...The Department would prefer limiting marinas to one side of the Channel.

"Limiting marinas to one side of the Channel would provide an uninterrupted travel route on the opposite, undeveloped bank for fish and wildlife moving through the area. ... The proposed marina would provide cover for fish species that feed on downstream migrating salmonid fingerlings, such as warm water game fish (bass, crappie, etc.) and undesirable species such as squawfish. The warm water game fish would be inaccessible because of the marina, and would provide little recreational value." (Ref. 11/13/91 letter)

**Conclusion:** The record includes extensive evidence and comment on both sides of this issue. However, the Commission finds that substantial evidence, including the facts cited in the above quoted letters, persuades that the Plan Revision/Zone Change/CS Use/WRG Permit to allow the Alder Creek Marina would adversely effect fish and wildlife habitats.

- **Goal 5 – Natural Resources (Water Areas):** (Application, pgs. 34-35) Goal 5 requires that County programs protect natural resources, including water areas. The proposed use commits significant portions of an actively used public waterway for a static private use. The "Alder Creek Marina" would commit approximately 4-acres of water surface to boat storage (Application, pg.35). While the current log storage use similarly removes water surface from some public use — the log storage use differs from the marina use in some important respects.

Log storage is ephemeral. The water surface covered varies considerably from season to season, based on market demand for forest products. Peter Brix, CEO of Brix Maritime Co. indicates that new log storage areas will not be required if the site is converted to a marina (ref. 1/22/91 letter attached to environmental analysis in original application). Log storage on Multnomah Channel pre-dates the current plan and zoning for the area. Its continued presence in the Channel is not assured, although new log storage areas can be approved as a conditional use in the EFU District [MCC .2012(B)(5)].

The Division of State Lands (DSL) indicates the existing submersible lands lease for log raft storage expires in 1998. The lease allows log storage to extend a maximum of 200-feet from the Ordinary High Water (OHW); refer to State Waterway Lease ML-723. The proposed marina extends between 160-feet to 300-feet into the Channel (from OHW) for most of its 1/2 mile (2,700-feet) length. DSL indicates that it is *"...doubtful that the Division would ever approve a 200 foot riverward encroachment for marina/moorage use due to the narrow channel and other competing uses, yet the revised plan continues to call for 'no net difference in water surface area coverage from historic conditions.'*

*"The Larsons' plan indicates that a 300 foot channel will be maintained. This channel width would be accomplished, however, at the expense of each of the other lessees in the vicinity who have already been notified that they will not be allowed any further riverward expansion. ...[T]he Division held the Piazza/Spaziani project across the channel to a maximum riverward encroachment of 130 feet. The Division has uniformly held the riverward encroachments of other lessees in this narrower stretch of the channel to an average of 100 to 130 feet."*

In their November 13, 1991 letter, the Oregon Department of Fish and Wildlife writes that *"...one of the Department's major concerns regarding the proposed marina is the loss of surface area for fish and wildlife and recreational uses."*

**Conclusion:** The above findings and substantial evidence in the record persuades that the proposed Plan Revision/Zone Change/CS Use/WRG Permit would adversely effect water area resources.

- **Goal 5 – Scenic Areas:** (Application, pgs. 35-36) Goal 5 requires that County programs protect scenic areas. The Island side of the Channel is visually more sensitive to moorage/marina developments. This is primarily due to steep, mostly wooded slopes south and west of the Channel which partially screen the west shore area from most public views (*e.g.* from Highway 30). This forms a wooded backdrop, and reduces the visual prominence of structures along the west bank (ref. CU/CS 4-91/WRG 1-91, pg. 21). The Alder Creek Marina site is visible from Highway 30, the Sauvie Island Bridge, and the river. From these public vantage points, the east bank of the Channel and dike displays an open, rural-pastoral character. The floating log storage near the east shore does not obscure the bank or dike.

The log rafts visible near the east bank of the Channel would be replaced by more than 90 floating structures. The continuous row of boathouses (and two floating homes) along the Island side of the Channel introduces an urban appearance on the rural scene characterizing the east side of the Channel. The cumulative effect of floating buildings — lining both sides of the Channel for 1/2 mile — diminishes scenic, natural, and recreation resources along the Channel. From the river, the row of floating buildings on the water would reduce or remove views of grassy river banks and open water. Views from land and the Sauvie Island Bridge would also be adversely effected. The floating buildings and boat storage on the water would obscure views of open water, river traffic, wildlife, and would block or diminish panoramic vistas across the water surface, especially as viewed from the west shore.

The photo-imaging in the Visual Analysis does not accurately depict the scenic effects of proposed parking areas and fill along the dike face. It does, however, give some impression of the urban waterway image which would result from lining both sides of the Channel with floating structures (Compare: Figures D-1, D-2, and J-1, J-2).

Conclusion: Substantial evidence in the record persuades that the proposed Plan Revision/Zone Change/CS Use/WRG Permit to allow the marina would significantly and adversely effect scenic resources.

#### **Goal 6: Air, Water, and Land Resources Quality** (Revised Application, pg. 37)

Conclusion: The Commission accepts the application findings for Goal 6 (Air, Water, and Land Resources).

#### **Goal 7: Hazards** (Revised Application, pg. 38)

Conclusion: The Commission accepts the application findings for Goal 7 (Hazards).



**Goal 8: Recreation Needs** (Revised Application, pgs. 39-40) Goal 8 requires that government agency plans satisfy and provide for recreation needs of citizens and visitors. The application indicates that "... *Statewide Planning Goal 8 specifically recognizes the need to provide for the siting of necessary recreation facilities, such as moorages and marinas for that portion of the boating public that require in-water storage. The State Marine Board recognizes the need for permanent moorage space for larger boats ... in the Portland metropolitan area...*" Historic recreation use of this area of the Channel includes fishing, water skiing, canoeing, kayaking, wildlife viewing, and sight-seeing.

The application indicates that demand for in-water boat storage exceeds current supplies, and that a public need exists for this type of recreation facility. Goal 8 asks that recreation needs be met in appropriate proportions, locations, and quantity as is consistent with available resources. The Goal Exception section below identifies several alternative sites for the proposed use. Marina development at the alternative sites would not result in "double-loading" the Channel; this reduces adverse effects to open space and scenic resources upon which existing recreation use of the Channel depends. The Commission finds that the proposed revision would adversely effect several of the above noted recreation uses at this site.

The State Parks and Recreation Department noted that Goal 8 does not mandate provision of in-water boat storage in the waters of the State. Further, they cite ORS 390.314 which cautions that, for the public benefit, it is necessary to limit land use changes and intensifications along the Willamette River to assist in the preservation of "...natural, scenic, historical and recreational qualities..." (Ref. Goal 15 findings below and 11/4/91 State Parks letter).

**Conclusion:** The record includes extensive and contradictory comments, opinions, and interpretations of Goal 8 and the relationship to the proposed use and recreational needs of the state. The Commission finds that substantial evidence persuades that the proposed Plan Revision to allow the marina is not consistent with Goal 8.

**Goal 11: Public Facilities and Services** (Revised Application, pg. 41) A majority of the Planning Commission was not persuaded that the record demonstrated that existing or planned public services and facilities could adequately serve the development. During their deliberation, Commissioners cited fire safety needs, traffic safety, boating safety, and sewage/stormwater facilities as issues relevant to Goal 11. The Commission doubted the Island's fire department was equipped to meet the service demands of the proposed use.

**Goal 15: Willamette River Greenway** (Revised Application, pgs. 41-42)

Goal 15 requires that County plans and programs protect, conserve and enhance natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River (includes Multnomah Channel). The Commission disagrees with applicant's findings regarding Goal 15. The proposed marina would remove agricultural use along this section of the Greenway, and it would displace both passive and active recreational uses on the water for a largely private recreational facility. The Commission finds the proposed conversion and intensification of use at this location inconsistent with the Greenway Goal. State Parks Department comments support this conclusion in a letter dated November 4, 1991. Findings below for the WRG Permit request further support the conclusion [Ref. section 5(D)(1 - 19)].

**Conclusion:** Substantial evidence persuades that the proposed Plan Revision/Zone Change/CS Use/WRG Permit for a marina is not consistent with Goal 15.

**GOAL EXCEPTIONS ANALYSIS:**

*(2) MCC 11.05.290: The burden of proof is upon the person initiating a quasi-judicial plan revision. That burden shall be to persuade that the revision is:*

*(a) Consistent with the procedures of ORS 197.610-.625 and the standards of ORS 197.732 if a goal exception is required, including any OAR's adopted pursuant to these statutes.*

**Comment:** Reference findings in 5(A)(1) above regarding ORS 197.610-.625. ORS 197.732 sets out standards for reviewing Goal Exceptions.

Oregon Administrative Rules (OAR) describe "Exceptions" as Comprehensive Plan provisions that exclude specific properties or situations from some or all Statewide Planning Goals. The county must assure that findings of fact and a statement of reasons supported by substantial evidence justify an exception to a State Goal [Ref. ORS 197.732(1); Goal 2, Land Use Planning; and, OAR 660-04-000 — 035].

The application presents findings supporting a "Reasons Exception" as justification for removing the subject site from Statewide Planning Goal 3, (Agricultural Lands), refer to the Revised Application pgs. 42-49, and the GOAL EXCEPTION ANALYSIS in the Appendix.

The application and evidence in the record (Ref. 11/14/91 DLCD letter) suggests that an Exception to Goal 14, (Urbanization) may also be necessary to approve the use at this site. The Goal Exceptions Analysis (pg. 18) indicates that "...residents of Multnomah, Clackamas, Washington and Columbia counties provide the

*primary source of need for permanent marina facilities in the area."*

The Commission concludes that a marina *per se* is not an urban use, however, the proposed Alder Creek Marina is "urban" for purposes of applying State Goals. The Commission found the proposed marina to be an urban use because:

1. Evidence indicates the use is directly dependent upon an economic link to the Portland urban area in terms of proximity and the user groups it would serve.
2. The boathouses and boat storage facilities would be an on-going, constant use at the site generally serving urban residents. This contrasts with more transitory, occasional rural recreation uses which serve urban or out-of-area groups (e.g., boat ramps, campgrounds, fishing areas, scenic features).
3. The size and intensity of the use and facilities proposed exceed that characteristic of and compatible with rural densities.

**REASONS EXCEPTION (Goal 3, Agricultural Lands):**

- *Reasons justify why the state policy embodied in the applicable goals should not apply;* [OAR 660-04-020(1)]

**Comment:** (Application, pgs. 42-49) The applicant notes that demand for boat slips and boat storage exceeds their supply in the region. This does not alone demonstrate a public need or interest in satisfying that demand — or that the demand should be met on this site. Two court cases underscore this issue. In Still v. Marion County 42 OR APP 115 (1979) and Weyerhaeuser v. Lane County 7 OR LUBA 42 (1982), the courts and LUBA found that market demand is not adequate reason under Goal 2 for locating housing on rural resource land.

The river system in the Portland region is a finite resource serving many users and functions. Storage of recreational boats on the region's rivers must be balanced with other river uses (e.g., commercial and recreational boating, fish and wildlife habitat, public open space, industry, etc.). The revised application and other evidence presents extensive discussion asserting that the boating public needs in-water storage areas on the regions rivers for "larger" boats. Applicants argue that a public need for such facilities warrants excepting this site from the protections and purposes of Goals 3 and 14. The record also identifies several other public needs which rely upon resources evident at the site. For example, the State Parks and Recreation Department notes that "...[T]he application does not address why boat storage would have a higher public recreation value than other recreational uses (scenic viewing, canoeing, watching wildlife, driving for pleasure, etc.) that are also in need of an adequate resource base."

**Conclusion:** The record does not persuade that reasons sufficiently justify the exception to Goal 3 (Agricultural Lands).

- **Areas which do not require a new exception cannot reasonably accommodate the use;** [OAR 660-04-020(1)]

**Comment:** (Revised Application, pgs. 42-43) The application does not adequately demonstrate that existing exception areas cannot reasonably accommodate the marina use. Sections below describe alternative sites along the Channel and inside the UGB which could **reasonably accommodate** the proposed marina use.

The application states that “...on the mainland side, from the Multnomah County line upstream to Rocky Point [is] one of the few areas for houseboat development, as outlined by Policy 26, and therefore ought not to be sacrificed for other uses...” Yet the three most recent moorage approvals in the Policy 26 area on the Channel included boathouses or boat slips (as well as floating homes). CS 16-86 authorized 35 boathouses (and 16-houseboats) at 26400 NW St. Helens Road. CS 9-86 authorized 38 boathouses (and 19-houseboats) in the channel at 27448 NW St. Helens Road. CS 4-91 authorized 37 boat slips (and 19-houseboats). There is no mandate or County policy to preserve Policy 26 waterfronts exclusively for floating homes, nor are floating homes identified as a **needed** housing type by State goals or County policy.

Four (4) alternative sites in the north — *suitable-for-houseboats* — reach of the Channel could reasonably accommodate a marina use . They are:

**Hamer/Rask Site:**

Location	Multnomah Channel at County Line
Legal	Tax Lot ‘57’, Section 25, 3N-2W
Area	40.00 Acres
Waterfrontage	1000-feet (approx.)

**Casselman Site:**

Location	NW St. Helens Road/Multnomah Channel
Legal	Tax Lot ‘8’, Section 25, 3N-2W
Area	18.65 Acres
Waterfrontage	700-feet (approx.)

**Weilert Site:**

Location	26312 NW St. Helens Road
Legal	Tax Lot ‘12’, Section 25, 3N-2W
Area	14.15 Acres
Waterfrontage	750-feet (approx.)

**Bassett Site:**

Location	St. Helens Road/Multnomah Channel
Legal	Tax Lot ‘30’, Section 36, 3N-2W
Area	8.5 Acres
Waterfrontage	850-feet (approx.)

In addition to the Policy 26 sites detailed above, there are two (2) large properties on Multnomah Channel currently on the market, and three (3) other properties, all of which have appropriate plan and zone designations and river frontage to *reasonably accommodate* a marina use without requiring a goal exception:

**Kaptur Site: (For Sale 10/24/91)**

Location	21600 NW St. Helens Road
Legal	Tax Lot '7', Section 1, 2N-2W
Area	151.96 Acres
Waterfrontage	7000-feet (approx.)
Access	Highway 30 (5-lane highway) existing rail crossing
Wetlands	Approximately 60% of site
Owner	Kaptur Estate

**Palmberg Site: (For Sale 10/24/91)**

Location	17622 NW St. Helens Road
Legal	Tax Lots '33', '34', '90', & '95', Section 18, 2N-1W
Area	148.75
Waterfrontage	3500-feet (approx.)
Access	Highway 30 (5-lane highway) existing rail crossing
Wetlands	Approximately 80% of site
Owners	Judith Kujala & Marian Palmberg

**Heerman Site:**

Location	St. Helens Road/Multnomah Channel
Legal	Tax Lot '1', Section 1, 2N-2W
Area	45.56 Acres
Waterfrontage	1400-feet (approx.)

**Vernon Co. Site:**

Location	St. Helens Road/Multnomah Channel
Legal	Tax Lot '5', Section 12, 2N-2W Tax Lot '2', Section 7, 2N-1W
Area	115.17 Acres
Waterfrontage	4000-feet (approx.)

**Holmes Site:**

Location	St. Helens Road/Multnomah Channel
Legal	Tax Lot '3', Section 7, 2N-1W
Area	68.67 Acres
Waterfrontage	1800-feet (approx.)

The Lessor report (Appendix I in the application) indicates that *"...access across the BN tracks is restricted to existing crossings and any upland areas out of the wetlands and adjacent to the Channel are generally not accessible. The construction of roads and parking requires extensive fill and wetlands mitigation making development extremely difficult, if not impossible."* However, the Commission notes that marinas are not required to elevate their parking areas above the 100-year flood elevation; this reduces the need for fill in the low lying west-Channel corridor (between Burlington and Scappoose). Houseboat moorages, on the other hand, must elevate parking [per MCC .7020(B)]. Even so, the County has approved variances to parking elevation requirements for two floating home moorages at 26400 NW St. Helens Road (HV 20-86) and 27448 NW St. Helens Road (HV 7-86) in recognition of physical constraints on some sites.

The applicant submitted several letters indicating some of the identified alternative sites are not available to the applicant for purchase or development. The criteria states that *"...Areas which do not require a new exception cannot reasonably accommodate the use"* [OAR 660-04-020(1)]. It does not stipulate that such areas must be available to or owned by an applicant. The letters submitted do not persuade that the alternative sites cannot reasonably accommodate a marina use; in fact, several support an opposite conclusion. For example, the letter from Bill Casselman (concerning the Casselman and Weilert sites) indicates *"...we are in the process of considering it's development.... we have invested considerable amount of time and money developing the facilities of sufficient capacity to handle the above property (sewer and water)."* Mr. Casselman developed two moorages in this immediate area in the 1980's: one with boat slips, and one with boathouses and houseboats.

The November 4, 1991 letter from Janis Johnson and Richard Tonneson (concerning the Bassett Site) declares their plans *"...to expand Rocky Point Marina, utilizing the newly acquired vacant property."* The Rocky Point Marina includes houseboats, boat slips and boathouses.

The letter from Patt and Jan Hamer (regarding the Hamer/Rask Site) indicates the *"...River's Bend Marina is in the final stages of development."* The County approved plans for 38 boathouses and 19 houseboats at this site in 1986 (Ref. CS 9-86). The above cited letters suggest that these alternative sites can in fact **reasonably accommodate** a marina use without a Goal Exception.

At the November 4, 1991 hearing, the applicant argued that the private rail crossings accessing several of the alternative sites must be upgraded to "public crossings" if a marina were developed on the Channel. They noted that crossing lights and other improvement standards imposed by the Public Utility Commission are expensive.

Planning Staff and the applicant contacted Craig Reiley, Manager, Crossing Safety Section at the Public Utility Commission. Mr. Reiley indicated that

rail crossings **open to and used by the public** require a public crossing. This typically includes signal lights and improvements to the road base and rail crossing. Mr. Riley estimates a new public crossing costs between \$80-100,000 (Ref. 11/12/91 letter to Martha Stiven). He also indicates that "...[I]f a marina was not open to and used by the general public, and access to the facility was regulated by a locked gate, a public crossing would not be needed."

Planning Staff and the applicant also contacted Charles Lundgren, at the Burlington Northern office in Seattle. The rail company has private crossing agreements with individual property owners which are usually tied to a specific land use. At the time the use of the land changes, the crossing agreement either must be rewritten, or a public crossing must be established if the use proposed is **open to and used by the public**. Mr. Lundgren indicated that lights and gates for a public crossing typically range from \$60,000 to \$80,000.

If a marina were to develop on one of the alternative sites on the west side of Multnomah Channel, the developer would either upgrade the crossing to "public" standards or develop a means to control the crossing to maintain a private crossing status. This could include a card-lock gate system for moorage tenants, a security guard, or other means to restrict public access to and use of the crossing. The potential expense of developing a public crossing does not render a site undevelopable, nor does it demonstrate that it cannot reasonably accommodate a marina use. Rather, it is a cost factor which should be considered by a prospective developer when determining whether market conditions will support a given project.

While the costs of rail crossings likely effects land sales negotiations, development expenses, slip lease rates, and other financial considerations, it appears irrelevant when determining whether a site can *reasonably accommodate* a marina use.

In testimony and written rebuttal, the applicant argued that wetland areas on several of the alternative sites make marina development along the Channel difficult and expensive. The Commission agrees that the presence of wetlands **effects** several of the identified alternative sites (ref. Significant Wetlands Map). However, the presence of wetlands on these properties does not demonstrate that they cannot reasonably accommodate a marina use.

For example, three of the identified properties have more than 100-acres, one has nearly 70-acres, and one has 40-acres. The proposed 170-boat marina uses only 2.8 acres of land for roads and parking (Revised Application, pg.34). Even if additional land is needed for an access road from Highway 30 to the Channel, the alternative sites would only need about 4 to 5-acres for roads and parking to serve an equivalent scaled marina use. The roads and parking areas can be developed on upland (non-wetland) areas on each alter-

native site, or removal/fill permits may be necessary in some situations. The proposed Alder Creek Marina, for example, includes a substantial fill along the face of the dike to accomplish its parking needs. The River's Bend Marina planned by Jan and Patt Hamer includes 500 cubic yards of fill and wetlands mitigation work to develop a 1000-foot access road and parking near the Channel [Ref. Corps Permit 071-0YA-2-006913]. ODFW "... biologists found that wetlands were present at most of the alternative sites. Marina development at these sites would have to minimize and mitigate for wetland losses." [Ref. 11/13/91 ODFW letter]

The Commission noted that the standard does not require a finding that an alternative site is the best or that it would have fewer adverse effects than the proposed exception site; rather, the standard asks that the alternative site(s) have a reasonable ability to accommodate the use. The above facts persuade that several sites not requiring a new exception could reasonably accommodate the proposed use.

Conclusion: The above findings and evidence in the record persuade that several other sites provide marina development opportunities on existing rural exception lands. The application does not satisfy this exception criteria.

- *The long term environmental, economic, social and energy (EESA) consequences resulting from the use at the proposed site --with measures designed to reduce adverse impacts-- are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception; [OAR 660-04-020(1)]*

Comment: (Application, pg. 43): The Commission concurs that alternative Goal 3 (EFU) lands where a marina use could conceivably develop are limited in unincorporated Multnomah County. Waterfront sites along the east side of Multnomah Channel, and elsewhere on Sauvie Island are the only viable alternatives. The EESA consequences of the use at this site are no greater than at other Goal 3 (EFU) sites where marinas could potentially develop.

- *The proposed uses are compatible with other adjacent uses or will be rendered through measures designed to reduce adverse impacts. [OAR 660-04-020(1)]*

Comment: The area surrounding the subject site is described above under Finding #3. The west bank of the Channel has been traditionally characterized by houseboat and marina uses. Moorage development and floating structures are not common to the east side of the Channel.

The proposed Plan Revision/Zone Change/CS Use/WRG Permit would significantly change the scale and intensity of use on the Island (east) side of the



Channel. Existing moorages on the opposite side, and the two (2) downstream on the Island side, typically extend about 100 to 130-feet into the Channel (based on review of air photos and DSL leases). The proposed marina extends between 160 to 300-feet into the Channel (from OHW), substantially more than is characteristic of similar uses in the area (Ref. DSL letter dated October 18, 1991).

**Conclusion:** The above findings and substantial evidence in the record persuade that the scale and intensity of the proposed use is not compatible with the rural – agricultural character on the east side of Multnomah Channel. The waterward extension of the proposed marina is not compatible with similar moorage development across the Channel. If approved, conditions should be imposed to mitigate these effects.

**REASONS EXCEPTION (Goal 14: Urbanization):**

- *Reasons justify why the state policy embodied in the applicable goals should not apply; [OAR 660-04-020(1)]*

**Comment:** (Revised Application, pg. 41) As noted above in section 5(A)(1), Plan Revisions must be consistent with Statewide Goals, unless Exceptions are taken for specific properties or situations to exclude a State Goal or Goals. Goal 14 requires that County plans and programs provide for an orderly and efficient transition from rural to urban land use. In an October 18, 1991 letter regarding the revised marina proposal, DLCD Staff write that "...The request requires an exception to ... Goal 14, Urbanization to allow a non-farm urban use on rural agricultural land.

"The department requests that Multnomah County deny this application ... It does not address requirements for a Goal 14 exception." (Ref. 10/18/91 letter)

The application cross-references to various other sections in the submittal to address seven factors in Goal 14. However, these seven factors guide a city or county (or Metro in the case of Portland) when evaluating a new or amended UGB. Notwithstanding the applicants' testimony that the essential difference between a Goal 14 exception and the Goal 3 exception is a showing that alternative sites **inside** the UGB are unavailable for the proposed use, the applicants did not specifically provide **reasons** why the state policy embodied in Goal 14 should not apply to the proposed use. The Commission found the reasons offered for the Goal 3 exception inadequate to justify that exception. The same reasons similarly do not justify the Goal 14 exception.

**Conclusion:** The record does not persuade that reasons sufficiently justify the exception to Goal 14 (Urbanization).

- *Areas which do not require a new exception cannot reasonably accommodate the use;* [OAR 660-04-020(1)]

**Comment:** (Appendix I, Goal Exceptions Analysis) As noted above, the Goal 14 Exception must evaluate urban waterfront sites within the study area which could reasonably accommodate a marina use.

The application limits the review of alternative sites to the Columbia River system, as defined in Appendix I, Goal Exceptions Analysis (pg. 8). It indicates that *"...the geographical area of the alternative sites analysis includes the Oregon side of the Columbia River from St. Helens to Troutdale, the North Portland Harbor, the Multnomah Channel, and the lower Willamette River from the St. Johns Bridge to the mouth of the Willamette River. Marina locations on the Willamette River, further upstream from the St. Johns Bridge, are too distant with respect to boat travel time to satisfy the need for Columbia River marina facilities."*

The record includes a November 4, 1991 letter from Michael Rupp, DLCD's Plan Review Manager. Mr. Rupp indicates that *"...examination of alternative sites outside the area of public need, as established by the applicant, is not required for the alternative sites analysis."* Based upon this letter, and the aforementioned study area limits, the applicant dismisses alternative marina sites on the Willamette River upstream of the St. Johns Bridge. However, DLCD later wrote that *"...the county may find that the area of public need is different than the study area established by the applicant."* (Ref. 11/14/91 letter) The Commission finds that the applicant's study area is appropriate and adequate to address the identified need.

There are additional marina development opportunities in the Oregon Slough and Columbia South Shore, between the rail road bridge upstream to roughly 185th Drive. Portland Planners indicate virtually the entire Columbia River shore in the reach cited above allows moorage/marina development as an outright or conditional use [Ref. 11/13/91 Portland Planning Bureau letter]. The Alternatives Analysis discounts much of this reach, stating *"...There is minimal land area available for parking, and the Port of Portland and City of Portland would oppose additional access across the existing bike path."*

*"The area east of I-205 to NE 122nd is not available for marina development due to limited access from Marine Drive, the difficulty of obtaining vehicular access across the bike path, and the inadequate land areas between Marine Drive and the water for parking."*

*"The area from N.E. 122nd to N.E. 223rd also suffers from the same problems above, particularly inadequate land area for access and parking between Marine Drive and the water."*

The above design factors do not persuade that all of the extensive undeveloped waterfront sites along NE Marine Drive cannot reasonably accommodate the use. The revised application shows that parking area needs for a marina are not great; the proposal fits most parking within a 36-foot wide strip. Access across the Marine Drive bike path poses design challenges; it does not preclude moorage development. The Commission also noted that OAR 660-04-020(1)(2)(b)(C) provides that "...[T]his alternatives areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites...". Evidence in the record persuades that there are alternative sites inside the UGB which could reasonably accommodate the proposed use.

**Conclusion:** The Commission concludes that substantial evidence in the record persuades that alternative urban sites in the identified study area could reasonably accommodate the proposed use.

- *The long term environmental, economic, social and energy consequences resulting from the use at the proposed site –with measures designed to reduce adverse impacts– are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception; [OAR 660-04-020(1)]*

**Comment:** (Application, pg. 43): The Commission concurs that alternative resource lands where a marina use could conceivably develop are limited in unincorporated Multnomah County. Waterfront sites along the east side of Multnomah Channel, and elsewhere on Sauvie Island are the only viable alternatives. The EESE consequences of the use at this site are no greater than at other Goal 3 (EFU) sites where marinas could potentially develop.

- *The proposed uses are compatible with other adjacent uses or will be rendered through measures designed to reduce adverse impacts. [OAR 660-04-020(1)]*

**Comment:** The area surrounding the subject site is described above under Finding #3. The Commission finds the urban character of the proposed marina incompatible with the existing rural-agricultural uses characteristic of the Island side of the Channel. The Commission noted that OAR 660-04-020(1)(2)(d) indicates that "...[T]he exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices." Evidence persuades that the criteria is not satisfied.

## COMPREHENSIVE PLAN POLICIES ANALYSIS:

MCC 11.05.290 The applicant shall persuade that the revision is based on:

- (b) *Evidence that the proposal conforms to the intent of relevant policies in the Comprehensive Plan or that the Plan policies do not apply. In the case of a land use Plan map amendment for a commercial, industrial, or public designation, evidence must also be presented that the plan does not provide adequate areas in appropriate locations for the proposed use;*

**Comment:** (Revised Application, pgs. 49-78) The following policies of the County's Comprehensive Plan are found applicable to this request: Policy 2 (Off-site Effects); Policy 9 (Agricultural Land); Policy 10 (Multiple Use Agricultural Land); Policy 13 (Air, Water and Noise Quality), Policy 14 (Development Limitations); Policy 15 (Willamette River Greenway); Policy 16 (Natural Resources); Policy 26 (Houseboats); Policy 31 (Community Uses & Facilities); Policy 33(a) (Transportation System); Policy 37 (Utilities); Policy 38 (Facilities); Policy 39 (Recreation).

### 1. Policy 2 – Off-site Effects.

THE COUNTY'S POLICY IS TO APPLY CONDITIONS TO LAND USE APPROVALS TO PROTECT THE PUBLIC FROM POTENTIAL ADVERSE EFFECTS; OR MEET PUBLIC SERVICE NEEDS CREATED BY THE PROPOSED USE. [PARAPHRASED]

**Comment:** The Commission recommends denial of the Plan Revision and associated requests; however, if approved, conditions of approval should be applied to ameliorate identified adverse effects. Specifically, the Plan Revision and Zone Change — if approved — should not include the portion of the property north (downstream) of the Sauvie Island Bridge. That portion of the site is not required for the proposed marina use, and reasons offered for the Goal Exception do not justify removing Goal 3 protections north of the Bridge. Conditions could achieve consistency with this policy.

### 2. Policy 9 – Agricultural Land.

THE COUNTY'S POLICY IS TO DESIGNATE AND MAINTAIN AS EXCLUSIVE AGRICULTURAL AREAS WITH: CLASS I—IV SOILS AND WITH PARCEL SIZES SUITED TO COMMERCIAL FARMING, AREAS PREDOMINANTLY IN COMMERCIAL AGRICULTURAL USE, AREAS NOT IMPACTED BY URBAN SERVICES, AND OTHER AREAS – PREDOMINANTLY SURROUNDED BY COMMERCIAL FARMS – NECESSARY TO PERMIT FARM PRACTICES ON ADJACENT LANDS.

IT IS COUNTY POLICY TO RESTRICT THE USE OF THESE LANDS FOR FARMING AND OTHER USES – CONSISTENT WITH STATE LAW – RECOGNIZING THE INTENT TO PRESERVE THE BEST AGRICULTURAL LANDS FROM INAPPROPRIATE AND INCOMPATIBLE DEVELOPMENT. [PARAPHRASED]

**Comment:** (Revised Application, pg. 51) The Framework Plan designates most of the east side of Multnomah Channel as Agriculture, in part to prevent incompatible or conflicting land uses adjacent to the County's most significant area of prime farmland (*i.e.*, Sauvie Island).

The 21.8 acre parcel has 4200-feet of waterfront on the Island side of Multnomah Channel. The Channel forms the west boundary of Sauvie Island for approximately 8-miles in Multnomah County. Approximately 6-miles of the channel frontage is designated Agriculture (zoned EFU). Approximately 2-miles of waterfront – in two 1-mile sections – is designated Multiple Use Agriculture (zoned MUA-20). Both MUA waterfront sections were applied to pre-existing non-farm uses. The MUA area at the south tip of the Island was applied to the Alder Creek Lumber mill site. The MUA area near Reeder Road was applied to the Sauvie Island and Mayfair moorages. The MUA designations on the Island side of the Channel recognized these pre-existing water-related activities. The agriculture (EFU) designations for the balance of the waterfront limits future water oriented uses on the Island side of the Channel. This plan revision request significantly changes this pattern and removes that protection along the Channel. The applicant has not carried the burden necessary to show that the proposed Plan Revision/Zone Change/CS Use would not adversely effect agricultural uses on the Island.

If approved, the Plan Revision and Zone Change should not extend north of the S.I. Bridge to avoid or minimize cumulative effects to the Channel. Changing the Plan and Zone north of the Bridge would set the stage for further moorage development on this and other properties on the Island side of the Channel, adding further to the conflicts between recreation and agricultural uses on the Island.

### **3. Policy 10 – Multiple Use Agricultural Lands**

**THE COUNTY'S POLICY IS TO DESIGNATE AND MAINTAIN AS MULTIPLE USE AGRICULTURE: AREAS GENERALLY IN SMALL SCALE AGRICULTURAL USE, AND OTHER AREAS WITH LOT SIZES, USES, SERVICE LEVELS OR PHYSICAL CONDITIONS NOT CONDUCTIVE TO COMMERCIAL FARMING.**

**MULTIPLE USE AGRICULTURAL USES ARE RESTRICTED TO THOSE COMPATIBLE WITH ADJACENT EXCLUSIVE FARM USE AREAS. [PARAPHRASED]**

**Comment:** (Revised Application, pgs. 52-53). Refer to findings above for Policy 9. Policy 10 restricts MUA uses to those compatible with EFU areas. The proposed marina may be incompatible with adjacent EFU areas by introducing additional new non-rural traffic onto the island. The Commission finds that evidence persuades that the plan revision is generally consistent with this policy.

If approved, the Plan Revision and Zone Change should not extend north of the S.I. Bridge to avoid or minimize cumulative effects to the Channel. Changing the Plan and Zone north of the Bridge would set the stage for further moorage development on this and other properties on the Island side of the Channel, adding further to the conflicts between recreation and agricultural uses on the Island.

#### **4. Policy 13 – Air, Water, and Noise Quality.**

THE COUNTY'S POLICY IS TO SUPPORT CITIZEN AND AGENCY EFFORTS TO MAINTAIN OR IMPROVE AIR AND WATER QUALITY, AND REDUCE NOISE LEVELS. IT IS THE COUNTY POLICY TO PARTICIPATE IN STATE AND REGIONAL PLANS & PROGRAMS TO REDUCE POLLUTION, MAINTAIN HEALTHY AIR & WATER QUALITIES, AND PREVENT OR REDUCE EXCESSIVE NOISE LEVELS. NOISE-GENERATING USES SHOULD BE LOCATED AND DESIGNED TO MINIMIZE EFFECTS TO NOISE-SENSITIVE USES. [PARAPHRASED]

**Comment:** (Revised Application, pgs. 53-54) The record contains conflicting evidence regarding air, water, and noise quality effects from the proposed marina use. The Commission relies upon the application findings and is persuaded that the proposed uses can be developed consistent with this policy.

#### **5. Policy 14 – Development Limitations.**

[PARAPHRASED]

THE COUNTY'S POLICY IS TO DIRECT DEVELOPMENT AWAY FROM AREAS WITH PHYSICAL LIMITATIONS — OR REQUIRE DESIGNS WHICH MITIGATE OR AVOID ADVERSE EFFECTS. THE POLICY APPLIES TO: HILLSIDES IN EXCESS OF 20% SLOPE; AREAS WITHIN THE 100-YEAR FLOOD PLAIN; AND SITES WITH SEVERE EROSION POTENTIAL, ETC.

**Comment:** (Revised Application, pgs. 54-55) The site is in an identified flood hazard area. It is not identified on the County slope hazards map. The application adequately demonstrates the proposed uses can be developed consistent with this policy.

#### **6. 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 POLICY TO REQUIRE SPECIAL REVIEW OF ALLOWED USES TO ENSURE MINIMUM IMPACT TO VALUED RESOURCES, AND MITIGATE LOST VALUES TO THE GREATEST EXTENT POSSIBLE. [PARAPHRASED]

**Comment:** (Revised Application, pg. 55-56) The revised application displays greater sensitivity to the Greenway policy and Zoning Code Greenway standards. However, the application indicates that "...there will not be any changes to the existing shoreline." The Commission doubts the accuracy of this statement. The proposal includes the placement of fill material on the face of the dike to create a flat area for the road and parking. The illustration in Exhibit 8 (Visual Analysis) indicates the "toe" of the fill-slope will be at or below the ordinary high water line. This proposal, it would seem, will change the existing shoreline and diminish the riparian zone along the edge of the Channel.

The Plan Revision/Goal Exception would facilitate development which diminishes valued natural, scenic and recreation resources in the Greenway. As noted in the Goal 5 analysis [4(A)(1)], the proposed marina would significantly diminish natural, scenic and open space resources in the Greenway. Substantial evidence in the record supports this conclusion (*e.g.*, ODFW letter dated 11/13/91; Parks Services letter dated 10/24/91; and State Parks letter dated 11/4/91). Evidence in the record does not persuade that the use would be consistent with the Greenway policy.

## **7. Policy 16 – Natural Resources**

THE COUNTY'S POLICY IS TO PROTECT NATURAL RESOURCES, CONSERVE OPEN SPACE, AND TO PROTECT SCENIC AND HISTORIC AREAS AND SITES. THESE RESOURCES ARE ADDRESSED WITHIN SUB-POLICIES 16-A THROUGH 16-L.

**Comment:** (Revised Application, pgs. 56-65) The Commission concurs with applicant's findings relative to Policy 16 except as detailed below for sub-policies 16-A, 16-D, 16-E, 16-F, and 16-G:

- **16-A OPEN SPACE**

IT IS POLICY TO CONSERVE OPEN SPACE RESOURCES AND PROTECT OPEN SPACES FROM INCOMPATIBLE AND CONFLICTING LAND USES. [PARAPHRASED]

**Comment:** Strategies identified in this Framework Plan sub-policy include:

- "Designate agricultural and forest lands with large lot zones to conserve open character of such areas."
- "Apply ...WRG, FW and FF overlays along rivers and other water features, as appropriate, to restrict and control the character of development in these areas to enhance open spaces."
- "Review uses conditionally allowed in farm ... zones to insure that open space resources are conserved and enhanced."

The *Comprehensive Framework Plan 1989 Supplemental Findings* describes Open Space as "...lands used for agricultural or forest uses and any land area that would, if preserved and continued in its present use: ...

Conserve and enhance natural and scenic resources; ... (and)  
Enhance recreation opportunities..."

Plan findings recognize that open space resources overlap with several other Goal 5 resources. Fish and wildlife habitats, natural areas, water areas, wetlands, and scenic areas, all normally occur within an open space context. The other general areas of the County identified as open space resources are "...lands used for agricultural or forest uses...". [ref. Supplemental Findings, page 19].

Applicant states that "*...notwithstanding the placement of floating structures on the waterway ... the impacts on the visual and open space qualities of the site can be mitigated...*" (Revised Application. pg. 57). However, this ignores the open space lost by replacing floating logs with boats and floating structures. If the Channel is "double-loaded" with floating structures, it adversely effects the open space resource above the surface of the river. A local example of lost open space resources on a waterway can be observed along the Oregon Slough south of Tomahawk Island. Here floating structures encroach into the river from both shores, creating an image from the river of an urban street wall. The open space effect to a river reach is not nearly as pronounced when one bank remains open and free of structures.

If the Alder Creek Marina is approved, the row of boathouses should be broken into smaller sections and separated by sections of uncovered boat storage or open water. This would maintain some open views to the dike and mitigate for some of the open space loss on the river.

Conclusion: The Plan Revision/Zone Change/CS Use/WRG Permit would facilitate a significant loss of open space. The Commission finds the proposal inconsistent with this sub-policy.

• **16-D FISH AND WILDLIFE HABITAT**

IT IS POLICY TO PROTECT SIGNIFICANT FISH AND WILDLIFE HABITAT.  
[PARAPHRASED & EDITED]

**Comment:** The U.S. Fish and Wildlife Service submitted comment relative to this sub-policy (Ref. October 23, 1991 letter):

*"...Although the proposed project has been considerably reduced and fish and wildlife impacts decreased, this project is still larger than any other in the Portland Metro area, according to Appendix I of the revised application. The cumulative impacts and precedence of such a large project should be seriously considered prior to any changes in local ordinances.*



"The Multnomah Channel is used by several species of anadromous fish for migration, feeding, and rearing. These include chinook and coho salmon; steelhead and cutthroat trout; American shad; and white sturgeon. Numerous species of resident warmwater fish species also occur in the channel. Anglers fish in the vicinity of the proposed project predominantly for warmwater game species. Angling for spring chinook in the area is also an important public use.

"The wetland/riparian system at the project site provides habitat for wildlife. The area surrounding the site is predominately developed, however a large area of agricultural land to the north of the site also provides habitat which is utilized by wildlife species, particularly waterfowl. The site serves as a corridor for wildlife species, allowing some access to open water where it is recommended that 2 acres downstream of the project be donated to the County for public access, and access should be allowed at the breakwater.

"The Service is still concerned about the potential impacts to fish and wildlife and the encroachment into public waterways that may result from the project..."

As noted above under the Goal 5 findings, ODFW writes, "...The Department would prefer limiting marinas to one side of the Channel.

"Limiting marinas to one side of the Channel would provide an uninterrupted travel route on the opposite, undeveloped bank for fish and wildlife moving through the area. ... The proposed marina would provide cover for fish species that feed on downstream migrating salmonid fingerlings, such as warm water game fish (bass crappie, etc.) and undesirable species such as squawfish. The warm water game fish would be inaccessible because of the marina, and would provide little recreational value."

Conclusion: The Plan Revision/Zone Change/CS Use/WRG Permit to allow the revised Alder Creek Marina would adversely effect fish and wildlife habitats. Reference related findings below under sub-policy 16-G (Water Areas and Wetlands). The Commission finds the proposal inconsistent with this sub-policy.

• **16-F SCENIC RESOURCES**

IT IS POLICY TO CONSERVE SCENIC RESOURCES AND PROTECT SUCH AREAS FROM INCOMPATIBLE AND CONFLICTING LAND USES. [PARAPHRASED]

**Comment:** Strategies identified in this Framework Plan sub-policy include:

- "Enforce large lot zoning regulations in resource areas to conserve scenic qualities associated with farm and forest uses."
- "Apply the WRG overlay zone to lands within the Willamette River Greenway. Review new development within the greenway to assure scenic values are not diminished."

The *Comprehensive Framework Plan 1989 Supplemental Findings* indicates that significant scenic resources in Multnomah County are associated with water features and agricultural lands.

Plan findings recognize that scenic resources overlap with several other Goal 5 resources. Fish and wildlife habitats, natural areas, water areas, and wetlands all usually display scenic qualities valued by society. Most lands devoted to agricultural uses contain some scenic value. **"The County's resource zoning designations offer protection of scenic values associated with farm and forest lands: ... limits on non-agricultural ... uses ... assist in maintaining the open, rural scenic qualities of these areas."** [ref. Supplemental Findings, page 35]

Reference findings above regarding Goal 5: Scenic Areas [ref. 5(A)(1)].

Conclusion: The proposed project would adversely effect scenic resources. The Commission finds the proposal inconsistent with this sub-policy

• **16-G WATER RESOURCES AND WETLANDS**

**IT IS POLICY TO PROTECT THOSE WATER AREAS HAVING SPECIAL PUBLIC VALUE IN TERMS OF ECONOMICS, RECREATION, EDUCATION, PUBLIC SAFETY, AND NATURAL AREAS. [PARAPHRASED & EDITED]**

**Comment:** Strategies identified in this Framework Plan sub-policy include:

- **"Wetland areas that attain 45 or more points of the possible 96 points on the 'Wildlife Habitat Assessment' (WHA) rating form will be designated 'Significant'."**

Multnomah Channel scored 65 points on the WHA rating system (Framework Plan Supplemental Findings, pg. 42). **"... The greatest wildlife habitat function of Multnomah Channel is as a travel corridor. The water and adjacent riparian vegetation provide habitat for waterfowl, heron, cormorants and kingfishers. Mid-August through September, migrating shorebirds commonly feed and rest along Multnomah Channel. ... Multnomah Channel also provides habitat for a variety of fish, amphibian and reptile species. Human use of the channel is high, including several boat moorages, log rafts, day boaters and fishers."**

The applicant argues that the wildlife habitat rating for the "Alder Creek Marina" site is 38 — below the 45 point significance threshold (Ref. Paul Fishman response dated 11/14/91, pg.5-6), and that several identified alternative sites possess more significant wildlife habitat. The applicant suggests that if the requests are approved, the alternative sites on Multnomah Channel can somehow be traded or exchanged. In testimony, the applicant implied

that approval of the Alder Creek Marina will somehow protect the wildlife habitat and wetland characteristics on alternative sites downstream on the west side of the Channel. In their 11/13/91 letter, ODFW writes "...[T]he Department would also like to clarify that the Wildlife Habitat Assessment (WHA) form score was used for Multnomah Channel as a whole, not piece by piece. We believe it is inappropriate to score the marina site as a self-sustaining entity and not part of the remaining ecosystem of the Channel. We believe the habitat at the proposed site is significant when considered as part of the Channel ecosystem." The Commission adopts this analysis.

The Commission is not persuaded that approval of the Plan and Zone change for the Alder Creek Marina site protects habitat values on identified alternative sites. These sites remain rural exception lands, zoned MUA-20, which allows marinas as a conditional use. The Zoning Code already protects *Significant Wetlands* on these properties through its Willamette River Greenway provisions [Ref. MCC 11.15.6376 and Significant Wetlands map]. Approval of the Alder Creek Marina proposal would not exchange or reduce development rights along the Channel or otherwise protect wetland and other natural resource values on the west side of Multnomah Channel.

Conclusion: As detailed above and in the Goal 5 findings for water areas [ref. 5(A)(1)], the proposed Plan Revision/Zone Change adversely effects water area resources.

## **8. Policy 26 – Houseboats.**

[PARAPHRASED & EDITED]

THE COUNTY'S POLICY RECOGNIZES HOUSEBOATS AS A HOUSING OPTION. IT IS POLICY TO PROVIDE FOR THE LOCATION OF HOUSEBOATS IN ACCORD WITH:

APPLICABLE PLAN POLICIES .

OTHER APPLICABLE FEDERAL, STATE OR LOCAL POLICIES REGULATING WATERWAY DEVELOPMENTS.

LOCATIONAL CRITERIA; THE FOLLOWING AREAS ARE DESIGNATED AS SUITABLE FOR HOUSEBOATS:

MULTNOMAH CHANNEL – WEST SIDE – FROM THE PORTLAND CORPORATE LIMITS TO 1/2-MILE NORTH OF THE SAUVIE ISLAND BRIDGE.

**Comment:** The Alder Creek Marina site is across the Channel from an area designated for houseboats by Policy #26. The Plan Revision/Zone Change/CS Use would allow development of a 170-boat marina facility. This could diminish the residential character of the houseboat community developed on the west side of the channel. A marina opposite the existing houseboat devel-

opments will introduce a major destination/departure point for 170 additional boats. These boats will introduce new noise (from motors) and air quality (from fumes) effects immediately adjacent to a section designated in the plan for floating home development.

**Conclusion:** The proposed Plan Revision/Zone Change is inconsistent with Policy 26, due to the above noted adverse effects on the houseboat designated area on the opposite shore of the Channel.

## **9. Policy 31 - Community Facilities and Uses**

**THE COUNTY'S POLICY IS TO SUPPORT THE SITING AND DEVELOPMENT OF A FULL RANGE OF COMMUNITY FACILITIES AND SERVICES, SCALED TO MEET PUBLIC NEEDS AND REINFORCE COMMUNITY IDENTITY. [PARAPHRASED & EDITED]**

**Comment:** (Revised Application, pgs. 65-69) Sauvie Island displays a rural-pastoral identity; the grassy, open dike along the east side of Multnomah Channel in part helps define this rural identity. With the exception of Alder Creek Lumber and a cluster of moorages near Reeder Road, the Island side of the Channel contributes to the Island's rural, agricultural, low density community identity.

The revised marina proposal is more typical of marina uses in rural areas of the County. If approved, conditions of approval should be imposed to reduce the riverward encroachment to that characteristic of the rural area (Ref. DSL letter dated October 18, 1991) and reduce the adverse open space and scenic effects of an unbroken wall of floating structures for approximately 2500-feet. This could include segmenting the boathouse sections of the marina to 200-300 foot sections, separated by sections of open boat storage or open water.

**Conclusion:** The Commission is persuaded that the proposal is generally consistent with this policy. If approved, conditions should be imposed to address identified adverse effects.

## **10. Policy 33(a) - Transportation System**

**THE COUNTY'S POLICY IS TO IMPLEMENT A BALANCED, SAFE AND EFFICIENT TRANSPORTATION SYSTEM. THE COUNTY WILL SUPPORT PROPOSALS WHICH IMPLEMENT THE PLAN, ENHANCE AIR AND WATER QUALITIES, REDUCE NOISE LEVELS, PROTECT THE QUALITY OF NEIGHBORHOODS AND COMMUNITIES, SUPPORT ECONOMIC GROWTH, AND PROVIDE A SAFE AND EFFICIENT TRANSPORTATION SYSTEM. [PARAPHRASED & EDITED]**

**Comment:** (Revised Application, pgs. 69-73) The Oregon Department of Transportation provides pertinent comments in an October 18, 1991 letter:

*"...After reviewing the revised proposal and the 'Revised Transportation*

*Impact Analysis'* for the Alder Creek Marina, we believe that the development is more in line with the capacity of the bridge and the Lower Columbia River Highway intersection.

*"We do have one comment/question of the traffic analysis Page 8, last paragraph: 'Oftentimes, turning trucks must wait for conflicting vehicles to clear the intersection before they are able to complete their turn.' The proposed use will increase the number of boat trailers turning through the intersection. It is probable that a number of vehicles with boat trailers will need the same clearance as trucks. There is no analysis of how this might affect accidents or capacity."*

However, the proposed marina does not include a boat ramp or other facility which would attract boaters with trailered watercraft. The marina should have no appreciable effect on the above described traffic condition at the bridge/highway intersection.

Conclusion: Substantial evidence in the records persuades that the proposal is consistent with this policy.

## **11. Policy 37 - Utilities**

THE COUNTY'S POLICY IS TO INSURE THAT PROPOSED DEVELOPMENT HAS ADEQUATE AND SAFE PROVISIONS FOR: SEWAGE DISPOSAL, WATER SUPPLY, STORM WATER DRAINAGE, ENERGY, AND COMMUNICATIONS. [PARAPHRASED]

**Comment:** (Application, pgs. 73-74) The record persuades that these facilities can be provided to the proposed uses. If approved, conditions should prohibit conversion of boathouses to "combos" or houseboats. *Combos* are a combination of boathouse and houseboat; they include a dwelling area in the structure, and therefore require sewage disposal and other facilities not available at the site.

## **12. Policy 38 Facilities**

THE COUNTY'S POLICY IS TO INSURE:

- THAT EFFECTED SCHOOL AND FIRE DISTRICTS ARE NOTIFIED AND HAVE OPPORTUNITY TO COMMENT ON PROPOSED DEVELOPMENTS; AND,
- THAT WATER PRESSURE AND FLOW IS ADEQUATE TO FIGHT FIRES; AND,
- THAT POLICE PROTECTION WILL BE AVAILABLE FOR THE DEVELOPMENT. [PARAPHRASED]

**Comments:** (Revised Application, pgs. 75-76) The Sheriff's Department polices the area. Sauvie Island Fire District has indicated it can serve the project site (ref. May 1, 1991 letter from RFPD #30). Sauvie Island School District has not commented on the proposal as of this writing.

### **13. Policy 39 Parks and Recreation Planning**

**[PARAPHRASED & EDITED]**

**THE COUNTY'S POLICY IS TO WORK WITH RESIDENTS, GROUPS, AND AGENCIES TO SECURE FUNDS FOR DEVELOPMENT AND ACQUISITION OF PARK SITES AND RECREATION FACILITIES. IT IS POLICY TO ENCOURAGE RECREATION OPPORTUNITIES BY OTHER PUBLIC AGENCIES AND PRIVATE ENTITIES.**

**Comment:** (Application, pgs. 76-78) The Commission generally concurs with applicant's findings regarding Policy #39.

Recreation use on Sauvie Island includes bicycling and sight-seeing. Gillihan Loop Road – together with Reeder and Sauvie Island roads – serves as a bicycle loop route around the Island. Traffic from the Alder Creek Marina site will increase conflicts with bicyclists on this narrow rural road. If approved, the Transportation Division recommends that a shoulder bike lane or separated bike path be required along or parallel to Gillihan Road.

**Conclusion:** The proposed Plan Revision/ Zone Change conforms to the intent of Policy 39.

**MCC 11.05.290** Requires that the applicant for a Plan Revision shall persuade that the revision is based on:

**(c) Evidence that the uses allowed by the proposed change will:**

**1) not destabilize the land use pattern in the vicinity,**

**Comment:** The Commission finds that substantial evidence in the record persuades that the proposed plan revision for a marina use would not destabilize the land use pattern in the vicinity. The Commission recommends the Plan Revision be denied. However, if approved, it should only be applied to that portion of the site upstream (south) of the Sauvie Island Bridge.

**2) not conflict with existing or planned uses on adjacent lands, and**

**Comment:** The area surrounding the subject site is described above under Finding #3. The west bank of the Channel has been traditionally characterized by houseboat and marina uses. Moorage development and floating structures are not common to the east side of the Channel.

The proposed Plan Revision/Zone Change/CS Use/WRG Permit would significantly change the scale and intensity of use on the Island (east) side of the Channel. Existing moorages on the opposite side, and the two (2) downstream on the Island side, typically extend about 100 to 130-feet into the Channel (based on review of air photos and DSL leases). The proposed mari-

na extends between 160 to 300-feet into the Channel (from OHW), substantially more than is characteristic of similar uses in the area (Ref. DSL letter dated October 18, 1991).

**Conclusion:** The above findings and substantial evidence in the record persuade that the scale and intensity of the proposed use is not compatible with the rural – agricultural character on the east side of Multnomah Channel. The waterward extension of the proposed marina is not compatible with similar moorage development across the Channel. If approved, conditions should be imposed to mitigate these effects.

**3) that necessary public services are or will be available to serve allowed uses.**

**Comment:** A majority of the Planning Commission was not persuaded that the record demonstrated that existing or planned public services and facilities could adequately serve the development. During their deliberation, Commissioners cited fire safety needs and sewage/stormwater facilities as issues relevant to public service needs. The Commission doubted that the Island's fire department was equipped to meet the service demands of the proposed use.

## **B. ZONE CHANGE REQUEST:**

The Zoning Ordinance specifies criteria for a zone change [Reference MCC 11.15.8230(D&E)].

**The Planning Commission must be persuaded that:**

**(1) Granting the request is in the public interest;**

**Comment:** (Revised Application, pgs. 78-79) The Commission is not persuaded that the requested Zone Change is in the public interest. The existing zone designations essentially restrict new moorage development along the Island side of the Channel by designating most of the reach as EFU. The Commission finds that the purposes of the EFU District are broader than just farm land protection. MCC 11.15.2002 provides that "...[T]he purposes of the Exclusive Farm Use District are to preserve and maintain agricultural lands for farm use consistent with future needs for agricultural products, forests and open spaces, to conserve and protect scenic resources, [and] to maintain and improve air, water, and land resources...".

The Commission finds it in the public interest to maintain EFU restrictions on this site to protect open space, scenic and water area resources. State Parks Department comments support this finding, stating that approval of the zone change "...would definitely diminish the public interest values in recreation, fish, wildlife, open space and scenic resources in the area. ...[S]ignificant changes in existing land-use regulations and policies should be avoided until the DSL plan is completed for this area...".

EFU is the only rural zone which does not allow boat moorage/marina uses. The proposed zone change to MUA-20, with the associated Community Service Use request, would result in "double loading" the Channel with floating structures for more than 2,500-feet. This would permanently reduce the available water surface for commercial and recreational boating in an already heavily used reach of the channel. Double loading the Channel with structures and boat slips would also adversely impact scenic, open space, recreational, and natural resources in the Greenway (ref. State Goals and Comprehensive Plan Policies analysis in section 5(A)(2)(a) & (b)).

Conclusion: The Commission is not persuaded that the requested Zone Change is in the public interest.

**The Planning Commission must be persuaded that:**

- (2) *There is a public need for the requested change and that need will be best served by changing the classification of the property in question as compared with other available property;***

**Comment:** (Revised Application, pg. 78 and Appendix: GOAL EXCEPTION ANALYSIS) The identified public need for permanent in-water boat storage facilities must be balanced with other public needs dependent upon the river resource (e.g., open space, scenic areas, commerce, fish and wildlife habitat, recreational boating, etc.). Goal Exceptions findings [Ref. 5(A)(2)(a) above] identifies several alternative appropriately zoned areas which could reasonably accommodate the use, either on the Channel or on the Columbia River reaches Portland. If marina facilities are developed at alternative available sites, it would avoid "double loading" the Channel, and thereby protect the rural scenic and open space qualities derived when one bank is kept free of floating structures.

The Commission relies upon a November 4, 1991 letter from the State Parks and Recreation Department stating they "...do not agree with the applicant that the public recreation needs would be enhanced by the change of land use to accommodate this project." The Commission is not persuaded that the public need for the proposed facilities is best served at this location.

Conclusion: The applicant has not carried the burden of proof that the value of other public needs – such as open space, fishing areas, recreation, and natural habitat – are superseded by the need for permanent in-water boat storage facilities. The demand for in-water boat storage is not best served at this site. There are alternative appropriately zoned areas which could reasonably accommodate the use on the mainland side of Multnomah Channel and elsewhere inside Portland.



The Planning Commission must be persuaded that:

- (3) *The proposed action fully accords with the applicable elements of the Comprehensive Plan.*

**Comment:** (Revised Application, pg. 78) Reference the Comprehensive Plan Policies section 5(A)(2)(b) above.

**Conclusion:** The proposed zone change is not in full accord with all applicable elements of the Comprehensive Plan as detailed in section 5(A)(2)(b) above.

- (4) *Proof of change in a neighborhood or community or mistake in the planning or zoning for the property under consideration are additional relevant factors to be considered.*

**Comment:** The application is not based upon a mistake in the planning or zoning of the property, nor does it indicate a change in the area precipitates the zone change request.

### C. COMMUNITY SERVICE USE REQUEST:

Conditional uses allowed in Multiple Use Agriculture zones are specified in MCC 11.15.2132. Subsection (A) allows Community Service Uses pursuant to MCC .7005 – .7041; MCC .7020(A)(1) provides for a “...**Boat moorage, marina or boathouse moorage.**” The approval criteria for community service uses are specified in 11.15.7015.

The section below reviews the proposed Community Service Use as if the Plan designation of the site was changed to Multiple Use Agriculture, and the Zone was changed to MUA-20. The findings and conclusions above support denial of the Plan Revision and Zone Change requests. The Commission recognizes that the proposed Community Service Use cannot be approved under the current EFU zone [Ref. MCC.2006]. However, in the December 2, 1991 deliberation, the Commission reviewed the proposal against CS approval criteria. Each is presented first in ***bold italics***, followed by a reference to the applicants’ findings, and Planning Commission comments.

To approve the requested CS Use in the MUA District, the Commission must find that the proposed use:

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

**Comment:** (Revised Application, pg. 79) The area surrounding the subject site is described above under Finding #3. The scale of the revised marina proposal is more consistent with the character of similar moorage development on Multnomah Channel.

However, the proposed marina extends further into the Channel than other marinas characteristic of the area (Ref. DSL letter dated October 18, 1991). The moorage/marinas on the opposite side of the Channel and downstream on the Island side, typically extend 100 to 130-feet into the Channel (based on review of air photos and DSL leases). The proposed marina will extend between 160 – 300 feet into the Channel (from OHW), exceeding that which is characteristic of the area.

**Conclusion:** Based upon the findings above and the Plan Revision findings in sections 5(A)(2)(a) and 5(A)(2)(c), the Commission finds that the proposed use is generally not consistent with the area character.

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

**Comment:** (Revised Application, pgs. 79-80) Refer to comments above in section 5(A)(2)(b)(7), Policy 16 – Natural Resources.

**Conclusion:** The proposed marina (CS use) would adversely effect natural resources. If approved, conditions should be applied to avoid or mitigate for adverse effects to open space, scenic resources, fish and wildlife habitat, and water areas.

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

**Comment:** (Revised Application, pg.80) Refer to comments above in section 5(A)(2)(b)(2), Policy 16 – Agricultural Lands. If the CS Use is approved, the north portion of the site (downstream of the bridge) should not be included in the associated Plan and Zone change to MUA.

**Conclusion:** The proposed marina (CS use) on the Island side of the Channel introduces a large (urban) scale water oriented use on the Island side of the Channel. The development would set the stage for further moorage development on this and potentially other properties on the Island side of the Channel, adding further to the conflicts between recreation and agricultural uses on the Island.

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

**Comments:** (Revised Application, pg. 80) A majority of the Commission was not persuaded that the application and record demonstrated that existing public services would adequately serve the proposed development.

**Conclusion:** A majority of the Commission was not persuaded that existing public services would adequately serve the proposed development.

- (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;*

**Comment:** (Revised Application, pg. 81) The site is not identified as a big game winter habitat area in the Comprehensive Framework Plan or by the ODFW.

- (6) *Will not create hazardous conditions;*

**Comment:** (Revised Application, pgs. 81) The Commission generally concurs with the applicant's finding. However, if approved, conditions should limit the riverward extension of the marina to that which is characteristic of the west bank moorages (Ref. DSL letter dated October 18, 1991). This would provide additional open navigation area and thereby reduce the potential boating hazards from the project.

**Conclusion:** The proposed marina (CS use) may cause hazardous boating conditions in this reach of the Channel and nearby waters. If approved, conditions should be applied to address this issue.

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

**Comment:** (Revised Application, pg. 81) The Plan Revision section above in 5(A)(2)(b) identifies several plan policies which the Commission finds are not *satisfied* by the proposal.

**Conclusion:** The Commission finds that all applicable Plan policies are not satisfied by the proposal, and the CS Use should therefore be denied.

#### **D. WILLAMETTE RIVER GREENWAY REQUEST:**

The Zoning Code requires a Greenway Permit for all new uses within the Greenway Boundary. All new uses proposed within the Willamette River Greenway must meet criteria specified in MCC .6420.

The following section reviews the proposed Willamette River Greenway (WRG) Permit as if the Plan designation of the site was changed to Multiple Use Agriculture, the Zone was changed to MUA-20, and the CS Use was approved. The findings and conclusions above support denial of the Plan Revision, Zone Change, and Community Service Use requests. The Commission recognizes that the proposed Willamette River Greenway Permit cannot be approved under the current EFU zone [Ref. MCC.6354]. However, in the December 2, 1991 deliberation, the Commission reviewed the proposal against WRG criteria. Each is presented in *bold italics*, followed by a reference to the applicant's findings, and Commission comments [Ref. MCC 11.15.6366-.6372]:

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

**Comment:** (Revised Application, pg. 81-82) The plan proposes parking areas and an access drive immediately alongside the river. The parked cars and trucks would be separated from the river by a 10–15 foot bank at ordinary high water, and approximately 60 – 100 feet at ordinary low water. This slope to the OHW would be covered with shrubs and trees. The State Parks Department responds that "...[N]o amount of landscaping within the land portion of Greenway, on this site, can mitigate for the loss of scenic and aesthetic values, open space and riparian vegetation which are to be maintained by this criteria provision. The preponderance of the proposal is the 2000+ linear foot line of boathouses in front of the landscaping. See Application – Scenic Resource Analysis site development simulation." The Commission adopts this view. As noted above under the Goal 5 and Policy 16 discussions, the proposed development would significantly and adversely effect scenic resources in the Greenway.

- (2) Reasonable public access to and along the river shall be provided by appropriate legal means to the greatest possible degree and with emphasis on urban and urbanizable areas.***

**Comment:** (Revised Application, pg. 82) If approved, the Transportation Division recommends developing a bicycle lane or path along or parallel to Gillihan Road. The US Fish and Wildlife Service recommends that the 2-acres downstream of the project be donated to the County for public access, and that access be allowed to the breakwater dock (Ref. October 23, 1991 letter). The Commission finds that the criteria can be satisfied by applying conditions should the project be approved.

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

**Comment:** (Application, pg. 82) It may be possible to direct the parking use away from the river to a greater degree. If approved, conditions should be applied to require redesign of the parking area to the upland side of the dike (to the extent feasible). In addition, some proposed accessory uses on the water are not sufficiently water-related and should ***be directed away from the river to the greatest possible degree***. As discussed below under criteria (17), only one caretaker floating home should be permitted if the project is approved.

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

**Comment:** (Application, pg. 82) Refer to comments above in section 5(A)(2)(b)(2), Policy 16 – Agricultural Lands. The State Parks Department responded to this criteria in their 11/4/91 letter, stating that "...[T]here is no assurance with the change of zone that the approximately 18 acres will remain as open space and eligible for agricultural purposes." The Commission finds that this criteria is not met by the proposed WRG Permit.

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

**Comment:** There is no timber harvest associated with the request.

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

**Comment:** (Revised Application, pg. 83) The marina would extend into the Channel a significant distance, exceeding that typical of moorage development in the Channel. If the WRG Permit is approved, the riverward encroachment should be reduced to preserve as much open water for recreation use in the Channel.

The application proposes a donation option for two acres of public land at the north end of the property, and public access to the breakwater dock. These features, if included in the final development plan, do address this criteria. However, as detailed above in section 5(A)(1), the Commission finds the proposal conflicts with Goal 8 (Recreation Needs) and Goal 15 (Willamette River Greenway). The proposed marina would replace the passive and active recreational use of the water area with a largely private recreational facility. The Commission finds the proposed conversion and intensification of use at this location inconsistent with this Greenway criteria.

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

**Comment:** (Application, pg. 83) Refer to comments above in sections 5(A)(1): Goal 5, and 5(A)(2)(b)(7), Policy 16. Applicant asserts that the habitat rating for the proposed marina site is 38 — below the 45 point significance threshold in the County Plan (Ref. Paul Fishman response dated 11/14/91, pg.5-6). However, in an 11/13/91 letter, ODFW writes "...[T]he Department would also like to clarify that the Wildlife Habitat Assessment (WHA) form score was used for Multnomah Channel as a whole, not piece by piece. ... We believe the habitat at the proposed site is significant when considered as part of the Channel ecosystem."

The Federal and State Departments of Fish and Wildlife, and other agencies and individuals submitted several comments relevant to this criteria. Substantial evidence in the record contradicts the applicant's conclusions in the Environmental Analysis (Appendix D) and in testimony, regarding effects to fish and wildlife habitat. The Commission finds that approval of the proposed WRG Permit would adversely effect significant fish and wildlife habitat.

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

**Comment:** (Revised Application, pg. 83) Floating structures (existing or proposed) along the east bank of the Channel are more visually intrusive in this section of the Greenway. This is primarily due to steep, mostly wooded slopes south and west of the Channel which screen the west shore area from most public views (e.g. from Highway 30), form a wooded backdrop, and reduce the visual prominence of structures along the west bank (ref. CU/CS 4-91/WRG 1-91, pg. 21).

The proposal would develop a continuous and unbroken wall of floating structures for approximately 2500-feet along the Island side of the Channel. As noted above in sections 5(A)(1): Goal 5, and 5(A)(2)(b)(7), Policy 16, the proposed marina would adversely effect *significant natural and scenic areas*.

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

**Comment:** (Revised Application, pg. 83) The Commission concurs.

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

**Comment:** (Revised Application, pgs. 83-84) The proposed marina development would replace the gently sloping grassy dike along the river with a landscaped fill-slope. The revised application clearly displays greater sensitivity to the Greenway standard. However, the application indicates that "...*This proposal will not effect the existing vegetation fringe along the river...*" The Commission doubts that this statement is accurate. The proposal includes the placement of fill material on the face of the dike to create a flat area for the road and parking. The illustration in Exhibit 8 (Visual Analysis) indicates the "toe" of the fill-slope will be at or below the ordinary high water line. This proposal, it would seem, will change the existing shoreline and diminish the

riparian zone along the edge of the Channel. The County Parks Services Director underscores this concern in a letter dated 10/24/91. He states "...[T]he applicant indicates that rip-rap of the bank has been eliminated from the proposal, yet the application acknowledges erosion problems at the toe of the dike and proposes a fill, creating a 2 to 1 slope, extending to the ordinary high water line. Under these circumstances, ...rip-rap, although avoided initially, may be necessary in the future."

If the WRG Permit is approved, conditions should be applied to require redesign of the parking (and the associated fill) to the upland side of the dike.

- (11) Extraction of known aggregate deposits may be permitted, pursuant to the provisions of MCC .7105 through .7640, when economically feasible and when conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise, safety, and to guarantee necessary reclamation.***

**Comment:** (Revised Application, pg. 84) There is no aggregate extraction associated with this request.

- (12) 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.***

**Comment:** Portions of the site are in identified flood hazard areas. The development proposed is consistent with this criteria (ref. Flood Analysis by Ogden Beeman & Associates, Inc., Appendix F).

- (13) Significant wetland areas shall be protected as provided in MCC .6376.***

**Comment:** (Environmental Analysis, Appendix D) Refer to sections 5(A)(1): Goal 5, and 5(A)(2)(b)(7), Policy 16 addressing wetlands impacts. ODFW expressed some concerns regarding surface water run-off effects to wetlands in its 11/1/91 letter. If approved, conditions should be imposed to mitigate for potential effects to wetlands on the site.

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

**Comment:** (Revised Application, pg. 84) There are archaeologic resources on the property. The proposal is generally consistent with this criteria as detailed in the Cultural Resource Analysis, Appendix H. However, comments from the State Historic Preservation Office (SHPO) recommend that conditions of approval be applied to adequately protect cultural resources.

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

**Comment:** The site is not identified in the County Slope Hazards inventory (ref. Flood Analysis, Appendix F). The ODFW notes that "...fill for the parking lot and access road is proposed for placement on the Channel side of the dike down to ordinary high water. It appears very likely that the applicant would request both dredging and bank stabilization in the future after the project is approved." It would be difficult to stabilize the fill-slope along the river edge and still be *compatible with the character of the Greenway*.

***(16) 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.***

**Comment:** (Revised Application, pg. 85) If the Plan and Zone designations of the marina site are changed to Multiple Use Agriculture, the air, water and noise quality effects of the proposed use are generally consistent with the vicinity. However, as noted above in section 5(A)(2), the proposal would concentrate more motorized watercraft – with their associated engine noise – near several houseboat moorages. The State DEQ identifies residences as noise sensitive uses. The proposed marina will increase adverse noise effects to existing and planned residential uses on the west side of the Channel.

***(17) 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.***

**Comment:** (Revised Application, pg. 85) The project proposes two "accessory" uses floating in the river. These include two houseboats (for caretakers), and two public restrooms. The application does not adequately persuade that these uses are water-related.

The US Fish and Wildlife Service commented on this issue, stating in part "...It is Service policy to discourage uses of navigable public waterways for nonwater-dependent purposes. We consider nonwater-dependent uses to be those which could equally or more suitably (be) located on land. In our opinion, residences are not water dependent because they can be located on land. There appears to be sufficient space on the upland portion of the applicant's property to construct residences for caretakers. This alternative should be considered..."

The State Parks Department commented on this issue, stating in part "...We disagree with the County (Staff) that one houseboat should be permitted. This area is not designated for houseboats in the County's Willamette



**River Greenway plan. We do not concur that the 2 houseboats for caretakers are water-dependent or related..."**

The proposed caretaker's residences would serve a security and safety function for the moorage users and their property stored at the site. If the residences were placed behind the dike, they would have to be elevated on fill or other means to see over the dike. Even with these adjustments, the caretakers houses would be located at least 200-feet and up to 2000-feet from many areas on the marina. The security and safety function which the caretaker's houses offer the project would be diminished if required to be placed on land. However, it is not clear why two residences are required. There may in fact be a safety benefit to placing one caretaker house on-land and one in-water (to provide surveillance and protect vehicle parking areas).

The public restrooms are provided presumably as a convenience to those storing their boats at the facility. Placing the restrooms on the land would require individuals to walk up 150 to 200-foot gangway ramps to use them. This does not seem an unreasonable inconvenience and it more closely addresses the applicable criteria.

The Commission concludes that only one floating caretaker home should be permitted at the site and no floating restroom structures be permitted if the WRG Permit is approved. A second caretaker residence (if desired) and restroom facilities should be placed on the upland area of the site.

***(18) Any development, change of use or intensification of use of land classified WRG, shall be subject to design review, pursuant to MCC .7805 through .7865, to the extent that such design review is consistent with the elements of the Greenway Design Plan.***

**Comment:** (Application, pg. 85) If the WRG Permit is approved, Design Review would be imposed prior to site development or construction.

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

**Comment:** Reference the Comprehensive Plan Policies section 5(A)(2)(b) above. The Commission finds the proposed WRG Permit conflicts with several elements of the Comprehensive Plan as detailed in section 5(A)(2)(b) above.

## **CONCLUSIONS:**

1. The request does not satisfy all Plan Revision approval criteria. The Commission recommends the Plan Revision request be denied based on conflicts with the following:

### **Statewide Planning Goals**

Goal 5 :	Open Space, Natural Areas, Scenic Resources, Water Areas, and Wetlands
Goal 8	Recreation
Goal 11	Public Facilities and Services
Goal 15:	Willamette River Greenway

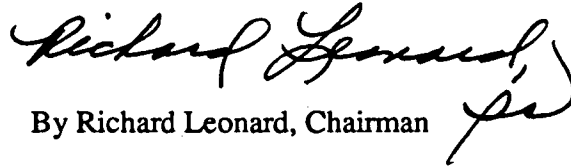
### **Comprehensive Plan Policies:**

Policy 9:	Agricultural Lands
Policy 15	Willamette River Greenway
Policy 16	Natural Resources
16-A	Open Space Resources
16-D	Fish and Wildlife Resources
16-E	Natural Areas
16-F	Scenic Resources
16-G	Water Resources and Wetlands
Policy 26	Houseboats

2. The requested exceptions to Goals 3 and 14 do not satisfy applicable criteria. The reasons offered do not adequately justify the exceptions, and there are alternative sites in existing rural exception areas and inside the UGB where the proposed use could reasonably be accommodated.
3. The scale and intensity of the proposed use would be incompatible with the rural and agricultural character on the Island side of the Channel.
4. The Zone Change request is not in the public interest. The proposal addresses a public need for in-water boat storage at the expense of several other river-dependent uses and resources (*i.e.*, recreation, open space, scenic resources, fish and wildlife habitat, and protection of agricultural lands).

5. The proposal does not meet Community Service Use approval criteria as detailed in the findings section 5(C)(1-7).
6. The proposed marina does not satisfy all Willamette River Greenway approval criteria as detailed in the findings section 5(D)(1-19).

Signed December 2, 1991

  
By Richard Leonard, Chairman

Filed With the Clerk of the Board on December 12, 1991

### **Appeal to the Board of County Commissioners**

Any person who appears and testifies at the Planning Commission hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or before 4:30 PM. on Monday, December 23, 1991 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

*The Decision on this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, December 24, 1991 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development Division at 248-3043.*

BOARD OF  
COUNTY COMMISSIONERS

To: Multnomah County Planning Commissioners  
2115 S.E. Morrison St.  
Portland, Oregon 97204

1991 JUN 24 AM 11:01

MULTNOMAH COUNTY  
OREGON

Dear Commissioners:

We, the signors of this petition, urge the County to vote "No" to the proposed zoning changes along the Sauvies Island Dike that would allow Mr. and Mrs. Ken Larson to build the Alder Creek Marina for the storage of 860 boats. We have the following concerns:

- \*\*\* This development would be an eyesore that would be visible from Hwy 30, the bridge, and the water, and would be the first thing one sees upon entering Sauvies Island.
- \*\*\* This development is totally out of character with the surrounding pastoral and agricultural areas. It's tremendous size and scope are not consistent with other water uses along Multnomah Channel, and its siting at the proposed site sets a new and undesirable precedent for double loading floating structures along Multnomah Channel.
- \*\*\* This development is totally out of character with the present zoning on Sauvies Island, which was implemented to preserve the pastoral nature of the dike and agricultural basis of its farmlands.
- \*\*\* The addition of 860 boat users, with their families and friends, will add an unacceptable burden to the two lane Sauvies Island Bridge. Peak use of the marina will coincide exactly with the heaviest use of other recreational uses of the island, and will make the wait to exit the island more than an hour in length.
- \*\*\* This development will permanently disrupt a complex riparian wildlife zone that supports an abundance of wildlife. It will be replaced with riprap and a road with parking lots, that will be in full view of the bridge and river. All existing vegetation will have to be bulldozed, creating a permanent concrete and riprap eyesore.
- \*\*\* If this zone change is allowed, there is nothing to stop the rest of the dike and island to sell out to similar developers. This will forever change the character of the island as farmland and wildlife refuge.
- \*\*\* Maintaining a 600 boat storage facility (represented in the Alder Creek Marina proposal as 400' long, 200' wide and 40' high) with fuel dock, restaurant and fuel tanks, represents a significant fire and explosion danger to residents, marina users and the bridge. The area is only serviced by a volunteer fire department made up of island residents, who are not specifically trained to deal with such a complex fire hazard.
- \*\*\* Commercial navigation would be severely hampered by this development, which would extend over more than 1/2 the width of the channel. Increased small boat traffic in this area would further endanger commercial navigation, as well as increase congestion and accidents on the water in this busy and narrow area of the channel.
- \*\*\* This proposal violates the Willamette River Greenway Policies and the Oregon Comprehensive Plan and should not be allowed to proceed.

I, the undersigned, am opposed to the Alder Creek Marina. Furthermore, I do not feel that the present zoning of the dike should be changed to allow for any marina developments.

NAME (PRINTED)	ADDRESS	SIGNATURE
1. RUTH SANBORN	2335 N. Broughton CT. Port OR. 97119	Ruth Sanborn
2. FRANCES M. SAHLI	10405 SW DENNEY RD #45 Beaverton, OR. 97005	Frances M. Sahli
3. FLORENCE PELTZER	10230 SW 82nd Portland OR 97223	Florence Peltzer
4. Ruby Wood	11700 SW Ridgcrest	Ruby Wood
5. BARBARA YEOMAN	14325 S. W. Red Haven Drive Hern Hanks	Barbara Yeoman
6. Fern Hanks	3620 N. Alaska St. Port	Fern Hanks
7. Florence Engberg	1021 N. Jessup BATTLE GROUND WA	Florence Engberg
8. MILDRED BECHTOLD	23604 N. E. 42nd AVE	Mildred Bechtold
9. June Murray	June Murray 10087 E. 23rd Ave	June Murray
10. ANN NELSON	Ann Nelson VAN WA	Ann Nelson
11. Donna Anwiler	Donna Anwiler Vancouver 30148 Ed	Donna Anwiler
12. Melinda Muller	11807 SW Windmill Beaverton 98661 Ed	Melinda Muller
13. LARRY R. TOFTE	P.O. BOX 5812 VANCOUVER, WA. 98668	L. R. Tofte
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To: Multnomah County Planning Commissioners  
2115 S.E. Morrison St.  
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- \*\*\* This development is totally out of character with the present zoning on Sauvies Island, which was implemented to preserve the pastoral nature of the dike and agricultural basis of its farmlands.
- \*\*\* The addition of 860 boat users, with their families and friends, will add an unacceptable burden to the two lane Sauvies Island Bridge. Peak use of the marina will coincide exactly with the heaviest use of other recreational uses of the island, and will make the wait to exit the island more than an hour in length.
- \*\*\* This development will permanently disrupt a complex riparian wildlife zone that supports an abundance of wildlife. It will be replaced with riprap and a road with parking lots, that will be in full view of the bridge and river. All existing vegetation will have to be bulldozed, creating a permanent concrete and riprap eyesore.
- \*\*\* If this zone change is allowed, there is nothing to stop the rest of the dike and island to sell out to similar developers. This will forever change the character of the island as farmland and wildlife refuge.
- \*\*\* Maintaining a 600 boat storage facility (represented in the Alder Creek Marina proposal as 400' long, 200' wide and 40' high) with fuel dock, restaurant and fuel tanks, represents a significant fire and explosion danger to residents, marina users and the bridge. The area is only serviced by a volunteer fire department made up of island residents, who are not specifically trained to deal with such a complex fire hazard.
- \*\*\* Commercial navigation would be severely hampered by this development, which would extend over more than 1/2 the width of the channel. Increased small boat traffic in this area would further endanger commercial navigation, as well as increase congestion and accidents on the water in this busy and narrow area of the channel
- \*\*\* This proposal violates the Willamette River Greenway Policies and the Oregon Comprehensive Plan and should not be allowed to proceed.

I, the undersigned, am opposed to the Alder Creek Marina. Furthermore, I do not feel that the present zoning of the dike should be changed to allow for any marina developments.

NAME (PRINTED)	ADDRESS	SIGNATURE
1. Judith Sullivan	1441 W McClellan, Pd 97217	Judith Sullivan
2. Lucia Lindborg	4432 NE 39th Pd.	Lucia Lindborg
3. Donna Pinner	6940 S.W. Canyon Rd Pd	Donna Pinner
4. Susan Rohrer	11793 SE 22nd Boring, OR	Susan Rohrer
5. Karen Bense	2230 SW 85th Ave Portland OR	Karen Bense
6. Vick. G. Hafitz	16860 N.W. Johnson Beaverton OR	Vick. G. Hafitz
7. JAN DIMMITT	3735 NE 65 Pkld.	Jan Dimmitt
8. JAMES ECKDAHL	3415 SE 5th Portland, OR	James Eckdahl
9. Dan Markeson	9585 S.W. 146 Terr #1 Beaverton, OR	Dan Markeson
10. Steven Brown	32140 Viewcrest Dr. Warren, OR	Steven D. Brown
11. <del>THOMAS G. CARTER</del>		
12. THOMAS G. CARTER	15035 SE Monahan Rd Portland 97236	Thomas G. Carter
13. Pittenger, Alice	01110 S.W. Comus Port. Ore. 97219	Alice Pittenger
14. Robert Pittenger	01110 SW Comus Port OR 97219	Robert Pittenger
15. Nancy J. Kiyokawa	2048 N Terry St Portland OR 97217	Nancy J. Kiyokawa
16. Katherine I. Edwards	3808 SE 65th Portland, OR 97206	Katherine I. Edwards
17. JEAN BOWERS-BIASI	4412 SE CLINTON PORTLAND 97206	Jean Bowers-Biasi
18. SHEILA JWILCOXSON	4726 NE 18th Pkld, OR 97211	Sheila Wilcoxson
19. Jeffrey Robertson	4520 SE 44th Portland, OR 97206	Jeffrey Robertson
20. GIA ST. DENIS	132 S.E. 30th PORTLAND OR 97214	Gia St. Denis
21. LAWRENCE IRENE	2361 NW PETTY GROVE #16 PTSD 97210	Lawrence M. Irene
22. GINNY HEFFER	7660 SW BEL-AIRE DR. BEAVERTON, OR 97005	Virginia Heffer
23. Charlyce Knight	3971 SE Lincoln Portland OR 97214	Charlyce Knight
24. Gerald Kiyokawa	2048 N Terry Portland 97217	Gerald Kiyokawa
25. Edward Calligate	2021 SE Oak St #5 Portland, OR 97214	Edward Calligate

Multnomah Co. Commissioners  
1021 SW 4th  
Portland OR 97201

June 21, 1991

Dear Commissioners:

I am writing to express my concern and <sup>opposition</sup> to the proposed Alder Creek Marina on Sauvie's Island. The marina would be unsightly, and add to traffic, air & water & noise pollution problems in the area. The enormous volume of people, car traffic, and boat traffic would be more than this area could accommodate, and a change in zoning would bring about the possibility of more large commercial developments.

Sauvie's Island is unique because it is largely undeveloped, and still within reach of a growing metropolitan area. It is a refuge for wildlife, and a resource for all of us as an unspoiled natural wonder. Let's not sell out our scenic & natural areas for economic profits, but uphold the current zoning ordinances that protect this land for present & future Oregonians.

Sincerely,

Kathleen Baldwin  
18525 NW Sauvie Island Rd.  
Portland OR 97231  
(503) 621-3750

BOARD OF  
COUNTY COMMISSIONERS  
1991 JUL - 1 11 33 AM  
MULTNOMAH COUNTY  
OREGON



JUNE 19, 1991

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, OR 97214

CLERK OF  
COUNTY COMMISSIONERS  
1991 JUN 20 PM 1:56  
MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

It has come to my attention that a huge Marina project called Alder Creek Marina is proposed on the Sauvies Island dike. I favor retaining our world in as natural a state as possible. I think that the zoning change that is requested to allow such a mega monster should be denied.

The purpose of this letter is to add my voice to many others who feel as I do. There is a long list of reasons why this area should not be further developed. I will list a few.

1. Development would commercialize what is now a rural an agriculture area.
2. The wildlife corridor that exists along the shore of Sauvies Island would be destroyed.
3. Increase traffic on the bridge which is already very busy. This would not only be inconvenient for the current users but would create unsafe conditions.
4. Another safety and environmental issue is the added boat traffic to the river along with the hazard of the proposed floating gas station.

We need to leave some natural areas for future generations. Please disallow the zone change request.

I would like to be advised of any hearing that might occur on this subject so I could plan to present.

Yours very truly,



Wes Bevens  
10 N.E. 24 Ave  
Portland, OR 97232



BCC

8245 SW BARNES ROAD

PORTLAND, OREGON 97225

503 297-5544

June 26, 1991

Multnomah County Planning Commission  
Multnomah County Department of Environmental  
Services  
Division of Planning and Development  
2115 SE Morrison Street  
Portland, OR 97214

Dear Commissioner:

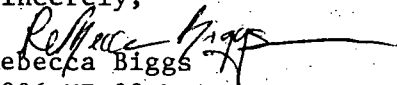
I am a fairly new resident of Portland but a year has been plenty of time for me to discover the beauty of Sauvies Island. I write to you today to express my opposition to the proposed Alder Creek Marina on the Sauvies Island dike. Like many others, I feel very strongly that a development of this kind is in direct opposition to this special area.

This proposed marina will disturb an important wildlife corridor; it will disrupt a scenic retreat with buildings and floating structures; and it would cause congestion and traffic in an already popular area. In short, this marina would seriously harm this special place.

The Multnomah County Planners and Commissioners must balance the needs of the few with the rights of all Oregonians to preserve for future generations the natural and rural characteristics of our waterways and farmlands. The Willamette River Greenway Policies and Oregon Comprehensive Plan were enacted to protect the public at large from unsightly and inappropriate developments along the scenic waterways of Multnomah Channel. Siting the Alder Creek Marina in its proposed site is in direct conflict with both of these important Land Use Documents and represents an attempt to sell out our scenic and natural resources for profits and narrowly conceived ventures.

Like many, I believe public interest will best be served by disallowing any zoning changes along the Sauvies Island dike that would allow for this or any other marina to proceed.

Sincerely,

  
Rebecca Biggs  
2836 NE 28th Avenue  
Portland, OR 97212

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, OR 97201

BOARD OF  
COUNTY COMMISSIONERS  
1991 JUL - 8 AM 11:34  
MULTNOMAH COUNTY  
OREGON

BCC

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

BOARD OF  
COUNTY COMMISSIONERS

1991 JUN 12 PM 12:21

MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

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Sincerely,



cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

BCC

BOARD OF  
COUNTY COMMISSIONERS

Multnomah County Planning Commission

Multnomah County Department of Environmental Services 1991 JUN 18 PM 3:30

Division of Planning and Development

2115 S.E. Morrison St.

Portland, Oregon 97214

MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

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Sincerely,



cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

BCC

BOARD OF  
COUNTY COMMISSIONERS

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

1991 JUN 14 PM 1:47  
MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

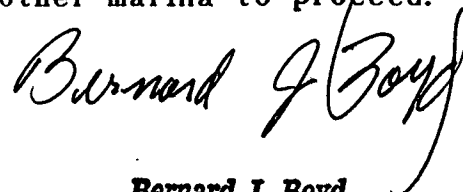
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Sincerely,



cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

Bernard J. Boyd  
14485 SW. Surrey  
Beaverton, OR 97006

BCC

BOARD OF  
COUNTY COMMISSIONERS

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

1991 JUN 14 PM 1:47

MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

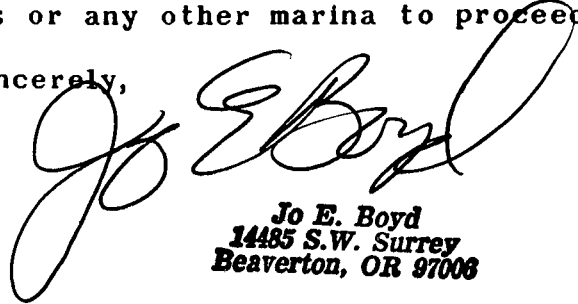
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Sincerely,



Jo E. Boyd  
14485 S.W. Surrey  
Beaverton, OR 97008

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

BCE

BOARD OF  
COUNTY COMMISSIONERS

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

1991 JUN 18 PM 3:30

MULTNOMAH COUNTY  
OREGON

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Sincerely,

*Patricia O. Carter*

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

BOARD OF  
COUNTY COMMISSIONERS  
1991 JUL - 1 AM 9:30  
MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

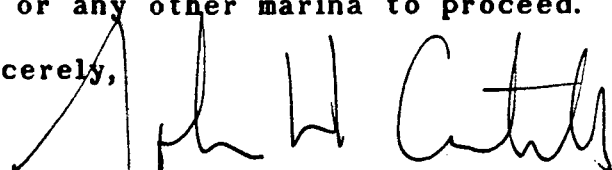
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Sincerely,



1852 SE ELLIOTT  
PORTLAND, OR 97214

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201



BCC

BOARD OF  
COUNTY COMMISSIONERS

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

JUN 18 PM 3:29  
MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

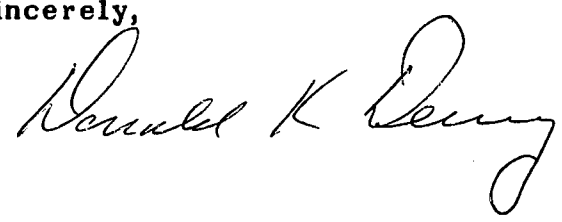
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Sincerely,



cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

1991 JUN 25 AM 8:43  
MULTNOMAH COUNTY  
OREGON  
BOARD OF  
COUNTY COMMISSIONERS

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Sincerely,

*Bryan Devaney*

(BRYAN DEVANEY).

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

BRYAN DEVANEY  
120 NW TRINITY PL. #407  
PORTLAND, OR 97209

BOARD OF  
COUNTY COMMISSIONERS  
1991 JUL - 1 AM 9:37  
MULTNOMAH COUNTY  
OREGON

June 21, 1991

Multnomah County Planning commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 SE Morrison St.  
Portland, OR 97214

Dear Commissioner:

I am a concerned Oregon citizen who would like to express my opposition to the proposed Alder Creek Marina on the Sauvies Island dike outside of Portland, Oregon. It is my opinion that allowing such a development is not consistent with the rural and agricultural nature of the area, and will serve to endanger the scenic and wildlife resources of this popular recreational destination.

The proposed Marina will be sited on the pastoral and natural environment of the Sauvies Island dike, and will disrupt an important wildlife corridor along the shore of Sauvies Island. The Marina will introduce a variety of large and unsightly floating structures into an area now characterized by log rafts and natural vistas on the east side of Multnomah Channel. This project would establish new and disturbing precedents for similar enterprises along the Sauvies Island dike, and for double loading of floating structures along the Multnomah Channel. This area is attractive to boaters, wildlife enthusiasts, bicyclers, and other recreational users because of its largely undeveloped and natural character; the proposed Alder Creek Marina will be a high intensity visually disruptive and physically domineering development that would destroy the character of this unique natural area.

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considering its fire and explosion potential, its proximity to the bridge and its servicing by only a local volunteer fire department. Thirdly, the commercial navigational channel would be severely compromised by this development, and the influx of 860 regular boat users into this popular area would cause dangerous waterborn congestion and accidents.

The Multnomah County Planners and Commissioners must balance the needs of the few with the rights of all Oregonians to preserve for future generations the natural and rural characteristics of our waterways and farmlands. The Willamette River Greenway Policies and Oregon Comprehensive Plan were enacted to protect the public at large from unsightly and inappropriate developments along the scenic waterways of Multnomah Channel. Siting the Alder Creek Marina in its proposed site is in direct conflict with both of these important Land Use Documents and represents an attempt to sell out our scenic and natural resources for economic profits and narrowly conceived ventures. The public interest will best be served by disallowing any zoning changes along the Sauvies Island dike that would allow for this or any other marina to proceed.

Yours very sincerely,

Charles A. Fagan, M.D.  
CAF/gjb

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, OR 97201

BCC

GLADYS MCCOY  
MULTNOMAH COUNTY CHAIR  
1021 SW 4th, ROOM 134  
COUNTY COMMISSIONER 97204  
6/12/91

1991 JUN 12 PM 12:23

MULTNOMAH COUNTY  
OREGON

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

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Sincerely,

Barry Green  
20531 NW  
Sauvie Island Road  
Astl, Oregon, 97231

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

BOARD OF  
COUNTY COMMISSIONERS  
1991 AUG - 1 AM 11:44  
MULTNOMAH COUNTY  
OREGON

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Sincerely,

*Michael H. Harris*

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

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Sincerely,

*Polly Hallbrook*  
15200 NW Buslington CT  
Portland, OR 97231

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201



Audubon Society of Portland

5151 N.W. Cornell Road  
Portland, Oregon 97210  
503-292-6855

*BCC*



BOARD OF  
COUNTY COMMISSIONERS

1991 JUL -9 AM 10:10

June 27, 1991

MULTNOMAH COUNTY  
OREGON

Multnomah County Planning Commission  
2115 S. E. Morrison  
Portland, Oregon 97214

I would like to submit the following comments regarding the proposed Alder Creek Marina boat house development on Sauvie Island's Multnomah Channel. Portland Audubon Society opposes the requested Comprehensive Plan change that would allow the proposed facilities on the island side of the channel. There are other areas on the channel that are already properly zoned for these uses and we oppose any additional portions of the channel being designated for a use that involves 856 boat houses and 480 parking sites.

While we oppose this specific project I would like to, once again, raise a bigger issue that needs resolution before similar development proposals come before the Planning Commission. For years we have discussed the need to reassess the natural resource values of Multnomah Channel and revisit the current zoning for house boats and boat facilities along the channel. We recommend that the County institute a moratorium on channel-related development until a full analysis of Goal 5 and Goal 15 resources has been completed for the channel. Under your current provisions it is not difficult to envision a future time when the entire Multnomah Channel's western bank is committed to boat houses and house boats and similar facilities.

The County is currently involved in a cooperative effort to acquire and manage the large wetland area known as Burlington Bottoms. This site lies immediately adjacent to and is biologically related to the channel. In our opinion the County needs to address Willamette Greenway, Goal 15 and Goal 5 issues that have not been adequately addressed in the past. This information should be incorporated into the on-going Lower Willamette River Management Plan effort being conducted by the Oregon Division of State Lands. We urge the Planning Commission to direct staff to undertake a comprehensive analysis of natural resource values of the Multnomah Channel prior to issuance of any Comprehensive Plan changes or permits to establish new house boat or boat house facilities.

Respectfully Submitted,  
Michael C. Houck

*Mike Houck*

cc John Lilly, DSL  
Multnomah County Commissioners

Phillip Johnson  
1230 S.E. 30th Ave.  
Portland, OR 97214  
238-4450

June 20, 1991

Multnomah County Board of Commissioners  
1021 S.W. 4th  
Portland, OR 97201

BOARD OF  
COUNTY COMMISSIONERS  
MULTNOMAH COUNTY  
OREGON  
1991 JUN 24 PM 1:35

Dear Chairwoman McCoy and other commissioners:

I am writing to express my opposition to the proposed Alder Creek Marina on Sauvies Island. A request for a comprehensive plan amendment and zoning change will come before the Board on July 1.

I am writing purely as a concerned citizen, with no direct stake in the matter. Like many, many other Portland-area residents, I visit the island occasionally for bicycling and wildlife viewing, and would be very sorry if it became more crowded and urbanized. I am also slightly acquainted with a couple of people who have houseboats in the area, and know how upset they are at the proposal--I sympathize, because while existing houseboat developments are low-key and have evolved over time, the proposed marina is a huge development which will be ugly, disruptive and involve constant coming and going. Still, if this were otherwise an appropriate development, I would not consider these to be legitimate objections.

As one who strongly supports Oregon's land-use laws, and indeed feels that they should be even stronger, I recognize that greater urban density is a critical trade-off. Once upon a time, I had a knee-jerk reaction to big new developments that might change urban neighborhoods. I have since come to realize that in order to fight for preservation of farmland and rural landscapes we have to actively encourage greater density at appropriate sites within cities.

In light of this, however, I would say firmly that the proposed marina is not at all the right kind of development. We need close-in development that fits well with mass transit patterns (present or future), that advances the goal of locating housing close to jobs, that links up with other dense development to create patterns of retail, recreation, etc. that work, and that does not intrude on rural areas. The marina fails on every count--it is the worst possible kind of development. People who live there will be continually commuting by car into the city for everything: work, shopping and play. It is not a type of housing that makes sense for anyone trying to lead a genuinely urban life while reducing energy use. Obviously, it won't be providing a mix

(cont.)

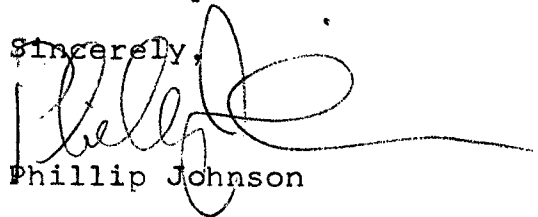
Phillip Johnson  
Letter on proposed marina--2

of low and moderate-income housing. And it will intrude on the character of a rural area--the marina may not remove any actual agricultural land from production, but by bringing a great deal of traffic and non-rural residents to the area, it will set up all the conflicts that plague urban fringes where suburbanite newcomers want the peace of the country but can't accomodate the real, working world of an agricultural area. If this were an appropriate development in the middle of the city, I would reject the views of local opponents as being of the NIMBY variety--but in this case, speaking as someone whose backyard it isn't, the opponents are entirely right.

Meanwhile, the development is at best dubious, and perhaps really harmful, environmentally. There is at least the potential for disrupting wildlife movements up and down river--all the more so if this becomes a precedent for further development along the dike. Larger numbers of people on the island could overwhelm habitat areas in the interior of the island as well. While I don't think any wetlands are directly threatened, this will create a concentrated source of oil and gas spillage and other forms of pollution and just plain litter which could have an effect on specific areas downstream, depending on particular current patterns at particular times of year. In general, while the Columbia is the second best-flushed riverine system on the continent, no aquatic system benefits from more pollutants, and in an overcrowded world groaning with environmental problems, the day of people indulging themselves in completely unnecessary development with a direct impact on rivers should be over.

For all these reasons, I strongly urge that you reject this marina proposal outright, and all similar proposals in the future. Work closely with the city on planning development that works for all city residents, rather than providing an environment-abusing refuge for the wealthy few.

Sincerely,



Phillip Johnson

BCC

BOARD OF  
COUNTY COMMISSIONERS

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

JUN 18 PM 3:30  
MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

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Sincerely,



cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

BCC

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

BOARD OF  
COUNTY COMMISSIONERS

JUN 18 PM 3:29

MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

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Sincerely,



cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

OVER

The Mutnohmah Channel is a beautiful expression of nature accented by farms and its sparsely populated shore; all within a arms-reach of downtown Portland. After a hard-days work there is nothing more wonderful than taking a canoe paddle along its shores. Allowing the development of the Alder Creek Marina would be like **turning Forest Park into a parking lot**.

I am firmly opposed to the development of Alder Creek Marina. It will only profit a small number while taking from the enjoyment of many. If a real need exists for more moorage space, I feel there are locations along the Willamette or Columbia rivers which would better harmonize with their existing environments.



Alfred Christopher Jolley  
6230 NE Alberta St-  
Portland, OR 97218

telephone/answering machine/fax  
503-288-7747

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

BOARD OF  
COUNTY COMMISSIONERS

1991 JUN 24 AM 11:01

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MULTNOMAH COUNTY  
OREGON

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Sincerely,

*Synda K. Lemerson*  
17155 SW Pike St  
Aloha, OR 97007

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

Multnomah County Board of Commissioners  
1021 S.W. 4th  
Portland, Oregon 97201

*July 11, 1991*

BOARD OF  
COMMISSIONERS  
1991 JUL - 3 AM 9:03  
MULTNOMAH COUNTY  
OREGON

Regarding: Alder Creek Marina- Sauvie Island

Dear Commissioners:

We are writing to you because of our concern that there may be the chance that this moorage project could be approved.

We have been residents of Sauvie Island for 6 years and have spent considerable time on the water at Multnomah channel. Our concerns have been for safety on the channel for sometime, due to the building construction and old docks the Larsons have towed and cast aside in the channel. We can just imagine if legal approval was given for a project this size what we might be looking at.

Im sure you are aware of the traffic problem we have on the island already, sometimes this bridge is just not adequate to handle the traffic and large trucks that work out of Alder Creek Lumber and the produce farms.

We also live on the Willametter River and we know how closely the Corp of Engineers protect this dike, they have been very restrictive as to any project we might want to take on, and in view of this I do not see how they could possibly give approval for this moorage. If so, Im sure many people who live on the river might be interested in having small boat moorages in front of their homes.

Im sure you have heard the arguments to protect the wildlife and the enviroment and keep within the laws and plans for exclusive farm use, which are also important, but our main concern is safety and the traffic problem.

We also feel that the Larson family have adequate development and income from a large business at this time, to go on to a development of this size would be another Jantzen Beach type of eye sore.

Needless to say our vote is a strong NO and we trust with all your insight and experience you will appreciate our concerns.

Sincerely,

*Mr & Mrs Ed Meredith*

Mr and Mrs Ed Meredith  
16144 N.W. Gillihan Road  
Portland, Oregon 97231



BCC ✓

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

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Sincerely,



cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

June 28, 1991

1991 JUL - 1 AM 9:51  
CLERK OF  
COUNTY COMMISSIONERS  
MULTNOMAH COUNTY  
OREGON

Multnomah County Planning Commission  
Division of Planning and Development  
2115 S.E. Morrison Street  
Portland, Oregon 97204

Re: Proposed Alder Creek Marina on Sauvie Island

Dear Commissioners:

As a homeowner on Sauvie Island and a lifelong Portland area resident, I was pleased to see the high quality of the Planning Department's Staff Report concerning the application for approval of the Alder Creek Marina on the Island. The report provides an excellent overview of the considerations relevant to the development of such a project.

The report recognizes that this project appears to afford economic benefits to a few at the cost of the many thousands who value Sauvie Island for the unique rural environment it provides within close proximity to a major metropolitan area. It would be disturbing to think that our community had decided that a parking lot for boats was more important than preserving prime farmland or habitat for bald eagles.

I urge you to adopt the recommendation of the Planning Staff and reject the application for the proposed Alder Creek Marina.

Very truly yours,



Elizabeth Newcomb  
19305 N.W. Reeder Road  
Portland, Oregon 97231

EN:pc11  
cc: Multnomah County Commissioners

6-28-91

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

Dear Commissioner:

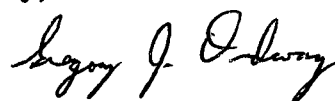
I am a concerned Oregon citizen who would like to express my opposition to the proposed Alder Creek Marina on the Sauvies Island dike outside of Portland, Oregon. It is my opinion that allowing such a development is not consistent with the rural and agricultural nature of the area, and will serve to endanger the scenic and wildlife resources of this popular recreational destination.

The proposed Marina will be sited on the pastoral and natural environment of the Sauvies Island dike, and will disrupt an important wildlife corridor along the shore of Sauvies Island. The Marina will introduce a variety of large and unsightly floating structures into an area now characterized by log rafts and natural vistas on the east side of Multnomah Channel. This project would establish new and disturbing precedents for similar enterprises along the Sauvies Island dike, and for double loading of floating structures along the Multnomah Channel. This area is attractive to boaters, wildlife enthusiasts, bicyclers, and other recreational users because of its largely undeveloped and natural character; the proposed Alder Creek Marina will be a high intensity, visually disruptive and physically domineering development that would destroy the character of this unique natural area.

Other problems inherent in this plan include the increased traffic that 860 boat users would cause on the Sauvies Island Bridge. The wait to exit the island already approaches one hour on summer days, and to exacerbate this further will negatively impact visitors, residents and commercial users alike. The safety of such a high density boat storage facility with fuel docks and storage tanks included is also questionable, especially considering its fire and explosion potential, its proximity to the bridge and its servicing by only a local volunteer fire department. Thirdly, the commercial navigational channel would be severely compromised by this development, and the influx of 860 regular boat users into this popular area would cause dangerous waterborn congestion and accidents.

The Multnomah County Planners and Commissioners must balance the needs of the few with the rights of all Oregonians to preserve for future generations the natural and rural characteristics of our waterways and farmlands. The Willamette River Greenway Policies and Oregon Comprehensive Plan were enacted to protect the public at large from unsightly and inappropriate developments along the scenic waterways of Multnomah Channel. Siting the Alder Creek Marina in its proposed site is in direct conflict with both of these important Land Use Documents and represents an attempt to sell out our scenic and natural resources for economic profits and narrowly conceived ventures. The public interest will best be served by disallowing any zoning changes along the Sauvies Island dike that would allow for this or any other marina to proceed.

Sincerely,



cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

Margaret Ann Phelan  
4403 NE 33rd  
Portland, OR 97211

July 2, 1991

BOARD OF  
COUNTY COMMISSIONERS  
1991 JUL - 5 PM 12:35  
MULTNOMAH COUNTY  
OREGON

Multnomah County Planning Commission  
Multnomah County Department of  
Environmental Services  
Division of Planning and Development  
2115 SE Morrison Street  
Portland, Oregon 97214

Dear Commissioners:

I am a concerned Multnomah County citizen who would like to express her opposition to the proposed Alder Creek Marina on the Sauvie Island dike outside of Portland, Oregon. It is my opinion that allowing such a development is not consistent with the rural and agricultural nature of the area and will serve to endanger the scenic and wildlife resources of this popular recreational destination. Moreover, there are more appropriate sites for this use.

The proposed marina will be sited on the pastoral and natural environment of the Sauvie Island dike and will disrupt an important wildlife corridor along the shores of Sauvie Island. The proposed marina will introduce a variety of large floating structures into an area now characterized by low lying log rafts and natural vistas on the east side of Multnomah Channel. The proposed marina would establish new and disturbing presence of similar enterprises along the Sauvie Island dike and would allow double loading of floating structures along Multnomah Channel. Another problem inherent in the plan is the increased traffic from 860 boat users entering and exiting Sauvie Island bridge. It has been my experience that the wait to exit the island on summer days can be extremely long. Increased use would only exacerbate this further, will negatively impact visitors, residents and commercial users alike and will likely require future expansion of the transportation facilities.

Further, the proposed marina will bring fuel docks, storage tanks and along with them fire and explosion potential.

Multnomah County Planning Department  
July 2, 1991  
Page 2

The proximity of the development to the only bridge and the servicing of this area by a local volunteer fire department will also create problems. Finally, the commercial navigational channel will be severely compromised by the proposed marina and the influx of the many boats into this popular area will cause congestion and accidents.

At present, this area is attractive to boaters, wildlife enthusiasts, farmers, bicyclers and other recreational users. It is unique because of its largely undeveloped and natural character. The channel is a peaceful, serene environment. The proposed marina would be a high intensity, visually disruptive and physically domineering development that would destroy this character.

I believe it is the duty of the Multnomah County Planners and Commissioners to balance the needs of all Oregonians. One of your important tasks is to preserve for future generations the natural and rural characteristics of our waterways, current natural areas and farm lands. The Willamette River Greenway Policies and Oregon Comprehensive Plan were enacted years ago to protect the public at large from this sort of development. Specifically, these plans and policies do not approve of this type of development along Multnomah Channel. The proposed marina represents an attempt to reap a small commercial benefit from one of our unique scenic and natural resources. I believe the public interest will be best served by disallowing any zoning changes along the Sauvie Island dike that would allow for this or any other marina to proceed.

Sincerely,



Margaret Ann Phelan

MAP:mfw

cc: Multnomah County Commissioners  
1021 SW Fourth Ave.  
Portland, Oregon 97201

BCC

BOARD OF  
COUNTY COMMISSIONERS

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

1991 JUN 14 PM 1:47

MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

I am a concerned Oregon citizen who would like to express my opposition to the proposed Alder Creek Marina on the Sauvies Island dike outside of Portland, Oregon. It is my opinion that allowing such a development is not consistent with the rural and agricultural nature of the area, and will serve to endanger the scenic and wildlife resources of this popular recreational destination.

The proposed Marina will be sited on the pastoral and natural environment of the Sauvies Island dike, and will disrupt an important wildlife corridor along the shore of Sauvies Island. The Marina will introduce a variety of large and unsightly floating structures into an area now characterized by log rafts and natural vistas on the east side of Multnomah Channel. This project would establish new and disturbing precedents for similar enterprises along the Sauvies Island dike, and for double loading of floating structures along the Multnomah Channel. This area is attractive to boaters, wildlife enthusiasts, bicyclers, and other recreational users because of its largely undeveloped and natural character; the proposed Alder Creek Marina will be a high intensity, visually disruptive and physically domineering development that would destroy the character of this unique natural area.

Other problems inherent in this plan include the increased traffic that 860 boat users would cause on the Sauvies Island Bridge. The wait to exit the island already approaches one hour on summer days, and to exacerbate this further will negatively impact visitors, residents and commercial users alike. The safety of such a high density boat storage facility with fuel docks and storage tanks included is also questionable, especially considering its fire and explosion potential, its proximity to the bridge and its servicing by only a local volunteer fire department. Thirdly, the commercial navigational channel would be severely compromised by this development, and the influx of 860 regular boat users into this popular area would cause dangerous waterborn congestion and accidents.

The Multnomah County Planners and Commissioners must balance the needs of the few with the rights of all Oregonians to preserve for future generations the natural and rural characteristics of our waterways and farmlands. The Willamette River Greenway Policies and Oregon Comprehensive Plan were enacted to protect the public at large from unsightly and inappropriate developments along the scenic waterways of Multnomah Channel. Siting the Alder Creek Marina in its proposed site is in direct conflict with both of these important Land Use Documents and represents an attempt to sell out our scenic and natural resources for economic profits and narrowly conceived ventures. The public interest will best be served by disallowing any zoning changes along the Sauvies Island dike that would allow for this or any other marina to proceed.

Sincerely,

*Margaret A. Purnis*

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

BOARD OF  
COUNTY COMMISSIONERS  
1991 JUN 24 PM 1:33  
MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

I am a concerned Oregon citizen who would like to express my opposition to the proposed Alder Creek Marina on the Sauvies Island dike outside of Portland, Oregon. It is my opinion that allowing such a development is not consistent with the rural and agricultural nature of the area, and will serve to endanger the scenic and wildlife resources of this popular recreational destination.

The proposed Marina will be sited on the pastoral and natural environment of the Sauvies Island dike, and will disrupt an important wildlife corridor along the shore of Sauvies Island. The Marina will introduce a variety of large and unsightly floating structures into an area now characterized by log rafts and natural vistas on the east side of Multnomah Channel. This project would establish new and disturbing precedents for similar enterprises along the Sauvies Island dike, and for double loading of floating structures along the Multnomah Channel. This area is attractive to boaters, wildlife enthusiasts, bicyclers, and other recreational users because of its largely undeveloped and natural character; the proposed Alder Creek Marina will be a high intensity, visually disruptive and physically domineering development that would destroy the character of this unique natural area.

Other problems inherent in this plan include the increased traffic that 860 boat users would cause on the Sauvies Island Bridge. The wait to exit the island already approaches one hour on summer days, and to exacerbate this further will negatively impact visitors, residents and commercial users alike. The safety of such a high density boat storage facility with fuel docks and storage tanks included is also questionable, especially considering its fire and explosion potential, its proximity to the bridge and its servicing by only a local volunteer fire department. Thirdly, the commercial navigational channel would be severely compromised by this development, and the influx of 860 regular boat users into this popular area would cause dangerous waterborn congestion and accidents.

The Multnomah County Planners and Commissioners must balance the needs of the few with the rights of all Oregonians to preserve for future generations the natural and rural characteristics of our waterways and farmlands. The Willamette River Greenway Policies and Oregon Comprehensive Plan were enacted to protect the public at large from unsightly and inappropriate developments along the scenic waterways of Multnomah Channel. Siting the Alder Creek Marina in its proposed site is in direct conflict with both of these important Land Use Documents and represents an attempt to sell out our scenic and natural resources for economic profits and narrowly conceived ventures. The public interest will best be served by disallowing any zoning changes along the Sauvies Island dike that would allow for this or any other marina to proceed.

Sincerely,

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

*Laura S. Kenberry*  
5107 NE 31  
PORTLAND, OR 97211

BCC

BOARD OF  
COUNTY COMMISSIONERS

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

1991 JUN 18 PM 3:30

MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

I am a concerned Oregon citizen who would like to express my opposition to the proposed Alder Creek Marina on the Sauvies Island dike outside of Portland, Oregon. It is my opinion that allowing such a development is not consistent with the rural and agricultural nature of the area, and will serve to endanger the scenic and wildlife resources of this popular recreational destination.

The proposed Marina will be sited on the pastoral and natural environment of the Sauvies Island dike, and will disrupt an important wildlife corridor along the shore of Sauvies Island. The Marina will introduce a variety of large and unsightly floating structures into an area now characterized by log rafts and natural vistas on the east side of Multnomah Channel. This project would establish new and disturbing precedents for similar enterprises along the Sauvies Island dike, and for double loading of floating structures along the Multnomah Channel. This area is attractive to boaters, wildlife enthusiasts, bicyclers, and other recreational users because of its largely undeveloped and natural character; the proposed Alder Creek Marina will be a high intensity, visually disruptive and physically domineering development that would destroy the character of this unique natural area.

Other problems inherent in this plan include the increased traffic that 860 boat users would cause on the Sauvies Island Bridge. The wait to exit the island already approaches one hour on summer days, and to exacerbate this further will negatively impact visitors, residents and commercial users alike. The safety of such a high density boat storage facility with fuel docks and storage tanks included is also questionable, especially considering its fire and explosion potential, its proximity to the bridge and its servicing by only a local volunteer fire department. Thirdly, the commercial navigational channel would be severely compromised by this development, and the influx of 860 regular boat users into this popular area would cause dangerous waterborn congestion and accidents.

The Multnomah County Planners and Commissioners must balance the needs of the few with the rights of all Oregonians to preserve for future generations the natural and rural characteristics of our waterways and farmlands. The Willamette River Greenway Policies and Oregon Comprehensive Plan were enacted to protect the public at large from unsightly and inappropriate developments along the scenic waterways of Multnomah Channel. Siting the Alder Creek Marina in its proposed site is in direct conflict with both of these important Land Use Documents and represents an attempt to sell out our scenic and natural resources for economic profits and narrowly conceived ventures. The public interest will best be served by disallowing any zoning changes along the Sauvies Island dike that would allow for this or any other marina to proceed.

Sincerely,

*Barbara Rawls*

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

Barbara Rawls  
0215 S.W. Gaines  
Portland, OR. 97201



BCC

BOARD OF  
COUNTY COMMISSIONERS

Multnomah County Planning Commission

Multnomah County Department of Environmental Service 1991 JUN 18 PM 3:30

Division of Planning and Development

2115 S.E. Morrison St.

Portland, Oregon 97214

MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

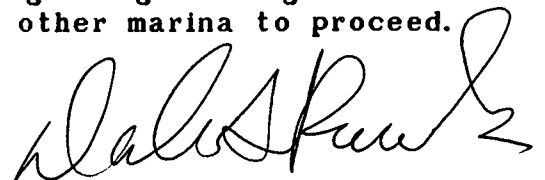
I am a concerned Oregon citizen who would like to express my opposition to the proposed Alder Creek Marina on the Sauvies Island dike outside of Portland, Oregon. It is my opinion that allowing such a development is not consistent with the rural and agricultural nature of the area, and will serve to endanger the scenic and wildlife resources of this popular recreational destination.

The proposed Marina will be sited on the pastoral and natural environment of the Sauvies Island dike, and will disrupt an important wildlife corridor along the shore of Sauvies Island. The Marina will introduce a variety of large and unsightly floating structures into an area now characterized by log rafts and natural vistas on the east side of Multnomah Channel. This project would establish new and disturbing precedents for similar enterprises along the Sauvies Island dike, and for double loading of floating structures along the Multnomah Channel. This area is attractive to boaters, wildlife enthusiasts, bicyclers, and other recreational users because of its largely undeveloped and natural character; the proposed Alder Creek Marina will be a high intensity, visually disruptive and physically domineering development that would destroy the character of this unique natural area.

Other problems inherent in this plan include the increased traffic that 860 boat users would cause on the Sauvies Island Bridge. The wait to exit the island already approaches one hour on summer days, and to exacerbate this further will negatively impact visitors, residents and commercial users alike. The safety of such a high density boat storage facility with fuel docks and storage tanks included is also questionable, especially considering its fire and explosion potential, its proximity to the bridge and its servicing by only a local volunteer fire department. Thirdly, the commercial navigational channel would be severely compromised by this development, and the influx of 860 regular boat users into this popular area would cause dangerous waterborn congestion and accidents.

The Multnomah County Planners and Commissioners must balance the needs of the few with the rights of all Oregonians to preserve for future generations the natural and rural characteristics of our waterways and farmlands. The Willamette River Greenway Policies and Oregon Comprehensive Plan were enacted to protect the public at large from unsightly and inappropriate developments along the scenic waterways of Multnomah Channel. Siting the Alder Creek Marina in its proposed site is in direct conflict with both of these important Land Use Documents and represents an attempt to sell out our scenic and natural resources for economic profits and narrowly conceived ventures. The public interest will best be served by disallowing any zoning changes along the Sauvies Island dike that would allow for this or any other marina to proceed.

Sincerely,



cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

Dale Rawls  
0215 SW Gaines  
Portland OR 97201

BCC

CLERK OF  
COUNTY COMMISSIONERS  
1991 JUN 12 PM 12:21  
MULTNOMAH COUNTY  
OREGON

SCAPPOOSE CHIROPRACTIC CLINIC

P.O.BOX 1108

SCAPPOOSE, OREGON 97056

5 0 3 - 5 4 3 - 3 1 9 5

JUNE 10, 1991

MULTNOMAH COUNTY COMMISSIONERS  
1021 SW 4TH  
PORTLAND, OREGON 97201

DEAR COMMISSIONER:

I WOULD LIKE TO REGISTER, AS A MATTER OF RECORD, MY OPPOSITION TO THE PROPOSED ALDER CREEK MARINA ON SAUVIES ISLAND AT THE UPPER END OF MULTNOMAH CHANNEL. IT IS MY OPINION THAT THE PROPOSED SITE LOCATION WOULD BE GROSSLY DISRUPTIVE TO THE NATURAL RIPARIAN ENVIRONMENT AND THE OVERALL RURAL NATURE OF THE AREA. IT APPEARS THIS SITING GREATLY CONFLICTS WITH WILLAMETTE RIVER GREENWAY POLICIES AND OREGON COMPREHENSIVE PLAN AS WELL. I FEEL THAT THE PRESENT EFU ZONING DESIGNATION IS APPROPRIATE AND SHOULD BE UPHELD.

FOR YEARS I HAVE VISITED SAUVIES ISLAND TO PARTAKE OF ITS AGRICULTURAL RESOURCES, NATURE HIKES, AND CYCLING. I HAVE TRAVERSED MULTNOMAH CHANNEL HUNDREDS OF TIMES BY BOAT. SITING THE ALDER CREEK MARINA AT ITS PROPOSED LOCATION WOULD FOREVER DESTROY THE ASTHETIC NATURE AND PEACEFUL ATTITUDE OF THIS IMPORTANT AREA. I KNOW I SPEAK FOR HUNDREDS OF PEOPLE WHO REGULARLY VISIT THIS PLACE FOR SIMILAR PURPOSES. PLEASE ENSURE THE CONTINUED PRESERVATION OF THIS AREA AS WAS INTENDED BY THE PRESENT ZONING CLASSIFICATION SO THAT IT MAY CONTINUE TO NURTURE THE PEOPLE OF THIS REGION FOR GENERATIONS TO COME.

SINCERELY,

  
STEPHEN SCHEER D.C., F.A.C.O.

GLADYS MCCOY  
MULTNOMAH COUNTY CHAIR  
1021 S.W. 4th, ROOM 134  
PORTLAND, OREGON 97204

6/7/91

May 31, 1991  
Jodeanne Bellant Scheer M.D.  
14956 N.W. Mill Road  
Portland, Oregon 97231

Multnomah County Board of Commissioners  
1021 SW 4th  
Portland, Oregon 97201

Dear Commissioner McCoy:

I am writing to state my extreme opposition to the proposed Alder Creek Marina on the Sauvies Island Dike in Portland, Oregon. Ken and Pattye Larson have recently submitted a proposal for a Comprehensive Plan Amendment, a Change of Zone Classification, a Community Service Use Request and a Willamette River Greenway Request for the area proposed for the Alder Creek Marina, and these requests will be heard at the July 1, 1991 Multnomah County Commissioner Board meeting.

I am a houseboat resident of 10 years at Bridgeview Moorage on Multnomah Channel across from the Alder Creek Site, and I feel that this project will severely alter the scenic and natural environment of the Sauvies Island dike, and will be detrimental to the liveability and wildlife potential of the area.

The various design features of the Alder Creek Marina which are the most objectionable include: the plan to place the nearly mile long road and parking lot on the channel side of the river; the encroachment of the project 250' into the channel, thereby obstructing over one-third of the width of the channel; the multiple stacking of houseboats and boat houses on both sides of the channel so as to set a precedent for such "Hayden Island" types of development along the rest of the Sauvies Island dike; the addition of 500 parking spaces and 800 boat slips which will nearly double the traffic across the Sauvies Island Bridge, compounding an already difficult traffic problem; and the deprivation of a natural and scenic view to the general public, and the disruption of a wildlife corridor along the riparian shoreline on Sauvies Island for nearly a mile of its presently untouched waterfront.

The size and scope of this development places it clearly out of the context of the neighboring moorages and marinas, as well as creating a precedent for double loading houseboats and boathouses on the channel. Most local residents have chosen to live along Multnomah Channel simply because of its scenic vistas and low key development. Recreational boaters and visitors alike are drawn to the area because of its natural scenic beauty and wildlife, and will not react positively to a marina operation as disruptive and unappealing as this plan. For example, placing the nearly one mile of roadway and parking in clear view of the river will create an irreparable eyesore and will detract greatly from the scenic value of the area. The current dike and shoreline vegetation and trees will have to be completely cut down and bull-dozed in order to site this road, which will lie within the flood-plain. The dike is currently part of an uninterrupted riparian corridor that will be severely disrupted as a result of this road and parking development.

Additionally, placing the dock fingers 250' into Multnomah Channel will fill up nearly one-third of the entire Channel, obliterating the scenic and navigational features of the Multnomah Channel in this area, as seen from the water, the bridge and local residences. There will be left only a minimum commercial right of way in the middle of the channel and this will make tug work more dangerous to all of us along the channel. Scenically, our current views of a riparian shoreline, nesting birds, natural vegetation, endangered deer and other wildlife, and open water will be replaced with an ugly mix of aluminum siding, dock works, gigantic waterborn storage sheds and fuel docks. This does nothing to serve the public trust.

Lastly, the placement of a 800 boat marina with parking for 500, puts a tremendous toll on the Sauvies Island Bridge, where we local residents must already wait for up to one hour on summer afternoons to exit the island because of traffic congestion. There are currently 1200 Island residents (450 households), and over 600,000 car trips to the island each year. About 37% of these trips are residential, and 26% commercial; the remainder are recreational visits. By adding 800 boats with access only from the narrow (35') two lane bridge, the magnitude of the traffic problem will only magnify. Additionally, the periods of highest use of the marina will coincide exactly with the times of highest use of other recreational sites on the island, and the wait to get off the island will approach the unfathomable.

In summary, I oppose the Alder Creek Marina for many sound reasons, not the least being the desire to protect our agricultural lands and to preserve the natural and recreational potential of our scenic waterway along Multnomah Channel. I have enclosed in this letter my specific concerns for this development project as they pertain to the Larson's Application for the Comprehensive Plan Amendment and compliance with the Statewide Goals, and to Section 11.15.6372 of the Greenway Design Plan. It is my opinion that the Alder Creek Marina does not fulfill the necessary requirements of these goals and plan, and that the proposed zoning changes should be denied. The last section on my comments pertain to liveability issues surrounding this development project and the appropriateness of its siting.

I would greatly appreciate your attention to these details, and would appreciate receiving a copy of your Staff Report 7 days prior to the July 1, 1991 meeting. Thank-you very much for your attention to my concerns.

Sincerely yours,

*Jodeanne Bellant Scheer MO*  
Jodeanne Bellant Scheer M.D.

OBJECTIONS TO THE PROPOSED ALDER CREEK MARINA WITH REGARDS TO THE STATEWIDE PLANNING GOALS AND ITS APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT.

The following is a discussion of the various reasons why I feel that the Larson application does not meet the criteria for a Comprehensive Plan Amendment. These objections are listed separately below, and pertain to how this proposed amendment is not consistent with the Statewide Planning Goals.

1. Goal 3: To preserve and maintain agricultural lands.

Findings: The Larson application states that the subject property is "irrevokably committed to non-agricultural use" because of its proximity to the two industrial sites on the North end of Sauvies Island. How, then does one explain the use of said lands for cattle grazing, and the use of similar lands at the north end of subject property that have been successfully planted in vegetable crops over the past ten years?? It seems that the Larsons have deemed these lands as "irrevokably committed to non-agricultural use" to suit their own designs. The best use of this property, and one in concert with the wishes and intent of the Oregon State Land Conservation and Development Department, as well as the Statewide Planning Goals, is to leave it in its current zoning of EFU (exclusive farm use).

2. Goal 5: To conserve open space and protect natural and scenic resources.

Findings: The Alder Creek Marina will physically and visually disrupt approximately one mile of "open space" along the Sauvies Island dike. This area of the dike is an important natural and scenic resource that will be drastically altered and ruined by the presence of a road, marina, and building site along its course. The dike is a contiguous riparian habitat along the entire shoreline of Sauvies Island, with only several small exceptions. To allow development of the dike is to set a dangerous precedent, that will lead to drastically decreased open spaces, and natural and scenic resources along the Multnomah Channel. In addition, by extending the waterborn marina 250' into the channel, the natural open space on the water will be obliterated and replaced by large, unsightly floating structures.

3. Goal 8: To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Findings: I agree that Sauvies Island and Multnomah Channel possess very unique physical characteristics that make them very attractive recreation destinations near the Portland metropolitan area. It is specifically because the island has preserved its shoreline in a natural state that makes this area so attractive to recreational boaters, bird watchers, hikers, photographers, sight-seers, and etc. To begin to develop the dikes with unsightly water-related businesses detracts from the very scenic and recreational potential that the Island and Channel are known for.

Boaters are already well serviced with two public boat launches on Sauvies Island, and three private boat launches/dry docks, two fuel docks, two store/tackle shops, and numerous boat slips at 6-8 different marinas all within the immediate vicinity of the Sauvies Island Bridge on the mainland side of the Channel. The addition of more marina services in this area to the detriment of nearly a mile of undisturbed shoreline on Sauvies Island, is certainly servicing the needs and economic futures of a few, to the detriment of the larger public body of boaters and recreational users who value Sauvies Island for its natural and scenic treasures.

4. Goal 15: To protect, conserve, enhance, and maintain the natural, scenic historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Findings: I do not believe that this Marina conforms to the Willamette River Greenway Policy. My findings show that at least 8 of the statutes within the Greenway Design Plan are not in compliance with this Marina's development plan. These findings are explained in the section that follows.

OBJECTIONS TO THE PROPOSED ALDER CREEK MARINA AND ITS APPLICATION TO THE  
WILLAMETTE RIVER GREENWAY POLICY.

The following is a discussion of the various sections of the Greenway Design Plan (MCC 11.15.6372) which I feel will not be adequately met by the Alder Creek Marina Development.

- C. Developments shall be directed away from the river to the greatest possible degree.

Findings: The placement of a road and parking lots on the river side of the dike provides for an unsightly and noisy development within clear view of the river for nearly one mile. This will be extremely disruptive to house-boat residents on the other side of the channel, to wildlife who generally use the dike at dusk and at nightfall, and to recreational boaters who use Multnomah Channel. If a road must be placed on this property, it should be placed on the other side of the dike to conform with this ruling.

In addition, this Marina impinges too heavily into the Multnomah Channel. All other marinas and developments along the Mainland side of the channel extend no more than 60' into the channel. This development project will extend 4 times that distance into the channel and will be grossly out of context to neighboring developments. This Marina calls for maximum over the water development, which is in direct conflict with the implied intent of this statute (ie to preserve the scenic and natural value of the shoreline.)

- D. Agricultural lands shall be preserved and maintained for farm use.

Finding: The lands on the dike are currently zoned as Agricultural Land, Exclusive Farm Use. For the past ten years, the dike on the subject site has been used for cattle grazing, which is a legitimate farm use. Other adjacent sites which are similar to the Alder Creek Site have been planted with vegetable crops each year. The Alder Creek Marina is asking for a zoning change because they claim the area is not useable for agricultural use, which is not true. The Oregon State Land Conservation and Development Department has made a clear mandate to counties to preserve agricultural lands. The County should uphold this mandate, and deny the zoning change requested by this applicant.

- 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.

Findings: The placement of the Alder Creek Marina displaces land used for farm uses. Also, area boaters are already well served in the immediate vicinity of the proposed marina by 3 boat ramps, 3 marinas, a fuel dock, and numerous boatslips. The County Commissioners need to balance the needs of the few (boat owners) with the needs of the public at large, who deserve to have the rural life, wildlife and natural recreation areas of Sauvies Island preserved. Multnomah Channel remains a popular boating area because of its natural riparian habitat. The south side of the Channel in this area is already developed with marinas and moorages. Let's not set a precedent to double load structures and create an unsightly "Hayden Island" type of development on Multnomah Channel.

- G. Significant fish and wildlife habitats shall be protected.

Findings: Having lived across from the Alder Creek Site for ten years, I have become acutely aware of the area's importance to local wildlife. The endangered Lower Columbia Black Tailed Deer are regularly sighted on this land, and bed down under trees and vegetation that will have to be removed for this development to occur. Other mammalian species regularly sighted on this land include: coyote, beaver, mink, river otter, muskrats, and other small rodents. Waterfowl are numerous and include: great blue herons, bald eagles, mallards, black ducks, mergansers, coots, cormorants, Canadian geese, common domestic geese, sea gulls, buffleheads, shovelers, teals, wood ducks, cranes and others. Numerous smaller songbirds and marsh birds frequent the area in abundance. The area is important as a feeding/breeding area during spring high waters, and as an integral part of the bi-annual fly-way for migrating waterfowl in the spring and fall.

The importance of this wildlife area is underscored in that it represents a continuous riparian habitat along the shores of Sauvies Island, which is interrupted only by the two existing moorage areas (Cove Marina and the multiple moorages adjacent to the Ferry Boat Ramp) and by a small area of the ~~down~~ river mill site. The two industrial sites at the north end of the island do not interfere physically with this natural corridor at the river's edge, even though they are adjacent to the Alder Creek Site.

In sum, the development of a people intensive site, with car traffic and parking on the Sauvies Island Dike, will deal a severe blow to the wildlife who frequent this area for nesting, breeding and feeding. There is virtually no way that the Alder Creek Marina can mitigate its negative impact on the riparian habitat of the Sauvies Island Dike under its current plan. Its presence will also set a dangerous precedent for further erosion of the scenic and wildlife potential of Sauvies Island. Additionally, the endangered Lower Columbia Black Tailed Deer will suffer another encroachment on its natural habitat, and be further compromised by the development of this marina.

- H. Significant natural and scenic areas and viewpoints and vistas shall be preserved.

Findings: The shores and riparian habitat on Sauvies Island are currently preserved in their natural state with 3 exceptions: the Cove Marina, the moorages located adjacent to the Ferry Boat Ramp, and a small area of the industrial wood mill site. The addition of nearly one mile of marina development on both sides of the Sauvies Island Bridge represents a severe encroachment on the scenic and natural areas and vistas for which Sauvies Island is known. There is a full 3 to 4 miles of marinas and moorages located on the mainland side of the channel in proximity to the Bridge, and to allow this to duplicate on the Sauvies Island side of the Channel would be in direct violation of this stipulation of the Greenway Design Plan.

Additionally, the development plan proposed for Alder Creek Marina by the Larsons include some of the most unsightly accumulations of structures and activities which can be found on the river. Boathouses are usually very large, aluminum boxes that are not very esthetically pleasing to view. The 550 boat storage unit, plus restaurant and fuel dock will require the building of a massive floating structure on the water. The continued presence of the Larson Marine Services Inc. on the site includes another visual, auditory and environmental eyesore on the waterfront. Extending the marina 250' into the channel obliterates anything but a small upriver view from the water, and an unsightly accumulation of buildings on the water from the bridge and upland areas. Finally, a road and parking lot for 500 cars within the direct view of the river and the bridge cannot be construed to be preserving the natural and scenic value of this area. I find this application to be in flagrant disregard of this statute.

- 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.

Findings: I have described in detail above how the Alder Creek Marina will disrupt a continuous riparian corridor which exists, and should be zealously maintained, on Sauvies Island. In addition, the construction of a road of nearly one mile in length along the channel side of the dike will necessarily disrupt both the vegetation and integrity the dike, harming both the scenic and wildlife potential of the land. The dike is



currently deeply sloped, and to construct a road with parking along the entire length of this property will necessitate grossly altering the nature of the dike. Siting a road on such an incline will require intensive digging, additions of rock, and cutting of most all existing trees and shrubs which currently grow on the channel side of the dike. This would make this area of the dike a visual eyesore from both the river and from the bridge and uplands. In addition, important habitat for the endangered Lower Columbia Black Tailed Deer will be irreparably damaged, as their browsing and bedding areas in the shoreline vegetation is removed and an influx of human activity invades the dike.

In his application, Mr. Larson claims that the erosion of the dike will be stabilized by the addition of riprap and other hard, viable substrates. I would like to comment that riprap is extremely unsightly, and that the removal of the current log-booms will expose the dike face to its most formidable erosion danger: wakes from the 800 boats which will be added to the Channel as they zoom in and out from their moorings. Mr. Larson also claims that the permanent removal of log storage will net a permanent reduction in the covered water area. I beg to differ with his reasoning. The current log booms have never covered an area close to what Mr. Larson intends to cover with his floating structures: a figure of around 429,000 square feet of open water. If this were not in itself bad enough, the floating structures will be a visual barrier up to 40' tall in places, and cannot be compared to the relatively low-lying log booms (no more than 3-4 feet from the level of the water). These kinds of visual barriers do nothing to screen marina uses from the river, conversely, they screen any possible view of the riparian waterway from the waterway user.

Lastly, there is no way to screen the proposed road and parking from the river, as required by this statute. The Alder Creek Marina will change a beautiful natural dike environment into an unsightly eyesore for boaters, residents and tourists alike.

- 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.

The Larson application mentions that the land on the channel side of the dike is subject to extensive flooding. Yet he plans to provide for parking for nearly 200 cars in this area, and he plans to achieve this by extensively altering the dike to construct this roadway. It appears that this statute has not been adequately addressed by the Larson application.

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

The Sauvies Island Dike was built over numerous American Indian archaeological sites, which become exposed during extreme low water periods. One such site that I am aware of is very close to and may include some of the property included for this marina. Before the dike is disturbed in these areas, it seems that a complete review of the archaeological significance of this area should be completed, so to satisfy the protection garnered these sites by the Division of State Lands.

OBJECTIONS TO THE ALDER CREEK MARINA ON THE BASIS OF LIVEABILITY ISSUES  
IMPACTING NEIGHBORING PROPERTY OWNERS.

I currently reside at the Bridgeview Moorage, directly across from the Alder Creek Site on the downriver side of the Sauvies Island Bridge. There are several liveability issues that will negatively impact my community, should this development proceed as planned.

First of all, should Alder Creek Marina be built on the Sauvies Island Dike, there would be nearly one mile along the channel where there would be double loading of houseboats and boat houses. This makes navigation in the channel that much more difficult and dangerous. It is common for double log rafts to be pulled through this area with a single tug, and to do this with an even more restricted channel is unthinkable. It appears from the scale drawings of the Alder Creek Marina that most of the boat slips will extend up to 250 feet into the channel. This is a ludicrous impingement on the visual and navigational integrity of the channel. Other channel developments extend no more than 60' into the channel and the addition of the Alder Creek Marina would be devastating to the residents of Bridgeview and neighboring moorages. Our home values would be depreciated and our common values of preserving the rural and natural environment on Sauvies Island would be shattered.

Secondly, the addition of 800 boaters to the vicinity of our moorage will make our lives unliveable. In the ten years that I have lived on Multnomah Channel, I can remember only one weekend when there was any presence of the local River Patrol to deal with our chronic problem of boaters in direct violation of the 5 MPH/No Wake Zone in front of our moorage. With the advent of Measure No. 5, it is likely that our existing River Patrols will be cut even further in the future. The problem with discourteous boaters has become so severe in the past few years that we have had to construct a log boom nearly the length of our moorage to mitigate some of the wake damage to our moorage and houses. Additionally, we are subjected to the irresponsible and dangerous actions of boaters who do not slow down for swimmers, who swamp our small boats for entertainment, and who apparently have no knowledge or awareness of simple rules of courtesy and navigation.

Thirdly, allowing the Alder Creek Marina to site a road on the dike and its unsightly businesses on the river will spoil the natural and scenic views of Sauvies Island which I and my neighbors have come to revere. We do not look forward to being awakened at 4 each morning during the Spring Salmon run by 800 more curious gawkers, we do not look forward to having car headlights flashing into our windows at all hours from the road and parking lot of this proposed marina, and we do not look forward to the increased traffic on the island when we use its various local stores and recreational facilities.

Lastly, the flavor of the Sauvies Island area is preservation and enhancement of the natural environment. The Nature Conservancy recently purchased the nearby 426 acre Burlington Bottoms area for the public trust. The Sauvies Island Dike is an important link between the Sauvies Island Wildlife/Bird Refuges and this newly acquired Burlington Bottoms Wildlife area. I hope that my children will be able to always view the cows grazing and birds nesting across river, and that our natural and scenic resources will not be sold for economic profits and short-sighted ventures.

Respectfully Submitted,

Jocianne Bellant Scherer MD

BCC

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

BOARD OF  
COUNTY COMMISSIONERS  
1991 JUN 18 PM 3:30  
MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

I am a concerned Oregon citizen who would like to express my opposition to the proposed Alder Creek Marina on the Sauvies Island dike outside of Portland, Oregon. It is my opinion that allowing such a development is not consistent with the rural and agricultural nature of the area, and will serve to endanger the scenic and wildlife resources of this popular recreational destination.

The proposed Marina will be sited on the pastoral and natural environment of the Sauvies Island dike, and will disrupt an important wildlife corridor along the shore of Sauvies Island. The Marina will introduce a variety of large and unsightly floating structures into an area now characterized by log rafts and natural vistas on the east side of Multnomah Channel. This project would establish new and disturbing precedents for similar enterprises along the Sauvies Island dike, and for double loading of floating structures along the Multnomah Channel. This area is attractive to boaters, wildlife enthusiasts, bicyclers, and other recreational users because of its largely undeveloped and natural character; the proposed Alder Creek Marina will be a high intensity, visually disruptive and physically domineering development that would destroy the character of this unique natural area.

*There are so many other more appropriate sites*  
Other problems inherent in this plan include the increased traffic that 860 boat users would cause on the Sauvies Island Bridge. The wait to exit the island already approaches one hour on summer days, and to exacerbate this further will negatively impact visitors, residents and commercial users alike. The safety of such a high density boat storage facility with fuel docks and storage tanks included is also questionable, especially considering its fire and explosion potential, its proximity to the bridge and its servicing by only a local volunteer fire department. Thirdly, the commercial navigational channel would be severely compromised by this development, and the influx of 860 regular boat users into this popular area would cause dangerous waterborn congestion and accidents.

The Multnomah County Planners and Commissioners must balance the needs of the few with the rights of all Oregonians to preserve for future generations the natural and rural characteristics of our waterways and farmlands. The Willamette River Greenway Policies and Oregon Comprehensive Plan were enacted to protect the public at large from unsightly and inappropriate developments along the scenic waterways of Multnomah Channel. Siting the Alder Creek Marina in its proposed site is in direct conflict with both of these important Land Use Documents and represents an attempt to sell out our scenic and natural resources for economic profits and narrowly conceived ventures. The public interest will best be served by dissallowing any zoning changes along the Sauvies Island dike that would allow for this or any other marina to proceed.

Sincerely,

*Anne Sharp*

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

BCC

BOARD OF  
COUNTY COMMISSIONERS

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

1991 JUN 14 PM 1:47

MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

I am a concerned Oregon citizen who would like to express my opposition to the proposed Alder Creek Marina on the Sauvies Island dike outside of Portland, Oregon. It is my opinion that allowing such a development is not consistent with the rural and agricultural nature of the area, and will serve to endanger the scenic and wildlife resources of this popular recreational destination.

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Sincerely,



cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

8/27/91

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

BOARD OF  
COUNTY COMMISSIONERS  
1991 SEP - 3 AM 11:00  
MULTNOMAH COUNTY  
OREGON

Commissioner:

I am a native Oregonian and <sup>have been</sup> a resident of Sauvie Island for five years. I wish to express my opposition to the Alder Creek Marina on our Island. There is strong evidence that such a development would destroy an area of natural beauty, be in conflict with the Willamette River Greenway goals, be harmful to wildlife, and further add to traffic problems on and near the Island.

The proposed site of the Marina is an area where birds, wildlife, and fish are plentiful. People are attracted to this area because of its natural beauty and wildlife from all over our state. The construction of a Marina would adversely affect all wildlife and those individuals that enjoy these creatures.

As a member of the Sauvie Island Grange I was recently told the Grange has made a statement in support of the Marina. I was never made aware that the Grange was voting on this issue and certainly would not have voted in favor of such development.

My family and I moved to Sauvie Island because of its rural nature. We plan on living our lives here and demand zoning be continued to maintain its natural beauty. The Alder Creek Marina would destroy valuable natural resources and add to crowd control problems on Sauvie Island for the economic profits of a few. Please disallow any zoning changes along the proposed area. Thank you for your consideration.

Sincerely,

Julie Smith

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

BCC ✓

June 13, 1991

P.O. Box 201

Cannon Beach OR.

97110

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

Dear Commissioner:

I am a concerned Oregon citizen who would like to express my opposition to the proposed Alder Creek Marina on the Sauvies Island dike outside of Portland, Oregon. It is my opinion that allowing such a development is not consistent with the rural and agricultural nature of the area, and will serve to endanger the scenic and wildlife resources of this popular recreational destination.

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The Multnomah County Planners and Commissioners must balance the needs of the few with the rights of all Oregonians to preserve for future generations the natural and rural characteristics of our waterways and farmlands. The Willamette River Greenway Policies and Oregon Comprehensive Plan were enacted to protect the public at large from unsightly and inappropriate developments along the scenic waterways of Multnomah Channel. Siting the Alder Creek Marina in its proposed site is in direct conflict with both of these important Land Use Documents and represents an attempt to sell out our scenic and natural resources for economic profits and narrowly conceived ventures. The public interest will best be served by dissallowing any zoning changes along the Sauvies Island dike that would allow for this or any other marina to proceed.

Sincerely,

Christine A. Stanley

Audubon Society member

Nature Conservancy member

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

BCC ✓

June 13, 1991  
Box 518  
Cannon Beach OR.  
7110

BOARD OF  
COUNTY COMMISSIONERS  
JUN 19 PM 2:55  
MULTNOMAH COUNTY  
OREGON

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

Dear Commissioner:


I am a concerned Oregon citizen who would like to express my opposition to the proposed Alder Creek Marina on the Sauvies Island dike outside of Portland, Oregon. It is my opinion that allowing such a development is not consistent with the rural and agricultural nature of the area, and will serve to endanger the scenic and wildlife resources of this popular recreational destination.

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Sincerely,

  
G. Michael Stanley  
Former Member Oregon Trails Advisory

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

BOARD OF  
COUNTY COMMISSIONERS  
1991 JUN 25 AM 8:43  
MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

I am a concerned Oregon citizen who would like to express my opposition to the proposed Alder Creek Marina on the Sauvies Island dike outside of Portland, Oregon. It is my opinion that allowing such a development is not consistent with the rural and agricultural nature of the area, and will serve to endanger the scenic and wildlife resources of this popular recreational destination.

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Sincerely,

*Alexandra Stawbridge*

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

333 NE 24th  
Portland, OR 97232



BCC

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

BOARD OF  
COUNTY COMMISSIONERS

JUN 24 AM 11:01

MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

I am a concerned Oregon citizen who would like to express my opposition to the proposed Alder Creek Marina on the Sauvies Island dike outside of Portland, Oregon. It is my opinion that allowing such a development is not consistent with the rural and agricultural nature of the area, and will serve to endanger the scenic and wildlife resources of this popular recreational destination.

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Sincerely,

*Judith Sullivan*

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

June 27, 1991

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 SE Morrison st.  
Portland, Oregon 97214

I am strongly opposed to any zoning change along the Sauvie Island dike which would allow further commercial marina development. Sauvie Island is already stressed by overuse and further development of the Alder Creek Marina type is wholly inconsistent with the rural, wildlife sanctuary and agricultural nature of the island. Indeed further development is even a threat to current recreational use.

Please consider carefully the long range interests and protect this valuable resource from destructive over-development.

Sincerely,  
Bonnie Summers

*Bonnie Summers*

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

BOARD OF  
COUNTY COMMISSIONERS  
1991 JUL -1 AM 9:37  
MULTNOMAH COUNTY  
OREGON

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

Dear Commissioner:

I am a concerned Oregon citizen who would like to express my opposition to the proposed Alder Creek Marina on the Sauvies Island dike outside of Portland, Oregon. It is my opinion that allowing such a development is not consistent with the rural and agricultural nature of the area, and will serve to endanger the scenic and wildlife resources of this popular recreational destination.

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Sincerely,

*William Tomlinson*  
18525 NW Sauvies Island Rd  
Portland OR 97231

cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201

BOARD OF  
COUNTY COMMISSIONERS  
1991 JUL - 1 AM 9:33  
MULTNOMAH COUNTY  
OREGON

Karen Scott Trautmann  
507 NW Skyline Crest  
Portland, OR 97229

June 26, 1991

Multnomah County Planning Commission  
Department of Environmental Services  
Division of Planning and Development  
2115 SE Morrison  
Portland, OR 97214

BOARD OF  
COUNTY COMMISSIONERS  
1991 JUL -1 AM 9:38  
MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

I am very distressed to learn of the huge marina proposed for the Sauvie Island dike, and am writing to urge you to disapprove the zoning changes that would allow it to be developed.

As you know, wildlife habitat is rapidly disappearing in our county due to developments just like the one being proposed for Alder Creek. Imagine the impact of the inevitable noise, litter, and leaking outboard fuel from 860 boaters on this fragile environment--one of the few places we can still see our state animal, the beaver. This area is also home to shy otters, osprey, eagles and deer; salmon, sturgeon, crayfish and trout depend on its waters remaining unpolluted. Commercial development here is clearly inappropriate and would deprive every citizen of the county of a rare pocket of tranquility in an increasingly hectic world.

Please protect Sauvie Island from this zoning change.

Sincerely,

*Karen Scott Trautmann*

Karen Scott Trautmann

cc: Multnomah County Commissioners

BCC

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

BOARD OF  
COUNTY COMMISSIONERS  
1991 JUN 13 PM 3:38 JUN 14 1991  
MULTNOMAH COUNTY  
OREGON

Dear Commissioner:

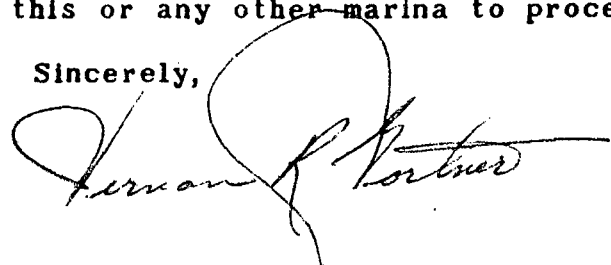
I am a concerned Oregon citizen who would like to express my opposition to the proposed Alder Creek Marina on the Sauvies Island dike outside of Portland, Oregon. It is my opinion that allowing such a development is not consistent with the rural and agricultural nature of the area, and will serve to endanger the scenic and wildlife resources of this popular recreational destination.

The proposed Marina will be sited on the pastoral and natural environment of the Sauvies Island dike, and will disrupt an important wildlife corridor along the shore of Sauvies Island. The Marina will introduce a variety of large and unsightly floating structures into an area now characterized by log rafts and natural vistas on the east side of Multnomah Channel. This project would establish new and disturbing precedents for similar enterprises along the Sauvies Island dike, and for double loading of floating structures along the Multnomah Channel. This area is attractive to boaters, wildlife enthusiasts, bicyclers, and other recreational users because of its largely undeveloped and natural character; the proposed Alder Creek Marina will be a high intensity, visually disruptive and physically domineering development that would destroy the character of this unique natural area.

Other problems inherent in this plan include the increased traffic that 860 boat users would cause on the Sauvies Island Bridge. The wait to exit the island already approaches one hour on summer days, and to exacerbate this further will negatively impact visitors, residents and commercial users alike. The safety of such a high density boat storage facility with fuel docks and storage tanks included is also questionable, especially considering its fire and explosion potential, its proximity to the bridge and its servicing by only a local volunteer fire department. Thirdly, the commercial navigational channel would be severely compromised by this development, and the influx of 860 regular boat users into this popular area would cause dangerous waterborn congestion and accidents.

The Multnomah County Planners and Commissioners must balance the needs of the few with the rights of all Oregonians to preserve for future generations the natural and rural characteristics of our waterways and farmlands. The Willamette River Greenway Policies and Oregon Comprehensive Plan were enacted to protect the public at large from unsightly and inappropriate developments along the scenic waterways of Multnomah Channel. Siting the Alder Creek Marina in its proposed site is in direct conflict with both of these important Land Use Documents and represents an attempt to sell out our scenic and natural resources for economic profits and narrowly conceived ventures. The public interest will best be served by dissallowing any zoning changes along the Sauvies Island dike that would allow for this or any other marina to proceed.

Sincerely,



cc: Multnomah County Commissioners ✓  
1021 SW 4th  
Portland, Oregon 97201

BCC

6/10/91

Multnomah County Planning Commission  
Multnomah County Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison St.  
Portland, Oregon 97214

1991 JUN 12 PM 12:22  
MULTNOMAH COUNTY  
OREGON  
COUNTY COMMISSIONERS

Dear Commissioner:

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Sincerely,



cc: Multnomah County Commissioners  
1021 SW 4th  
Portland, Oregon 97201



DEPARTMENT OF ENVIRONMENTAL SERVICES  
DIVISION OF PLANNING AND DEVELOPMENT  
2115 SE MORRISON STREET  
PORTLAND, OREGON 97214 (503) 248-3043

NOTICE OF REVIEW

253 1255 12/04/91 8:37:50

1. Name: HATHAWAY, S. GREGORY

2. Address: 121 S.W. Morrison St., Suite 1100, Portland, OR 97204

3. Telephone: ( 503 ) 228 - 3939

4. If serving as a representative of other persons, list their names and addresses:

Ken and Pattye Larson

14452 N.W. Larson Rd.

Portland, OR 97231

5. What is the decision you wish reviewed (e.g., denial of a zone change, approval of a subdivision, etc.)?

Denial of Comprehensive Plan Amendment, Zone Change, Community Service Use  
and Willamette River Greenway Permit; Case Nos. PR 6-91, #67; ZC 6-91, #67;  
CS 6-91, #67; and WRG 7-91, #67.

6. The decision was announced by the Planning Commission on 12/02, 19 91

7. On what grounds do you claim status as a party pursuant to MCC 11.15.8225?

See attached Notice of Review.

*Please return this original form*

8. Grounds for Reversal of Decision (use additional sheets if necessary):

See attached Notice of Review.

9. Scope of Review (Check One):

- (a) ☒ On the Record
- (b) ☐ On the Record plus Additional Testimony and Evidence
- (c) ☐ De Novo (i.e., Full Rehearing)

10. If you checked 9(b) or (c), you must use this space to present the grounds on which you base your request to introduce new evidence. (Use additional sheets if necessary). For further explanation, see handout entitled *Appeal Procedure*.

Signed: Georg Sitaru

Date: 12/23/91

**For Staff Use Only**

Fee:

Notice of Review = \$300.00

Transcription Fee:

Length of Hearing 525 min x \$3.50/minute = \$ 1837.50

Total Fee = \$ 2137.50

Received by: \_\_\_\_\_

Date: \_\_\_\_\_

Case No. WR 7-91

7R6-91  
206-91  
256-91



BEFORE THE MULTNOMAH COUNTY  
BOARD OF COUNTY COMMISSIONERS

KEN and PATTYE LARSON,	)	
	)	
Applicants,	)	Case Nos. PR 6-91, #67
	)	ZC 6-91, #67
Request for a Comprehensive Plan	)	CS 6-91, #67
revision to take exceptions to	)	WRG 7-91, #67
Statewide Planning Goals 3	)	
(Agriculture) and	)	NOTICE OF REVIEW
14 (Urbanization); a Plan revision	)	
from Agriculture to Multiple Use	)	
Agriculture; a change of Sectional	)	
Zoning Maps #67, #68, and #70,	)	
changing the described property	)	
from EFU, FF, FW, and WRG to	)	
MUA-20, FF, FW, WRG, C-S, and a	)	
community service use to allow the	)	
Alder Creek Marina.	)	

**NAME OF APPLICANT  
AND COUNTY CASE NUMBERS**

I.

The Applicants in this case are Ken and Pattye Larson. The Applicants are legally represented in this matter by Gregory S. Hathaway and the law firm of Garvey, Schubert & Barer. The case file numbers in this matter are PR 6-91, #67, ZC 6-91, #67, CS 6-91, #67, and WRG 7-91, #67.

II.

**NAMES AND INTERESTS OF THE PETITIONERS**

The Petitioners in this review are the Applicants, Ken and Pattye Larson, who appeared at hearings before the Multnomah County Planning Commission through their representatives.

### III.

#### NATURE OF REQUEST

The Applicants have requested a Comprehensive Plan revision to take exceptions to Statewide Planning Goals 3 (Agriculture) and 14 (Urbanization); a Plan revision from Agriculture to Multiple Use Agriculture; a change of Sectional Zoning Maps #67, #68, and #70, changing the described property from EFU, FF, FW, and WRG to MUA-20, FF, FW, WRG, C-S, and a community service use to permit the Alder Creek Marina located in the Multnomah Channel on Sauvie Island near the Sauvie Island Bridge

### IV.

#### SPECIFIC GROUNDS FOR REVIEW

##### A. COMPREHENSIVE PLAN AMENDMENT.

##### 1. Goal 5: Open Space Resources.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the Applicants have not demonstrated compliance with this requirement is not supported by substantial evidence in the record.

The evidence in the record indicates that this portion of the Multnomah Channel has the character of an urban waterway and is the most developed along Sauvie Island; and therefore, it is appropriate and in the best interests of the County to allow for selective double loading in this area. A selective double loading policy will have the positive affect of concentrating waterway development in areas where development has already occurred, thereby allowing natural areas to remain in their natural state.

Furthermore, there is no evidence in the record that allowing this marina development to occur will establish a precedent setting the stage for future moorage development north of the bridge. The evidence clearly indicates that the proposed marina site is uniquely located in the most developed portion of Sauvie Island, next to the Sauvie Island Bridge. As a result, Applicants are able to demonstrate compliance with the applicable criteria, where it would be difficult and perhaps impossible for another applicant to justify a marina anywhere else on Sauvie Island.

The evidence indicates this is the most appropriate location for the siting of a marina on Sauvie Island in the Multnomah Channel. If allowed, the marina can be designed in a manner that will minimize impact on open space values, including leaving over 90% of the land area in open space.

2. Goal 5: Natural Resources (Fish and Wildlife Habitats).

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the Applicants have not demonstrated compliance with this requirement is not supported by substantial evidence in the whole record.

The letters relied on by the Planning Commission from the U.S. Fish and Wildlife Service ("USFWS") and the Oregon Department of Fish and Wildlife ("ODFW") do not state that the proposed marina will cause significant adverse impact on the environment at the proposed location. These letters do not contain substantial evidence that the proposed marina would adversely effect fish and wildlife habitats in this area of the

Multnomah Channel. On the other hand, the Applicants have conducted a comprehensive environmental analysis prepared by Fishman Environmental Services, and have responded to all of the written comments from the various agencies, specifically responding to each point that has been discussed by these agencies. This evidence clearly indicates that the proposed marina has been designed to avoid all shoreline vegetation and wetlands, and require no dredge or fill activities in the Channel. The Fishman conclusion that the Alder Creek marina will not result in adverse impacts on fish and wildlife habitats is supported by substantial evidence in the record.

3. Goal 5: Natural Resources (Water Areas).

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the Applicants have not demonstrated compliance with this requirement is not supported by substantial evidence in the whole record. Instead, the evidence indicates that the proposed 300-foot channel width for navigation is consistent with the Corps of Engineers' 250-foot requirement, and establishes a safe navigation width. Furthermore, The Oregon State Marine Board ("OSMB") indicates that the marina will not significantly affect safety or congestion on the Multnomah Channel at this location. Finally, the evidence indicates that the average encroachment riverward from ordinary low water ("OLW") for the proposed marina is comparable to the average encroachment for the existing moorage on the mainland side of the channel, although the actual encroachment into the navigational channel is less than the encroachment of the existing moorage on the west side of the channel.

4. Goal 5: Scenic Areas.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the Applicants have not demonstrated compliance with this requirement is not supported by substantial evidence in the whole record. There is no evidence in the record that indicates that, should the marina be approved, the marina cannot be made to be in visual context with the channel and the existing development in this area. The findings by the Planning Commission are conclusory and are not substantiated by the record. The evidence does indicate that the proposed marina will be compatible with the houseboat moorage on the west side of the channel, and can be designed in manner to reduce adverse impact.

5. Goal 8: Recreation Needs.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the proposed Plan Revision to allow the marina is not consistent with Goal 8 is not supported by substantial evidence in the whole record. The Planning Commission has also improperly construed Goal 8 in reaching its conclusion.

The record clearly indicates that the Oregon State Marine Board ("OSMB") has recognized Goal 8 as a primary consideration in recommending the development of boating facilities throughout the state. The OSMB acknowledges there is a need for additional marina moorage space for larger boats that use the river for cruising, as opposed to the trailed boats that use boat ramps and are usually used for fishing or water-skiing. The Department of Land Conservation and Development ("DLCD") acknowledges that Goal 8 recognizes the need to provide sites for necessary recreational facilities, such as moorage and marinas, for that

portion of the recreational boating public that require in-water storage. The Alder Creek marina is created and designed to accommodate this identified need.

6. Goal 11: Public Facilities and Services.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the record does not demonstrate that existing or planned public services and facilities could adequately serve the development is not supported by substantial evidence in the whole record.

The Planning Commission conclusion is contrary to the extensive evidence in the record that fire safety needs, traffic safety, boating safety, and sewage/stormwater facilities can be adequately provided. Their conclusion is contrary to the Staff conclusion that all Goal 11 facilities could be provided; contrary to the Sauvie Island Fire Department's letter that services could be provided; contrary to the letter submitted by the Oregon Department of Transportation ("ODOT") that the traffic analysis by the Applicants' traffic engineer was accurate and that the proposed marina would not create adverse traffic problems; and contrary to the letter from the OSMB that the proposed marina will not significantly affect safety or congestion on the Multnomah Channel at this location.

7. Goal 15: Willamette River Greenway.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the Applicants did not demonstrate compliance with this requirement is not supported by substantial evidence in the whole record.

The Commission's reliance on the letter from the Oregon State Parks Department cannot be used as a basis to reach this conclusion. That letter consists of nothing more than a series of conclusory statements rather than facts or evidence on how the Applicants have not satisfied the requirements of Goal 15. Furthermore, the conclusions drawn by the Parks Department do not take into account the fact that the Applicants also applied for an exception to Goal 3 and therefore failed to analyze Goal 15 assuming a marina use for the site rather than an agricultural use. As a result, the evaluation by the Parks Department does not measure Goal 15 with a marina use to determine compliance with the goal, but instead measures compliance with an agricultural use. Consequently, the Commission improperly construed the applicable law in applying Goal 15 to the facts of this request.

On the other hand, the evidence submitted by the Applicants addresses the requirements of Goal 15 which demonstrate that if the exception to Goal 3 is allowed, the proposed marina satisfies the County's Willamette River Greenway permit requirements. The Staff, in its Staff report, concluded that the Applicants have demonstrated compliance with the County's Willamette River Greenway standards which implement Goal 15.

8. Goal 2: Reasons Exception (Goal 3, Agricultural Lands).

a. Reasons justify why the state policy embodied in the applicable goals should not apply:

PLANNING COMMISSION ERROR: The Planning Commission improperly construed the applicable law in determining the

Applicants did not demonstrate there was a public need justifying why Goal 3 should not apply to the subject property.

The basis for the Commission's conclusion was that the Applicants relied on the demonstrated demand for boat slips and boat storage in the Portland region. As a result, the Commission concluded that demand alone does not demonstrate a public need or interest in satisfying that demand. The Commission concluded that all the Applicants had demonstrated was a market need for more marina space and that LUBA and the courts have found that market demand is not adequate reason under Goal 2 for demonstrating public need. The evidence in the whole record is clear that the Applicants did not rely on market demand as a basis to demonstrate compliance with this requirement.

OAR 660-04-022 explains that the "reasons" to justify a goal exception include a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 through 19. The proposed Alder Creek marina satisfies the public need recognized in Goal 8 (Recreational Needs) by providing for the siting of a necessary recreational facility to satisfy the needs of the recreational boating public. The Applicants submitted substantial evidence in their Public Needs Analysis demonstrating there is a public need to provide for siting of marina facilities for larger boats under Goal 8. The Applicants did not rely on a market demand analysis to demonstrate compliance with this "public need" requirement. This analysis was accepted by the DLCD.



- b. Areas which do not require a new exception cannot reasonably accommodate the use:

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that several other sites provide marina development opportunities in existing rural land, and therefore the Applicants have not demonstrated compliance with the alternative site analysis is not supported by substantial evidence in the whole record, and is an erroneous conclusion.

The Staff, in identifying several alternative sites, does not indicate why these sites can more reasonably accommodate the proposed marina as required by OAR 600-04-020(2)(b). Furthermore, the Commission ignored the evidence in the record that even if there were alternative sites that could reasonably accommodate the use, does not mean that the proposed site cannot qualify as an exception when the evidence indicates there is a public need and demand for more than one site to accommodate this need and demand. The evidence indicates that even assuming the sites identified by Staff were reasonably able to accommodate the proposed marina, that there is still a public need and demand for the proposed site to accommodate a marina.

- c. The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts:

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the scale and intensity of the proposed use is not compatible with the rural-agricultural character on the east side of Multnomah Channel, and the waterward extension of the proposed marina is not compatible with similar moorage development across the Channel is not supported by substantial

evidence in the whole record. The record indicates that (1) since the primary activity of the proposed use is water oriented on the Channel, there will be no adverse impact on agricultural uses in the area; (2) the immediate vicinity of the proposed Alder Creek Marina presently consists of a number of non-agricultural uses, including Alder Creek Lumber Company, the pellet Mill, the ESCO foundry fill site and the Cracker Barrel Grocery Store; (3) Mr. Lynn Trupp, the only farmer on Sauvie Island to testify indicated that the proposed marina would not affect his farming operation; (4) the average encroachment riverward from OLW for the proposed marina is 135 feet, compared to an average of 130 feet for existing moorage on the mainland; (5) the actual encroachment by the proposed marina into the navigational Channel is less than the encroachment of the existing moorage on the West side of the Channel.

9. Goal 2: Reasons Exception (Goal 14, Urbanization).

a. Reasons justify why the state policy embodied in the applicable goals should not apply.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the record does not persuade that reasons sufficiently justify an exception to Goal 14 is erroneous and ignores the evidence in the record which concludes there is a public need to recreational moorage to accommodate the larger boats which need to be moored in the water. The DLCD accepted this public need under the Goal 14 exception.

b. Areas which do not require a new exception cannot reasonably accommodate the use.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that there are alternative urban sites in the

identified study area which could reasonably accommodate the proposed marina, is not based on substantial evidence in the whole record.

The Staff in identifying alternative sites, did not demonstrates that these sites could more reasonably accommodate the proposed marina as required under OAR 600-04-020(2)(b). Furthermore, the Commission did not take into account the fact that even though alternative sites may reasonably accommodate the proposed use, because of the public need and demand, along with a shortage of supply of land, the proposed site can still be used to accommodate this public need and demand.

- c. The proposed uses are compatible with other adjacent uses or will be so rendered through measure designed to reduce adverse impacts.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion is not supported by substantial evidence in the whole record. The record indicates that (1) since the primary activity of the proposed use is water oriented on the Channel, there will be no adverse impact on agricultural uses in the area; (2) the immediate vicinity of the proposed Alder Creek Marina presently consists of a number of non-agricultural uses, including Alder Creek Lumber Company, the pellet Mill, the ESCO foundry fill site and the Cracker Barrel Grocery Store; (3) Mr. Lynn Trupp, the only farmer on Sauvie Island to testify indicated that the proposed marina would not affect his farming operation; (4) the average encroachment riverward from OLW for the proposed marina is 135 feet, compared to an average of 130 feet for existing moorage on the mainland; (5) the actual encroachment by the proposed marina into the navigational Channel is less than the

encroachment of the existing moorage on the West side of the Channel.

10. Comprehensive Plan Policies.

a. Policy 9: Agricultural Land.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the Applicants did not carry their burden necessary to show that the proposed Plan Revision would not adversely effect agricultural uses on the Island is not supported by substantial evidence in the whole record.

There is no evidence that the proposed marina would affect in any manner the agricultural activities on the Island. However, there is substantial evidence in the record that the proposed marina will not adversely effect agricultural uses on the Island. The evidence indicates that the site itself is not good farm land, is surrounded by non-farm uses including Alder Creek Lumber, the Pellet Mill, and the ESCO landfill. The only testimony that was presented by farmers on the Island indicated that the proposal would not have any affect on farming activities on the Island.

b. Policy 15: Willamette River Greenway.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the proposal would not be consistent with the Willamette River Greenway policy is not supported by substantial evidence in the record. The evidence submitted by the Applicants indicates that there will not be any changes to the existing shoreland, and that the marina can be designed to comply with all of the County's Greenway Policies.

c. Policy 16-A: Open Space.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the Applicants have not demonstrated compliance with this requirement is not supported by substantial evidence in the whole record. The evidence in the record indicates that selective double loading in this portion of the Multnomah Channel is appropriate and that the marina can be designed in a manner that will minimize impacts on open space values.

d. Policy 16-D: Fish and Wildlife Habitat.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the marina would adversely effect fish and wildlife habitats is not supported by substantial evidence in the whole record. The letters from the USFWS and the ODFW do not state that the proposed marina will adversely effect fish and wildlife habitats. The evidence in the record indicates that the Alder Creek marina will not result in adverse impacts on fish and wildlife habitats.

e. Policy 16-F: Scenic Resources.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the Applicants have not demonstrated compliance with this requirement is not supported by substantial evidence in the record. There is no evidence in the record that indicates that, should the marina be approved, the marina cannot be made to be in visual context with the Channel and the existing development in this area. The evidence does indicate that the proposed marina will be compatible with the houseboat moorage on the West side of the Channel and can be designed in a manner to reduce adverse impacts.

The Commission improperly construed the applicable law in applying Policy 16-F in that it does not take into account the request by the applicant for an exception to Goal 3 (Agricultural Lands). It is improper for the Commission to conclude that Policy 16-F has not been complied with on the basis that the proposed marina would not be allowed by the EFU designation. Instead, the Commission is required to evaluate whether the proposed development satisfies Policy 16-F without considering whether the proposed use is allowed by the EFU district. If a development is measured by the fact it is not allowed by the present zoning on the property, the effect is to prohibit or impose a moratorium on requesting and land use change. The finding by the Commission for Policy 16-F indicates that since the proposed use is for a non-agricultural use, it cannot comply with the scenic resources policies of the County.

f. Policy 16-G: Water Resources and Wetlands.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the proposed marina would adversely affect water area resources is not supported by substantial evidence in the whole record. The evidence in the record indicates that the wildlife habitat rating for the proposed site is 38, below the County's 45-point significance threshold. Furthermore, the evidence indicates that the proposed marina has been designed to avoid all shoreline vegetation and wetlands, and require no dredge or fill activities in the Channel.

g. Policy 26: Houseboats.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the proposed marina is inconsistent with

Policy 26 due to adverse effects on the houseboat designated area on the opposite shore of the Channel is not supported by substantial evidence in the whole record.

The evidence in the record indicates that Multnomah County has recognized the compatibility of houseboat moorage and marinas to co-exist on the mainland side of the Channel. The development pattern on the west side of the Channel has permitted houseboat moorage and marinas to exist side-by-side. The fact that this proposed marina is across the Channel, rather than immediately adjacent to it, does not create impacts that presently do not exist on the Channel. The Alder Creek marina will be compatible with the houseboat moorage on the west side of the Channel, and can be designed in a manner which will reduce and potential adverse impacts.

h. MCC 11.05.290(c)(2): The proposed change will not conflict with existing or planned uses on adjacent lands.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the scale and intensity of the proposed marina is not compatible with the rural-agricultural character on the east side of the Channel, and that the westward extension of the proposed marina is not compatible with similar moorage development across the Channel is not supported by substantial evidence in the whole record. The record indicates that (1) since the primary activity of the proposed use is water oriented on the Channel, there will be no adverse impact on agricultural uses in the area; (2) the immediate vicinity of the proposed Alder Creek Marina presently consists of a number of non-agricultural uses, including Alder Creek Lumber Company, the

Page 15 - NOTICE OF REVIEW

pellet Mill, the ESCO foundry fill site and the Cracker Barrel Grocery Store; (3) Mr. Lynn Trupp, the only farmer on Sauvie Island to testify indicated that the proposed marina would not affect his farming operation; (4) the average encroachment riverward from OLW for the proposed marina is 135 feet, compared to an average of 130 feet for existing moorage on the mainland; (5) the actual encroachment by the proposed marina into the navigational Channel is less than the encroachment of the existing moorage on the West side of the Channel.

i. MCC 11.05.290 (c)(3): Necessary public services are or will be available to serve allowed uses.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that they were not persuaded that the record demonstrated that existing or planned public services and facilities could be adequately serve the development is not supported by substantial evidence in the record. The Commission conclusion is contrary to the uncontroverted evidence in the record that fire safety needs, traffic safety, and sewage/stormwater can be adequately provided. The Commission conclusion is contrary to the Staff conclusion that all Goal 11 facilities could be provided; contrary to the Sauvie Island Fire Departments letter that services could be provided; and contrary to the letter submitted by ODOT that the traffic analysis by the applicants traffic engineer was accurate and that the proposed marina would not create adverse traffic problems.



B. ZONE CHANGE REQUEST.

1. Granting the request is in the public interest.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that it was not persuaded that the zone change is in the public interest ignores the substantial evidence in the record indicating that approval of this zone change would be in the best interest of the County and is in the public interest.

The evidence indicates that there is a present public need and increasing demand for additional marina facilities in the Columbia River system and that the Alder Creek Marina can accommodate this public need. The evidence also indicates that this portion of the Multnomah Channel is an appropriate location for a marina because of its urban waterway characteristics, and its location at the base of the Sauvie Island Bridge in the most developed portion of Sauvie Island. These facts, along with the evidence that this marina can be provided in an environmentally sensitive manner, indicates that granting the request is in the public interest.

2. There is a public need for the requested change and that need will be best served by changing the classification of the property in question as compared with other available property.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion is not supported by substantial evidence in the whole record. The evidence indicates that the proposed marina can be made to be environmentally sound and is an excellent location for a marina.

3. The proposed action fully accords with the applicable elements of the Comprehensive Plan.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the proposed zone change is not in full accord with all applicable elements of the Comprehensive Plan is not supported by substantial evidence in the whole record as detailed above under "Comprehensive Plan Amendment."

C. COMMUNITY SERVICE USE REQUEST.

1. Is consistent with the character of the area.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the proposed marina is not consistent with the character of the area because it extends further into the Channel than other marinas characteristic of the area is not supported by substantial evidence in the whole record. To the contrary, the evidence indicates that the average encroachment riverward from OLW of the proposed marina is 135 feet compared to an average of 130 feet for the existing moorage on the mainland. Furthermore, the evidence indicates that the County recently approved the Piazza/Spaziana marina across from the proposed Alder Creek marina, and this marina has an average riverward encroachment from OLW of 130 feet. More importantly, the evidence indicates that the actual encroachment by the Alder Creek Marina into the navigational Channel is less than the encroachment of the existing moorage on the mainland side of the Multnomah Channel. This evidence clearly indicates that the proposed marina is consistent with the character of the area.

2. Will not adversely affect natural resources.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the proposed marina would adversely effect natural resources is not supported by substantial evidence in the whole record as stated above under "Comprehensive Plan Amendment, Policy 16-Natural Resources."

3. Will not conflict with farm or forest uses in the area.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that this requirement is not satisfied because this development "would set the stage for further moorage development on this and potentially other properties on the Island side of the Channel," is not supported by substantial evidence in the whole record. The evidence indicates that a precedent would not be established if this marina was approved since it is uniquely located on the Multnomah Channel and on Sauvie Island. The evidence is clear that this proposed marina does not conflict with any farm use on Sauvie Island.

4. Will not require public services other than those existing or programmed for the area.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that a majority of the Commission was not persuaded that existing public services would adequately serve the proposed development ignores the extensive substantial evidence that was submitted by those public agencies that will provide services to the site as stated above under "Comprehensive Plan Amendment."

5. Will satisfy the applicable policies of the Comprehensive Plan.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that not all applicable Plan policies are satisfied by

the proposal, is not supported by substantial evidence in the whole record as stated above under "Comprehensive Plan Amendment."

D. WILLAMETTE RIVER GREENWAY REQUEST.

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

PLANNING COMMISSION ERROR: The Planning Commission improperly construed this requirement when it applied the facts in the record. The Commission's conclusion that this requirement had not been satisfied was based on a finding that "no amount of landscaping within the land portion of the Willamette River Greenway, on this site, can mitigate for the loss of scenic and aesthetic values, open space and riparian vegetation which are to be maintained by this criteria provision." That is not what the requirement addresses. Instead, it requires a determination of how the proposed marina can be designed to provide the "maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation" between the proposed marina and the river. The evidence in the record indicates that the Alder Creek Marina will leave the wetlands and natural shoreline intact; all of the visible characteristics of the dike below the high water mark will be left in its natural state; planting of the edge of the parking areas with native shrubs and trees will add to the scenic character of the area, screen the cars from the river and provide forage areas for wildlife; and only 2.8 acres of the 21 acres of land will be affected by the proposal. This evidence indicates that this particular requirement can be satisfied.

2. Agricultural lands shall be preserved and maintained for farm use.

PLANNING COMMISSION ERROR: The Planning Commission improperly construed this requirement by not taking into account the request by the Applicant for an exception to Goal 3 (Agricultural Land). As a result, the Planning Commission's conclusion is legally improper.

3. 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.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the "intensification of use at this location" is inconsistent with this requirement is not supported by substantial evidence in the whole record. The evidence is clear, including testimony from the OSMB, that the proposed marina will not significantly affect safety or congestion on the Multnomah Channel at this location. The evidence is also clear that farm uses on Sauvie Island will not be affected by the proposed marina. The evidence indicates that this requirement has been satisfied by the Applicants. Furthermore, the evidence indicates that the Applicants propose to donate either 2 acres of land to the public at the north end of the property, or public access to the breakwater dock which does not exist at the present time.

4. Significant fish and wildlife habitats shall be protected.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that approval of the proposed WRG permit would adversely effect significant fish and wildlife habitat is not

supported by substantial in the whole record as stated above under "Comprehensive Plan Amendment."

5. Significant natural and scenic areas and viewpoints and vistas shall be preserved.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that the proposed marina would adversely effect significant natural and scenic areas is not supported by substantial evidence in the whole record as stated above under "Comprehensive Plan Amendment." The evidence indicates that the marina can be designed to preserve significant natural and scenic areas and viewpoints and vistas.

6. The applicable policies of the Comprehensive Plan are satisfied.

PLANNING COMMISSION ERROR: The Planning Commission's conclusion that several elements of the Comprehensive Plan are in conflict with the proposed WRG permit is not supported by substantial evidence in the whole record as stated above under "Comprehensive Plan Amendment."

## V.

### REQUEST TO ARGUE BEFORE BOARD

The Applicants respectfully request the Board to allow them and their representative the opportunity to argue this matter before the Board. Argument by the parties will assist the Board in making a decision in this matter due to the complexity and length of the record before the Board.

VI.

RELIEF REQUESTED

The Applicant request that the Board reverse the decision of the Planning Commission on these matters and approve the application as satisfying all applicable legal criteria.

DATED this 23rd day of December, 1991.

GARVEY, SCHUBERT & BARER

By *Gregory S. Hathaway*  
Gregory S. Hathaway  
Of Attorneys for Applicants

GSHATHAW/2256



# MULTNOMAH COUNTY OREGON

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BOARD OF COUNTY COMMISSIONERS  
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GARY HANSEN  
SHARRON KELLEY

1992 JAN - 8  
COUNTY COUNSEL  
LAURENCE KRESSEL  
CHIEF ASSISTANT  
JOHN L. DUBAY  
ASSISTANTS  
J. MICHAEL DOYLE  
SANDRA N. DUFFY  
GERALD H. ITKIN  
H.H. LAZENBY, JR.  
MATTHEW O. RYAN  
JACQUELINE A. WEBER  
MARK B. WILLIAMS

## MEMORANDUM

TO: Bill Farver

FROM: John L. DuBay (106/1530)  
Chief Assistant County Counsel

DATE: January 7, 1992

SUBJECT: Ex parte contacts

Larry tells me you and members of the Board have been approached by someone acting on behalf of the applicant in a land use matter scheduled for hearing before the Board. If any conversations of this sort occur, they constitute ex parte contacts subject to ORS 215.422(3).

The statute provides a two part antidote for the effect of such contacts. First, the Board member contacted must state on the record the substance of the communication. This can be orally or in writing. Second, the Board member must make a public announcement of the content of the communications at the first hearing following the contact. Also, a public announcement must be made stating the right of any party to rebut the substance of the communications.

A copy of the statute is attached.

The application at issue is very controversial and will likely be appealed to LUBA regardless of the Board's decision. To avoid error, I would discourage such contacts and encourage strict compliance with the statutory antidote.

CC: Gladys McCoy  
Pauline Anderson  
Rick Bauman  
Gary Hansen  
Sharron Kelley



**215.422 Review of decision of hearings officer or other authority; notice of appeal; establishment of fees; appeal of final decision.** (1)(a) A party aggrieved by the action of a hearings officer or other decision making authority may appeal the action to the planning commission or county governing body, or both, however the governing body prescribes. The appellate authority on its own motion may review the action. The procedure and type of hearing for such an appeal or review shall be prescribed by the governing body, but shall not require the notice of appeal to be filed within less than seven days after the date the governing body mails or delivers the decision to the parties.

(b) Notwithstanding paragraph (a) of this subsection, the governing body may provide that the decision of a hearings officer is the final determination of the county.

(c) The governing body may prescribe, by ordinance or regulation, fees to defray the costs incurred in acting upon an appeal from a hearings officer or planning commission. The amount of the fee shall be reasonable and shall be no more than the average cost of such appeals or the actual cost of the appeal, excluding the cost of preparation of a written transcript. The governing body may establish a fee for the preparation of a written transcript. The fee shall be reasonable and shall not exceed the actual cost of preparing the transcript up to \$500 plus one-half the actual costs over \$500.

(2) A party aggrieved by the final determination may have the determination reviewed in the manner provided in ORS 197.830 to 197.845.

(3) No decision or action of a planning commission or county governing body shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the decision-making body, if the member of the decision-making body receiving the contact:

(a) Places on the record the substance of any written or oral ex parte communications concerning the decision or action; and

(b) Has a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.

(4) A communication between county staff and the planning commission or governing body shall not be considered an ex parte contact for the purposes of subsection (3) of this section.

(5) Subsection (3) of this section does not apply to ex parte contact with a hearings of-

ficer approved under ORS 215.406 (1). [1973 c.522 §§17, 18; 1977 c.766 §13; 1979 c.772 §11; 1981 c.748 §42; 1983 c.656 §1; 1983 c.827 §21]

**215.428 Final action on permit or zone change application required within 120 days; exceptions; mandamus authorized.**

(1) Except as provided in subsections (3) and (4) of this section, the governing body of a county or its designate shall take final action on an application for a permit or zone change, including resolution of all appeals under ORS 215.422, within 120 days after the application is deemed complete.

(2) If an application for a permit or zone change is incomplete, the governing body or its designate shall notify the applicant of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection (1) of this section upon receipt by the governing body or its designate of the missing information. If the applicant refuses to submit the missing information, the application shall be deemed complete for the purpose of subsection (1) of this section on the 31st day after the governing body first received the application.

(3) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted and the county has a comprehensive plan and land use regulations acknowledged under ORS 197.251, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

(4) The 120-day period set in subsection (1) of this section may be extended for a reasonable period of time at the request of the applicant.

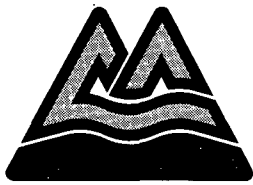
(5) The 120-day period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the county; and

(b) Unless the parties have agreed to mediation as described in ORS 197.318 (2)(b).

(6) Notwithstanding subsection (5) of this section, the 120-day period set in subsection (1) of this section does not apply to an amendment to an acknowledged comprehensive plan or land use regulation or adoption of a new land use regulation that was forwarded to the director under ORS 197.610 (1).

(7) If the governing body of the county or its designate does not take final action on an application for a permit or zone change within 120 days after the application is deemed complete, the applicant may apply in



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES  
PARKS SERVICES DIVISION  
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PORTLAND, OREGON 97233  
(503) 248-5050

BOARD OF COUNTY COMMISSIONERS  
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PAULINE ANDERSON • DISTRICT 1 COMMISSIONER  
GARY HANSEN • DISTRICT 2 COMMISSIONER  
RICK BAUMAN • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## MEMORANDUM

TO: Board of County Commissioners  
FROM: Parks Services Division  
Nancy Chase *nc*  
DATE: January 27, 1992  
SUBJECT: Alder Creek Marina Appeal

1992 JAN 28 AM 9:22  
MULTNOMAH COUNTY  
OREGON  
BOARD OF  
COUNTY COMMISSIONERS

The Park Services Division staff has reviewed this application thoroughly and would like to highlight the reasons why we are recommending denial for this appeal.

### 1. NEGATIVE IMPACT ON RECREATION

Currently, a number of pre-existing recreational uses occur on this portion of the channel. Fishing, waterskiing, canoeing, sailing, scenic viewing, wildlife viewing, to name a few, are compatible with the present land use designations. All of these public recreational uses would be completely eliminated or degraded significantly if this development, which primarily benefits private uses, is built. I would like to quote an excerpt from a letter to the Planning Commission dated November 4, 1991, from the Oregon State Parks Dept.:

"The application does not address why boat storage would have a higher public recreational value than other recreational uses (scenic viewing, canoeing, watching wildlife, driving for pleasure, etc.) that are also in need of an adequate resource base.

"We do not agree with the applicant that the public recreation needs would be enhanced by the change of land use to accommodate this project. The boathouses are for private accessory use to the public resource (the river) for the purpose of personal recreation by those individual boat owners."

Further, the letter also states, "The Department does not believe it appropriate for a large boat marina to be placed in a portion of the highest use spring Chinook angling area in the lower river."

## 2. WILDLIFE VALUES

The applicant asserts that the site is not significant wildlife habitat. While the existing vegetation on the site may not be unique, the fact that the site is part of the larger Multnomah Channel corridor makes it important. Both the site and the proposed project should be evaluated in the context of their relationship to this significant natural resource. Lynn Sharpe, Environmental Consultant to the Park Services Division, stated the following in response to the applicant's assertion:

"This site is significant in my opinion, owing to its location adjacent to Multnomah Channel. The dike is a typical corridor for animal movement in the vicinity as it does not have many of the barriers usually present in agricultural and developed areas--fences, paved roads, buildings, and human activity--which can adversely affect the movement capacity of wildlife, particularly species with limited mobility, such as small mammals, reptiles, and amphibians."

Ms. Sharpe's position is supported by Ralph Rogers, EPA, who stated, "The site rates high because it is an important link in the wildlife travel corridor."

The U. S. Dept. of Interior, Fish and Wildlife Service, stated in their letter of October 23, 1991:

"The Service is still concerned about potential impacts to fish and wildlife and the encroachment into the public waterways that may result from the project. These concerns include: the loss of water surface for public navigation and fishing, loss of riparian habitat, possible introduction of contaminants from the concentration of boat use and maintenance, substantial increase in human disturbance, and the cumulative impacts of marinas in the Columbia/Willamette River Systems."

## 3. SCENIC RESOURCES

The site is clearly visible from the St. Helen's Highway, the Sauvie Island Bridge, and road. We recognize the subjective nature of "scenic resources," but we firmly believe that the installation of 90 boathouses, 25 boat slips, 55 covered boat slips, along with the accessory uses, will have a profound and permanent impact on the scenery and the future vision of Sauvie Island as a community.

Memo/BCC  
Alder Creek Marina  
Page 3

I would like to quote an excerpt from the Department of Land Conservation and Development's letter dated October 18, 1991:

"The approval of the Alder Creek Marina would 'open the door' to future marina development and possibly other destabilizing types of development on Sauvie Island. According to the applicant's market study, the demand for large boat storage in the Columbia River system cannot be satisfied by the Alder Creek Marina. Approval of the marina could set a precedent for approval of additional marinas or other development based on similar findings of public need and market demand. Thus, such a precedent would destabilize the land use pattern on the Island.

"In conclusion, we recommend that the County deny this request."

The Park Services Division is in agreement with the concerns of the Oregon State Parks Dept., the Department of Land Conservation and Development, the U. S. Department of Interior, Fish and Wildlife Service; Oregon Dept. of Fish and Wildlife, and the EPA. We urge you to deny this project.

In our view, a situation in which demand exceeds availability is unquestionably preferable to a situation in which demand is diminished as a result of poor quality and degraded resources.

Thank you.

NC:cmk

4653p



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES  
DIVISION OF PLANNING  
AND DEVELOPMENT  
2115 S.E. MORRISON STREET  
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BOARD OF COUNTY COMMISSIONERS  
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RICK BAUMAN • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

Date: January 27, 1992

**To:** Gladys McCoy, Chair  
Members of the Board

**FROM:** R. Scott Pemble, *Planning Director*

**SUBJECT:** REQUEST TO INTRODUCE NEW EVIDENCE from Ken and Pattye Larson  
Appeal Case PR 6-91, ZC 6-91, CS 6-91, WRG 7-91

BOARD OF  
COUNTY COMMISSIONERS  
1992 JAN 27 PM 12:29  
MULTNOMAH COUNTY  
OREGON

Appellants request to introduce new evidence in the "Alder Creek Marina" appeal pursuant to MCC 11.15.8270(E)(4). County Council advises that the Board should consider the request. The Board must determine the competency, relevancy, and materiality of new material proposed for inclusion in the record.

I have reviewed the material and recommend it not be included in the record of this case. The Larson's contend the draft "Natural Area Protection and Management Plan" prepared by the Multnomah County Parks Division conflicts with arguments made by County Planning Staff concerning the evaluation of alternative sites for marinas. Specifically, appellants argue the Planning Staff included areas in the alternative sites analysis which the Parks Staff proposes as natural areas. Therefore, Larsons contend potential marina sites cited in the decision cannot be used for marina purposes because they may be designated as natural areas.

This is a flawed argument for several reasons. First, the "Natural Area Protection and Management Plan" is a **draft**; it is currently undergoing significant revisions. The version of the draft plan attached to the request has been substantially revised, and it has not yet been considered by the Board. This draft plan does not represent County policy until such time as the Board adopts it, presuming it adopts any plan.

Secondly, the attached draft makes reference to the Multnomah Channel/Sauvie Island area in general terms, not site specific terms (See Page 32 - Multnomah Channel/Sauvie Island description). The logic of the appellant's argument, if extended, would imply the County intends to designate all of Sauvie Island and Multnomah Channel a natural area. This is contrary to current land use policy and would require significant revisions to adopted policy.

Given this general description, no conclusive argument can be made that sites included within the alternative sites analysis cited in the Planning Commission decision would ultimately be acquired for natural areas. Appellant asks the Board to assume that alternative sites identified by the Planning Staff cannot be considered viable marina sites based on a draft plan that makes general reference to a large geographic area.

Lastly, without any clear policy that defines what is meant by a *natural area* designation, the impact of such designation on siting marinas cannot be measured. Again the Board is being asked to leap ahead of public deliberation of a draft plan to conclude the policy implications on the siting and operation of marinas. The new evidence can infer any number of possible scenarios, however, until a plan is adopted, no conclusion can be drawn concerning the alternative sites analysis in the Planning Commission decision. Appellant's contention is purely speculation.

I recommend the evidence not be considered in your deliberation of this appeal. In the event you do include the draft Natural Area plan in this appeal, the new evidence will trigger several actions. First, adequate time will need to be provided the opposition to review and rebut the new evidence. If new evidence is introduced, I recommend the appeal hearing be continued for an additional two weeks. The opposition should be allowed seven days to review and submit written rebuttal to the new evidence. The remaining seven days will provide time for the appellant to review the rebuttal made by the opposition.

Secondly, some question remains concerning the notification requirements if new evidence is allowed. County Council will have instruction at the January 28, 1992 hearing regarding notice requirements should you choose to accept this new material into the record.

Please contact Mark Hess and/or John Dubay if you have questions concerning this matter since I will be out of the office Monday.

Encl. Ken and Pattye Larson Request

cc. Gregory Hathaway  
John Dubay

**GARVEY, SCHUBERT & BARER**

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WASHINGTON, D.C.  
FIFTH FLOOR  
1000 POTOMAC STREET N.W.  
WASHINGTON, D.C. 20007  
(202) 965-7880

PLEASE REPLY TO PORTLAND OFFICE

VOICE MAIL EXT. 3127

January 17, 1992

Mr. Scott Pemble  
Acting Planning Director  
Multnomah County  
2115 S.E. Morrison  
Portland, Oregon 97214

Re: Alder Creek Marina Appeal

Dear Mr. Pemble:

Enclosed please find an original and five (5) copies of Ken and Pattye Larson's Request to Introduce New Evidence in the above-entitled matter.

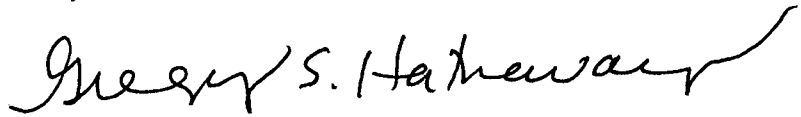
I assume this Request will be presented to the Board at its January 28, 1992 meeting. Please let me know how the County wishes to procedurally proceed on this request.

Thank you for your assistance.

Very truly yours,

GARVEY, SCHUBERT & BARER

By



Gregory S. Hathaway

GSH/lkt  
Enclosures

3965.WP.1  
31064-00200

cc: Ken and Pattye Larson  
Sumner Sharpe  
Martha F. Stiven

**RECEIVED**  
JAN 21 1991

Multnomah County  
Zoning Division

BEFORE THE MULTNOMAH COUNTY  
BOARD OF COUNTY COMMISSIONERS

KEN and PATTYE LARSON,	)	
	)	
Applicants,	)	Case Nos. PR 6-91, #67
	)	ZC 6-91, #67
Request for a Comprehensive Plan	)	CS 6-91, #67
revision to take exceptions to	)	WRG 7-91, #67
Statewide Planning Goals 3	)	
(Agriculture) and	)	
14 (Urbanization); a Plan revision	)	REQUEST TO INTRODUCE
from Agriculture to Multiple Use	)	NEW EVIDENCE
Agriculture; a change of Sectional	)	
Zoning Maps #67, #68, and #70,	)	
changing the described property	)	
from EFU, FF, FW, and WRG to	)	
MUA-20, FF, FW, WRG, C-S, and a	)	
community service use to allow the	)	
Alder Creek Marina.	)	

I.

NAME OF APPLICANT  
AND COUNTY CASE NUMBERS

The Applicants in this case are Ken and Pattye Larson. The Applicants are legally represented in this matter by Gregory S. Hathaway and the law firm of Garvey, Schubert & Barer. The case file numbers in this matter are PR 6-91, #67, ZC 6-91, #67, CS 6-91, #67, and WRG 7-91, #67.

II.

NAMES AND INTERESTS OF PETITIONERS

Petitioners in this request to introduce new evidence are the Applicants, Ken and Pattye Larson, who, on December 23, 1991, appealed a decision of the Multnomah County Planning Commission ("Planning Commission") by filing a Notice of Review before the



Board of County Commissioners. This request supplements that Notice of Review.

### III.

#### NATURE OF THE REQUEST

On December 23, 1991, Petitioners timely filed a Notice of Review to appeal a decision by the Planning Commission on Petitioners' above-referenced application.

Since that Notice of Review was filed, the Multnomah County Parks Service Division ("Parks Service Division") presented to the Planning Commission on January 6, 1992, a draft Natural Area Protection and Management Plan (the "Natural Area Plan") which is relevant and material to the issues involved in this appeal. A copy of that Natural Area Plan, as it was presented to the Planning Commission, is attached hereto as Exhibit A.

Because the Natural Area Plan was not introduced to the Planning Commission and not made available to Petitioners until after Petitioners were required to submit their Notice of Review on December 23, 1991, Petitioners were unable to include a request to introduce the Natural Area Plan to the Board as part of their Notice of Review. Petitioners request that they be allowed to supplement the record in this case by introducing the Natural Area Plan to the Board upon its review of this matter.

#### IV.

##### SPECIFIC GROUNDS FOR REQUEST

Rule 1.43.4 of the procedures applicable to appeals before the Multnomah County Board of County Commissioners permits the Board to admit additional testimony and evidence:

...if it is satisfied that the additional evidence could not reasonably have been presented at the Commission's hearing. The Board may, in making such decision, consider:

- a. Prejudice or surprise to parties;
- b. Convenience or availability of the additional evidence at the time of the initial hearing; and
- c. The competency, relevancy and materiality of the proposed testimony or evidence.

In this case, the Natural Area Plan could not have been presented at the initial hearing: it is competent, relevant and material to the issues before the Board; was unavailable to Petitioners at the time of the initial hearing; and its admission will not cause prejudice or surprise to any party.

- A. The Natural Area Plan is competent, relevant and material to the issues on appeal.**

An issue in this appeal involves the availability of alternative sites to accommodate the proposed Alder Creek Marina. During the Planning Commission's consideration of the Alder Creek Marina application, the Planning Department staff and Parks Service Division staff represented to the Planning Commission that sites on the west side of the Multnomah Channel, across the Channel from the proposed Alder Creek Marina, were available as

alternative sites for the proposed Alder Creek Marina.

Conversely, Petitioners argued to the Planning Commission that sites on the west side of Multnomah Channel were not available, and that they were more environmentally significant and less appropriate for marina development than the subject site.

Based on the representations of the Planning Department staff and Parks Service Division staff, the Planning Commission rejected Petitioners' arguments, and determined that sites on the west side of the Multnomah Channel were available to accommodate the use.

Notwithstanding the representations by the Planning Department staff and Parks Service Division staff to the Planning Commission during the Alder Creek Marina proceedings, the Natural Area Plan confirms Petitioners' position by designating the entire west side of Multnomah Channel a natural area system, and nominating that entire area for purchase by the County to protect it in its natural state. Despite their representations to the Planning Commission, Parks Service Division has determined that, as part of the natural area system, this area would be unavailable and inappropriate as an alternative site to accommodate the proposed use.

Because of its effect of eliminating the entire west side of the Multnomah Channel as a potential alternative site for the proposed Alder Creek Marina, the Natural Area Plan is competent, relevant and material to the resolution of the issue regarding

the availability of alternative sites to accommodate the proposed use.

**B. The Natural Area Plan was unavailable to the Applicants during the proceedings before the Planning Commission.**

The Parks Service Division did not make the Natural Area Plan available to the Planning Commission until December 24, 1991, and did not present the Natural Area Plan to the Planning Commission until January 6, 1992. During the pendency of the Alder Creek Marina application before the Planning Commission, neither the Parks Service Division staff nor the Planning Department staff informed Petitioners, their representatives or the Planning Commission members of the Natural Area Plan which eliminates the entire west side of the Multnomah Channel as a potential alternative site for the Alder Creek Marina. This evidence was, therefore, unavailable to Petitioners and the Planning Commission at the time of the initial Planning Commission hearing.

**C. Introduction of the Natural Area Plan will not result in prejudice or surprise to parties to this proceeding.**

During the Planning Commission's proceedings on this matter, it was the Planning Department staff and the Parks Service Division staff that argued the availability of sites on the west side of the Multnomah Channel as alternative sites for the proposed marina, notwithstanding their knowledge of the Natural Area Plan which renders the entire west side of the channel unavailable as an alternative site. No other party independent of the County staff argued that sites on the west side of the

Multnomah Channel were available as alternative sites. Because of the County staff's existing knowledge of the Natural Area Plan, introduction of this plan to the Board in this proceeding will not result in surprise or prejudice.

V.

**REQUESTED RELIEF**

For the above-stated reasons, Petitioners request that, at their January 28, 1992 hearing before the Board, they be allowed to introduce into the record in this appeal the Natural Area Protection and Management Plan as presented to the Planning Commission on January 6, 1992.

Respectfully submitted,

GARVEY, SCHUBERT & BARER

By Gregory S. Hathaway  
Gregory S. Hathaway

By Virginia L. Gustafson  
Virginia L. Gustafson  
Of Attorneys for Applicants

VLGUSTAF/3651

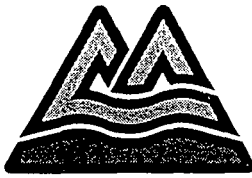


EXHIBIT A

## MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES  
PARKS SERVICES DIVISION  
1620 S.E. 190TH AVE.  
PORTLAND, OREGON 97233  
(503) 248-5050

BOARD OF COUNTY COMMISSIONERS  
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GARY HANSEN • DISTRICT 2 COMMISSIONER  
RICK BAUMAN • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

### M E M O R A N D U M

TO: Planning Commission Members

FROM: Nancy Chase, Senior Planner, Parks Services Division *NC*

DATE: December 24, 1991

SUBJECT: Natural Area Protection and Management Plan - DRAFT

Enclosed is a draft of the Natural Area Protection and Management Plan prepared by the Multnomah County Parks Services Division. This plan has already been approved by the Parks Advisory Committee and will be presented for your review at the January 6, 1992, Planning Commission meeting.

Because this is a lengthy document, I have flagged Policy 6 "Planning" and the resulting implementation work tasks as this section will probably be of the most interest to your group.

If you have any questions or concerns regarding this plan, please call either Charles Ciecko, park superintendent, or me at 248-5050.

NC:rj

Enclosure

4305p

**Multnomah County**

**Natural Area Protection and Management Plan**

## **Board of County Commissioners**

Gladys McCoy, Chair of the Board

Commissioner Pauline Anderson

Commissioner Gary Hansen

Commissioner Rick Bauman

Commissioner Sharron Kelley



## **Department of Environmental Services**

Paul Yarborough, Director  
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### **Parks Advisory Committee**

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Vivian Starbuck  
Dr. Charles Becker Sr.  
Christine Lightcap  
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### **Natural Area Subcommittee**

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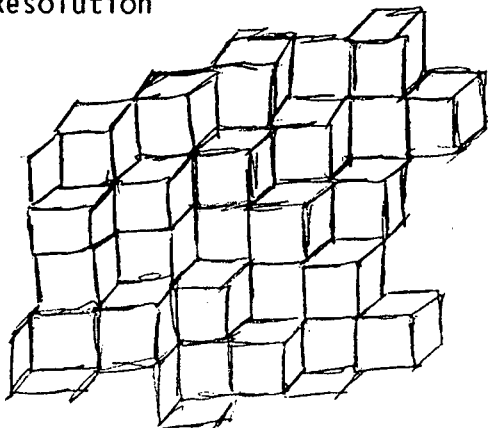
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## THE VISION

Multnomah County will be a community where both people and nature flourish w/in nature,

flourish.

Peter Fry

## INTRODUCTION:

In acknowledgment of the 20th anniversary of Earth Day, the Multnomah County Board of County Commissioners passed a resolution which created a Natural Area Acquisition and Protection Fund. The creation of this fund coincided with the dedication of Multnomah County's first wildlife refuge, Beggars Tick Marsh, a 20 acre wetland in SE Portland.

These actions are reflective of a growing awareness that the natural resources in and around the Metropolitan Area are essential to maintaining the quality of life associated with a healthy community.

Clean air, water, a diversity of fish and wildlife, accessible and beautiful natural areas affording a wide range of recreational and educational opportunities have all made Multnomah County a desirable place to live, work and recreate. As more and more people are attracted to our region, it becomes essential to develop strategies which promote well planned growth of which a healthy, viable natural area system is an integral part and in which the region's natural resources are conserved.

The Natural Area Protection and Management Plan is a conscious effort by the Board of County Commissioners to be proactive rather than reactive in regard to this critical issue. The purpose of this plan is to create a framework by which the county's remaining natural areas are identified, evaluated and strategies outlined to preserve, protect and enhance these resources. Because these natural areas often transcend political boundaries it is essential that the county work cooperatively with other agencies to assure that natural areas are protected in a manner which results in a biologically functional system.

A critical element to ensure that a viable natural area system is not only created but protected for the long term will be the creation of a comprehensive environmental education and interpretation program for county residents and visitors. This program will be important in promoting the wise use and enjoyment of these natural areas, and in contributing to informed decisions regarding environmental issues facing the region.

Direct, daily contact with nature should not become a story from our past but rather a living legacy for future generations.

## **POLICIES**

## POLICIES:

To achieve this vision the following policies are hereby adopted:

### Policy #1 - Acquisition and Protection

A. The county shall work towards the restoration/protection of the

*significant* region's natural area systems, sufficient habitat shall be provided

to support the historic diversity of flora and fauna native to

Multnomah County. The following natural area systems are hereby

recognized: \_\_\_\_\_

Southwest Hills - Tryon Creek

Tualatin Mt. Corridor

Columbia River Lowlands/Slough/Islands

Willamette River

Fairview Lake and Creek

Multnomah Channel/Sauvie Island

Sandy River

Columbia River Gorge

Larch Mountain

Boring Lava Hills

Volcanic Buttes

Johnson Creek and tributaries/Beggars Tick Marsh

NOTE: See page 25 for system descriptions.

- B. Corridors that connect and help form these natural area systems shall be protected in order to minimize fragmentation of habitat and isolation of species.
- C. Publicly-owned natural areas shall be protected and their value enhanced by buffer zones containing appropriate uses.
- D. Through its Department of Environmental Services, the county shall act as an advocate for the protection, conservation and restoration of natural areas.
- E. The county shall work cooperatively with appropriate federal, state, regional, local agencies and non-profit organizations to protect and enhance the natural resources of Multnomah County.

**Policy #2 Finance**

- A. The county shall endeavor to review, evaluate and dispose of surplus property in a timely manner in order to provide revenue for the implementation of this plan. (In April 1990 the Board of County Commissioners created a Natural Areas Acquisition and Protection Fund, and allocated 50% of the proceeds from the sale of unrestricted county surplus property.)



- B. In order to leverage county resources, efforts will be made to create and foster partnerships with other agencies, businesses, service groups and citizens.
- C. The county shall support the development of new funding sources on a regional, state and federal level.
- D. When feasible, the county shall recover a portion of operation and maintenance costs through the implementation of a user fee system and/or development of revenue generating recreational facilities.

### **Policy #3 Management**

- A. As natural areas are acquired, measures shall be taken to protect the land from uses that have had or may have a detrimental impact on fish and wildlife habitat or recreational resources.
- B. A resource information base shall be established for the purpose of monitoring the ongoing integrity and health of each site.

- C. To ensure wise stewardship, a management plan shall be adopted for each site. The plan shall identify guidelines for resource protection, enhancement, utilization and maintenance.
- D. Prior to allowing public use, sufficient funds shall be appropriated for operations and maintenance costs consistent with the approved management plan.
- E. The development of recreational facilities may be pursued when consistent with approved management plans.

**Policy #4 Public Involvement**

- A. The public shall be encouraged to participate in the selection of natural area sites for acquisition of fee title or conservation easements.
- B. The management planning process for each site shall incorporate a public involvement element.
- owners* C. The county will foster the development and use of alternative labor, in the form of citizen volunteers, service groups, inmate crews, etc., for various aspects of operations and maintenance of natural areas.

## Policy #5 Education

- A. The county shall endeavor to provide an educational and interpretive program which:
1. Promotes public awareness of our relationship to and dependence on finite natural resources.
  2. Provides a foundation for informed public decisions regarding the management of natural resources.
  3. Encourages appropriate use and appreciation of publicly-owned natural areas.
- B. Site specific educational and recreational opportunities shall be identified in each management plan.

## Policy #6 Land Use and Development

- A. The county recognizes that it is not feasible to place all *significant* natural areas and corridors in public ownership. The county shall endeavor to utilize its land use planning authority in a manner which fully implements state land use goals ~~and~~ *guidelines and Policy #1 of this plan. The Multnomah County Comprehensive Framework Plan to protect all significant natural area sites.*

Policy #7 Transportation

- A. It is the intent of Multnomah County to design, construct and maintain transportation systems which avoid or minimize impacts to the natural areas identified under Policy #1 of this plan.

*Rich Leonard  
should delineate  
between rural &  
urban*

## **PLAN IMPLEMENTATION**

## POLICY IMPLEMENTATION PLAN:

The following implementation plan reflects the most appropriate process. Many work tasks are dependent on budget and manpower constraints and consequently will be done on a phased schedule.

### Policy #1 Acquisition and Protection

The remaining natural areas in Multnomah County range in size from tiny island surrounded by urbanization to several large areas over 100 acres located along the edge of the urban growth boundary. Preliminary figures indicate that approximately 10% of these natural areas are in public ownership.

In order to create a viable system of natural areas with the funding available, it is important that the county concentrate resources on preserving areas that are of county-wide significance, while encouraging private support of locally significant areas.

Conservation of these areas will in most cases require cooperative partnerships between other jurisdictions, citizens groups and private property owners.

The value of natural areas are greatly increased if sites are connected by natural corridors of land and/or water with compatible uses that avoid the isolation of animal and plant species. Prior to acquiring natural areas for refuge sites attention will be given to how a site will enhance the connectivity of a system . Well connected natural areas will contribute to the long term integrity of a natural area system. A diverse biological habitat is possible only if corridors of sufficient size are preserved or restored. Smaller natural area remnants or "islands" of natural areas are very vulnerable to human disruption and require constant management and protection to maintain their natural condition (Pyle 1980). Therefore county acquisition dollars should be reserved for natural areas of regional significance.

Acquisition of property or conservation easements will be based on a list of criteria (see page \_\_\_\_). The majority of the criteria deal with the intrinsic value of each site within the regional ecosystem.

In order to implement Policy #1 goals the following work tasks should be initiated:

1a. The Parks Services Division shall work with the Metropolitan Greenspaces Program to identify the status of the natural area systems listed in Policy #1 and determine which system (or parts of systems) it will assume the role of lead agency in protection and preservation. For instance it may be determined that Multnomah County would be the lead agency for the protection and preservation of Johnson Creek for that portion located outside the urban growth boundary, while Gresham or Portland would be the lead agency within their jurisdictional boundaries with the county as a potential partner.

For those systems where Multnomah County is determined to be the lead agency, a work plan shall be developed which identifies system boundaries, zoning, ownership, protection strategies and potential partnerships.



- 1b. Establish procedures by which all county properties and tax foreclosed properties are reviewed on a regular basis to determine if any have value as natural areas. These properties may be transferred to the Parks Services Division or to another appropriate jurisdiction.
- 1c. Continue biological surveys and data analysis necessary to identify target sites, buffers and corridors for acquisition and/or protection.
- 1d. Share information with and encourage cities and service groups and non-profit organizations within Multnomah County to take appropriate action to preserve and protect natural areas within their boundaries.

#### **Policy #2 Finance**

The vision of creating a community where nature and people both flourish can be accomplished only if action is taken in a timely manner. Multnomah County is expected to experience significant growth over the next 20 years. As the region continues to urbanize, land values will escalate and opportunities to acquire large tracts of undeveloped land

will become increasingly rare. To assure adequate open space and protection of natural systems, the majority of the Parks Services Division's resources should be concentrated on acquisition and revenue generation. Since revenue for the acquisition fund is derived from the sale of county surplus property (see Exhibit \_\_\_\_), it is urgent that surplus properties be reviewed and sold expeditiously. As Fund resources will be limited in relationship to the need, all opportunities to leverage county funds should be explored.

The Park Services Division's past emphasis has been on revenue generation in order to minimize dependence on the general fund. This emphasis should be continued in order to provide a financially secure future for the maintenance and management of the county's natural area sites. It is likely, however, that "user fees" will not provide adequate resources for this purpose. Subsequently, it will be necessary to pursue other options outside of the General Fund.

*Peter Fry wants to increase user fees*

In order to implement Policy #2 the following work tasks are

recommended:

2a. The Property Management Division and the Park Services Division will develop a work plan for the sale of surplus properties and the purchase of natural area sites.

*-add language about evaluating all sites prior to sale*

2b. The Park Services Division will review existing roles, responsibilities and budget to determine how this new function can be accommodated given the existing resources and determine methods by which new revenue can be generated and resources leveraged.

### Policy #3 Management

Once acquired natural areas will need clear, concise management plans to guide current and future administration.

Without a management plan, well intentioned improvements can quickly become threats to the integrity of the resources which acquisition was intended to protect. Too many trails, roads, parking lots, etc., and the

resulting increase in visitation can quickly erode a site's value. The type and level of public use should be determined with the appropriate expertise and public participation.

To measure the impact of outside influences and public use base information on a site's air and water quality, soil condition, botanical and wildlife components, should be gathered and updated on a regular basis. Resource monitoring is an essential component of maintaining the integrity of the site and the public's investments.

In addition to a specific management plan for each site, maintenance techniques should be developed for use by park staff. Maintenance of a natural area will require the staff to be educated in areas such as herbicide and pesticide use, the identification and removal of exotics, etc., (see Exhibit \_\_\_\_\_). Appropriate maintenance techniques shall be incorporated into the Division Maintenance Standards and Baseline Maintenance schedule documents.

In order to implement Policy #3 the following work tasks should be initiated:

Task 3a. The Park Services Division shall set up base information indicators by which site quality can be monitored.

3b. The Park Services Division shall develop a work plan for the gathering of historical, current and future base information for all county-owned natural areas.

3c. The Park Services Division shall develop a management manual or incorporate into existing manuals the appropriate techniques for the maintenance of natural areas.

#### **Policy #4 Public Involvement**

Historically the Park Services Division has encouraged and solicited involvement from the public not only for planning and policy guidance but also for the donation of individual skills and services.

Participation in the Environmental Education program, leading salmon walks, serving on the Park Advisory Committee, or the Blue Lake Task Force, maintenance and conservation projects are all examples of citizen participation in the Multnomah County park programs.

As part of this plan the public was also encouraged to become involved by nominating natural area sites they felt were worthy of consideration for protection. In all, 20 sites were nominated. This nomination process will occur annually to help communicate, to the County, a site's importance to residents. Public interest in a site being acquired is an important factor to consider in ranking sites for acquisition. For long term stability and protection of a site, public involvement and support is essential. Development of "friends" groups is an effective method of involving residents.

In order to implement this policy the following work tasks should be initiated:

Task 4a. The Park Services Division will continue established public involvement procedures.

4b. The Park Services Division will continue the co-operative efforts with the Metropolitan Greenspaces Program to heighten the public awareness regarding natural resource values.

4c. The Citizen Involvement Committee shall develop a work plan by which the development of "friends" groups will be encouraged and facilitated.

#### Policy #5 Education

Public education is critical to the long-term success of any program undertaken by a governmental agency.

Taxpayers' should not only be made aware of the resources available for their enjoyment, but also the long-term economic value of wise stewardship. Education is a prerequisite to public involvement and the development and maintenance of a constituency for natural areas.

Education program components are diverse, and can include passive elements such as signage and brochures or be active and include elements such as school programs, living history, nature centers and special events.

To be effective, a multifaceted education program will be required.

In order to implement Policy #5 the following work tasks should be initiated:

5a. The Park Services Division will maintain/expand existing educational efforts within financial constraints.

5b. The Park Services Division will develop partnerships which involve other agencies, non-profit organizations, and volunteers.

5c. The Park Services Division identify educational opportunities as part of the Management Planning Process for Natural Area sites.

#### Policy #6 Land Use and Development

As the county's land use and development focus continues to shift from urban issues to rural issues, it is essential that methods for protecting natural area systems on privately-owned lands be refined so as to conserve resource values without preventing reasonable use of the land.

Private land, within identified natural systems, is integral to maintaining valuable habitats, connecting corridors and their associated values.



Development densities, vegetation management, development setbacks, storm water management, and construction site standards are all elements affecting the quality and viability of natural systems identified in Policy #1.

Although the Board of County Commissioners is mindful of concerns regarding the rights of property owners, there is also recognition of the responsibility of all landowners to develop and manage property in a manner which is consistent with the conservation of "publicly-owned" resources such as fish, wildlife, scenery, air and water.

*should define*  
*scenic vistas + views of WDCA*  
In order to implement Policy #6 the following work tasks should be

initiated:

The Land Use and Development Division and Parks Services Division will develop a work plan to:

6a. Overlay identified natural areas on land use maps.

6b. Review the existing zoning, allowable uses and siting standards

within and adjacent to the natural area systems outlined in Policy #1.

- 6c. Evaluate the ability of existing regulations to protect natural areas from degradation associated with development.
- 6d. Recommend to Planning Commission and Board of County Commissioners, changes in policies, zoning and siting standards where appropriate.

#### Policy #7 Transportation

Policy #7 also recognizes the need for a holistic approach to natural resource conservation. As new road systems are designed and existing roads reconstructed, potential impacts on natural resources should be assessed and efforts made to avoid or mitigate impacts on natural areas.

The proliferation of heavily traveled roads within Multnomah County can contribute to the degradation of natural areas in several ways. Examples include:

- ° increased storm water run-off.
- ° barriers to migration, both terrestrial and aquatic species.
- ° potential contamination of surface water resulting from the use of herbicides.
- ° sedimentation of streams resulting from road construction projects.
- ° high "road-kill" rates along seasonal migration movement routes.

In order to address these concerns and implement Policy #7, the Transportation Division shall develop a work plan to:

- 7a. Identify roads within natural areas in Multnomah County.
- 7b. Develop road design and construction standards which incorporate bio-engineering techniques in sensitive natural areas.
- 7c. Review and evaluate use of herbicides along roads located adjacent to perennial stream.
- 7d. Document locations of continual unauthorized garbage dumping for clean-up and installation of physical barriers.
- 7e. Develop storm water management program which meets or exceeds current state and federal standards.
- 7f. Work with Oregon Department of Fish and Wildlife to identify stream crossings which have created migration movement barriers and schedule corrective measures.
- 7g. Work with Oregon Department of Fish and Wildlife to identify areas with high "road-kill" rates and develop strategies to reduce mortality.

## **NATURAL AREA SYSTEMS**

## NATURAL AREA SYSTEMS:

### Southwest Hills - Tryon Creek

The Southwest Hills are located in southwest Portland, south of the Balch Creek Watershed and downtown. It is an area characterized by steep forested ravines and drainages. This landscape was once dominated by fir, hemlock, maple, and a few stands of Oregon ash. Many of the once forested tracts have been replaced by residential development, resulting in a highly urbanized area of the city.

Tryon Creek is a 4,477 acre drainage basin with its headwaters at the confluence of Fall Creek near SW 26th and Taylors Ferry and an unnamed creek. The tributaries and mainstem of Tryon Creek flow through narrow canyons primarily forested with deciduous species. Residential development is beginning to encroach on many of the steep narrow drainages that are tributary to Tryon Creek, affecting water quality and wildlife habitat values. However, Tryon Creek still supports a remarkable assemblage of natural vegetation and

wildlife. Tryon Creek and its tributaries create linkages to the upland forests of the Tualatin Mountains. Tryon Creek State Park, located within this drainage, is rather unique for its size and natural qualities, although it is somewhat overshadowed in the Portland area by the much larger Forest Park.

#### **Tualatin Mt. Corridor**

The Tualatin Mountains, named by Native Americans, are commonly known as the Northwest Hills. They are a narrow northwest trending, complexly faulted range that rises about 1,000 feet above the City of Portland and Tualatin Basin. The eastern slopes of the Tualatin Mountains are drained by creeks flowing to the Willamette River. Several of these creeks have managed to escape the ravages of urban development and continue to support viable population's of resident and anadromous fish species. Examples of these important remnants include Balch, Miller and McCarty Creeks. The western face of the range slopes more gently to the Tualatin Valley. This mountainous landscape was once dominated with fir, hemlock and maple forests, with a few

stands of Oregon ash along streams. Many of the once forested tracks have been cleared and large tracts of residential development now prevail. Five thousand acre Forest Park, the largest natural park in the Portland/Vancouver Metro area is located within the Tualatin Mountains. The range provides a travel corridor for wildlife between Forest Park, the Tualatin Valley and Coast Range to the west and northwest.

The Fanno Creek Corridor drains the west side of the Tualatin Mountains including Portland, portions of Multnomah County, Beaverton and Tigard. Fanno Creek meanders 14 miles through residential, commercial and industrial lands before entering the Tualatin River. The upper reaches and headwater tributaries of Fanno Creek (to SW Oleson Road), partially within Multnomah County, flow through densely forested and residential areas. There are still scattered wetlands throughout the upper reaches of the creek. Cutthroat trout are known to spawn in the few remaining silt-free gravel beds. The lower stretches of the creek have been seriously degraded due to increased urbanization, residential, commercial and industrial encroachment.

## Columbia River Lowlands/Slough/Islands

The Columbia River, the largest river on the Pacific Coast of North American, cuts through the Cascade Mountains on its course westward to the Pacific Ocean. The Columbia River lowlands were once a mosaic of lakes, sloughs, creeks and wetland forests. Within Multnomah County, Smith and Bybee Lakes, Burlington Bottom (and adjacent lands to the north and south), the Columbia Slough and parts of Sauvie Island are remnants of this historic landscape. Columbia River dams, levee systems and industrial, commercial and agriculture development have contributed to the decline of this historic wetland landscape. Bald eagles, yellow-billed cuckoos, western pond turtles, red-legged frogs, wapato and Columbia cress, formerly common plant and animal inhabitants of the Columbia River system, are currently rare at best.

*Purple  
Marti*

From its headwaters at Fairview Lake, the Columbia Slough flows west through agricultural, industrial and airport properties, 21 miles to its confluence with the Willamette River at Kelly Point Park. Formerly an active floodplain, lands surrounding the Slough have been diked drained and filled leading to their utilization for agricultural and industrial purposes.



These alterations have transformed a system of braided channels, wetland and riparian areas into a single channel plagued with water quality problems associated with storm water run-off, sewage discharges and nearby land uses.

Despite its problems, the Columbia Slough continues to provide the important function of linking remnants of this once vast complex.

Blue Lake and the various Columbia River Islands (i.e., Government, McGuire, Gary, Flagg Islands, Hayden, etc.) are included in this Natural Area System.

### **Willamette River**

The Willamette River weaves its way through the Willamette Valley from its headwaters in both the Cascades and Coast Ranges south of Eugene to its confluence with the Columbia River at Kelly Point Park. Once a mosaic of braided channels, lakes, sloughs, creeks and wetland forests, the Willamette has been altered by intensive dredging, filling and development along its banks. Within Multnomah County, the shores of the Willamette are predominated

by industrial, commercial and residential uses including downtown Portland. Elk Rock Island, Ross and Toe Islands, Oaks Bottom Wildlife Refuge, Kelly Point Park and portions of Sauvie Island are examples of the few remaining natural areas remaining along the river. Today, place names on a map of the city describe rich wetland and riparian areas once prevalent. These names are poetic reminders of a time when Swan Island actually was an island, Mock's Bottom--a productive wetland system and Guild's Lake--a 50-acre pond.

#### **Fairview Lake and Creek**

Fairview Creek originates in a highly urbanized portion of Gresham, and flows north passing through areas characterized by urban development. After passing under Interstate 84 at Fairview, the creek flows briefly through agricultural lands and then into Fairview Lake. The entire Fairview Creek watershed is located within the Urban Growth Boundary. This stream is characterized by a patchwork of healthy native riparian vegetation, urban

development, agricultural uses (to the edge of the creek) and underground culverted portions. Fairview Lake, the headwaters of the Columbia Slough was formerly an emergent wetland that has been dredged to enhance storm water retention. Fairview Creek and Lake links the forested buttes in Gresham with the Columbia Slough and the Columbia River.

#### **Multnomah Channel/Sauvie Island**

Multnomah Channel/Sauvie Island are located in northwest Multnomah County near the confluence of the Willamette and Columbia Rivers. The area is a remnant of a once vast system of braided channels, wetlands and riparian areas along the Willamette and Columbia Rivers. The combination of wetland forests, upland forests, emergent wetlands, open water and agricultural areas contribute to great biodiversity. This area provides habitat for tundra swan, bald eagle, western pond turtle, yellow-billed cuckoo, red-legged frog, Columbia White-Tailed Deer and several rare plant species.

## Sandy River

The Sandy River rises on the west side of Mt. Hood at the Reid and Sandy glaciers and flows northwest to its confluence with the Columbia River. The Sandy River is notable for its oxbows, timber growth down to the waterline native salmon and steelhead populations and recreation opportunities. Early surveyors described the Sandy drainage as a township containing a large amount of fine farming lands and some excellent fir and cedar timber. Today, the general health and vitality of the Sandy's aquatic and adjacent riparian and upland habitats are good to excellent. The Sandy River is an important corridor connecting the Cascade Forests with the Columbia River while providing important habitat for a myriad of wildlife including elk, bear, deer, coyote, beaver, osprey and bald eagle. The segment of the Sandy located between Dodge and Dabney Parks is included in both the State Scenic Waterway Program and National Wild and Scenic River System. The lower six miles is included in the Columbia Gorge National Scenic Area.

Salmon and Steelhead utilize the Sandy and its tributaries for spawning and rearing purposes. A variety of resident fish species are also found throughout the basin.

Several tributaries (Gordon Creek, Buck Creek, Trout Creek and Big Creek) flow into the Sandy near Oxbow Park from the northeast. These streams are considered to be some of the healthiest in the Metropolitan region.

Beaver and Kelly Creeks flow northeast into the Sandy near Lewis and Clark State Park. The latter originates near Pleasant Home and flows into Beaver Creek near Mt. Hood Community College. Much of the area surrounding Kelly Creek is currently being developed for residential uses. Agricultural uses are common in the upper reaches of Beaver Creek while residential uses predominate within Troutdale city limits. These land uses have degraded the value of these two riparian systems as well as water quality, quantity and associated fish production potential. Nonetheless, Beaver and Kelly Creeks continue to provide riparian corridor habitat for a variety of birds, deer, and small mammals.

## **Columbia River Gorge**

The Columbia River Gorge National Scenic Area extends 80 miles along the Columbia River, from the Sandy River east to the Deschutes River. The diverse and unique features and formations within the Gorge are a result of cataclysmic floods, volcanic action and landslides. A combination of moss covered basalt cliffs, lush temperate rain forest and waterfalls characterize the portions of the scenic area within Multnomah County. The National Scenic Area is jointly managed by the U.S. Forest Service and Columbia Gorge Commission. A Comprehensive Management Plan was adopted by the Gorge Commission in late 1991.

## **Larch Mountain**

At 4,056 feet, Larch Mountain is the highest point in Multnomah County. Much of Larch Mountain is located within the Mt. Hood National Forest where streams rise and flow north to form the Columbia Gorge waterfalls or southwest into the Sandy River. These streams provide important habitat for resident and anadromous fish species.

Larch Mountain's elevation makes it the only place in the County where Pacific Silver and Noble Fir grow. The forests of Larch Mountain are habitat for a variety of large mammals including elk, deer, cougar and bobcat while providing a scenic backdrop to the urbanized lowlands.

### **Boring Lava Hills**

The Boring Lava Hills, located in southern Multnomah and eastern Clackamas Counties, are of the Kelso Slope geologic formation and are characterized by clay soils and steep slopes. The hills form a forested mosaic resulting from logging practices and urban development. The area is dominated by mixed conifer and deciduous (Douglas fir, red alder, and big leaf maple). The Boring Lava Hills are linked to many of the forested buttes by the Johnson Creek Corridor.

### **Volcanic Buttes**

East of the Willamette, the nearly flat terrain which rolls gently upward toward the foothills of the Cascades is broken by numerous forested,

volcanic buttes. The volcanic buttes begin at Mt. Tabor and extend east and include Rocky Butte, Powell Butte, Gresham Butte, Gabbert Hill, Towle Butte, Butler Ridge, Jenne Butte, Grant Butte, and Hogan Butte. Historically, the buttes were heavily timbered with fir, cedar, hemlock and maple. Hillsides that were once covered by predominantly coniferous forest are now characterized by mixed forests--a successional stage of regrowth associated with forest practices.

These major topographic features provide relatively large blocks of upland forest habitat which are loosely connected by riparian corridors such as Johnson Creek. The volcanic buttes also provide scenic overlooks and backdrops throughout urbanized East Multnomah County.

#### **Johnson Creek and Tributaries/Beggars Tick Marsh**

Johnson Creek is a tributary of the Willamette River originating west of the Sandy River near Orient. Flowing approximately 18 miles west through the City of Gresham, unincorporated East Multnomah County, Portland, and unincorporated North Clackamas County, Johnson Creek enters the Willamette



River in the City of Milwaukie. The Johnson Creek Corridor is a mosaic of relatively natural areas interspersed with large areas which have been developed to various intensities, integrated with the water course which provides food, shelter, breeding and rearing areas for aquatic and terrestrial wildlife. Agricultural and residential uses characterize the Creek from the headwaters to SE 92nd Avenue. West from this point, predominant land uses include: residential, industrial and commercial development. Land uses throughout the watershed have impacted water quality and quantity. Subsequently, the productivity of this urban stream has been significantly compromised. Johnson Creek is an important wildlife corridor connecting various volcanic buttes and wetland areas with the Willamette River. It is one of the few remaining free-flowing creeks of its size in the Metropolitan Area. The less disturbed stretches of the creek are characterized by western red cedar, red alder, cottonwood and willow riparian forests. Beggars Tick Wildlife Refuge, located within the Johnson Creek watershed, is a 20+ acre wetland complex situated near SE 111th and Foster Road.

## Site Evaluation Form:

In addition to a biological survey (see Exhibit \_\_\_\_\_) all sites considered for protection will be reviewed based in the items listed in the site evaluation form. The data collected in these forms is a mixture of objective and subjective observations on the part of the field inspector. This information will be used to narrow down the properties targeted for protection.

The topics evaluated are:

### Rare or Unique Plants, Plant Communities or animals:

Are there any rare species on the site?

Does the site provide habitat or a food sources for a rare species in the general area?

Are the above questions relevant to any species that is unique to the urban area?

### Connectivity:

Does the site provide a linkage to other natural areas?

Is the site important in preserving a terrestrial or aquatic members corridor?

Does the site provide habitat in the life cycle of a species, i.e., nesting area for birds, winter range, etc.

Is the site hydrologically important to adjacent streams or wetlands?

### Biodiversity:

How many habitat types are represented on the site?

Are the habitat types sufficient in size to support a variety of species.

### Historic Losses:

Is the site representative of a vegetative community that is threatened or in short supply in the region?

### Expansion to a protected natural area:

What protected natural area is the site related to?

Will the site help expand or buffer the protected natural area?

Will protection of this site increase the protected site's biodiversity or connectivity?

### Resource degradation:

Does the site show evidence of anything that could prove a management problem?

For instance is there illegal dumping, off-road vehicle use, evidence of hazardous waste, or poaching activity?

How serious is this problem?

### Developments Potential:

What types of development, if any, can take place without jeopardizing the resource?

Does the whole site need to be acquired?

What kind of development would be compatible with the resource?

# 1991 NATURAL AREA NOMINATIONS

<u>Location*</u>	<u>Natural Area System</u>
1. SE 159th Dr. & Jenne Rd. (SE of Powell Butte)	Johnson Creek
2. SE 45th & Springwater Line	Johnson Creek
3. SE Foster Road (East of Foster Drive-in)	Johnson Creek
4. Beaver Creek Canyon, et al	Sandy River and Tributaries
5. Westside of the Multnomah Channel	Multnomah Channel/Sauvie Island
6. Wetlands & Uplands Adjacent to Blue Lake Park	Columbia Slough/Fairview Lake Creek
7. McGuire Island	Columbia Slough/Fairview Lake Creek
8. Undeveloped land adjacent to Fairview Creek and Lake	Columbia Slough/Fairview Lake Creek
9. Company Lake	Sandy River
10. Teleford Rd and 252nd	Johnson Creek
11. Terwilliger Blvd.	Forest Park/West Hills Corridor
12. Undeveloped lots on Rocky Butte	
13. Undeveloped strip under the St. John's Bridge	Willamette River
14. Parcel between County Boat Ramp and Virginia Lake	Sauvie Island/Multnomah Channel
15. Undeveloped portion of Ross Island	Willamette River
16. Buck Creek Drainage	Sandy River
17. Gordon Creek Drainage	Sandy River
18. Property adjacent to Beggar's Tick Marsh	Johnson Creek
19. Wetland westside Hayden Island	Columbia River
20. Hampton property	Forest Park/West Hills Corridor

\* More specific information on locations is available.

*any other  
references*

MULTNOMAH COUNTY NATURAL AREA PROTECTION AND  
MANAGEMENT PROGRAM

SITE EVALUATION FORM

Site Name:

Site Location; streets, tax lots:

Site Size:

Numbers of Applicable Polygons:

Natural Area System:

Rare plants or animals    yes   or   no  
Description:

Connectivity    yes   or   no  
Description:

Biodiversity    yes   or   no  
Description:

Site Evaluation Form

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Historic losses      yes or no  
Description:

Area Deficient in Natural Areas      yes or no  
Description:

Adjacent to Existing Natural Area      yes or no (polygon numbers)  
Description:

One paragraph overall description of site:

Preliminary Assessment of Resource Degradation:

Level of Disturbance:

Development Potential: (What types of development, if any, can take place on the site without conflicting resource.)

Recommendation for Acquisition      yes or no  
Rationale:

## DEFINITIONS

**Bank** - The rising ground surrounding a lake, river, or other water body.

**Channel** - The bed where a stream of water runs.

**Corridor** - A narrow strip of land that differs from the matrix on either side.

**Cover** - Vegetation that serves to protect animals from excessive sunlight, drying, or predators.

**Cultivated landscape** - A landscape dominated by plowed land for crops, but usually with patches of natural and managed land present.

**Dominant** - The species controlling the environment.

**Enhance** - To raise to a higher degree; improve quality or available capacity; intensify; magnify.

**Habitat** - Place where a plant or animal species naturally lives and grows; its immediate surroundings.

**Interspersion** - The proximity and interaction of one natural area to other adjacent areas.

**Land potential** - The possible uses and values of a land area.

**Landscape ecology** - A study of the structure, function and change in heterogeneous land area composed of interacting ecosystems.

**Landscape** - A heterogeneous land area composes of a cluster of interacting ecosystems that are repeated in similar form throughout. Landscapes vary in size, down to few kilometers in diameter.

**Managed landscape** - A landscape, such as rangeland or forest, where native species are harvested.

**Multi-aged stand** - A naturally developed stand usually with trees of many ages.

**Natural areas** - Includes land and water that has substantially retained its natural character thereby providing habitat for plant, animal and aquatic life.

**Natural landscape** - An area where human effects, if present are not ecologically significant to the landscape as a whole.

**Natural resource** - Air, land and water and the elements thereof which are valued for their existing and potential usefulness to man.

## Definitions

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**Preserve** - To save from change or loss and reserve for a special purpose.

**Protect** - Save or shield from loss, destruction or injury.

**Riparian** - Relating to, living, or located on the bank of a natural water course (stream, river, etc.).

**Seral Stage** - A characteristic association of plants and animals during succession and before climax.

**Structural** - Different habitat types within a Natural Area (i.e., Diversity; grasslands, forest, open water, etc.).

**Wetlands** - Lands transitional between terrestrial and aquatic where the water table is usually at or near the surface or the land is covered by shallow water. Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. For a more detailed description refer to the discussion on Wetlands in the main body of the report.

**A PORTION OF THE PLANNING COMMISSION HEARING  
OF DECEMBER 2, 1991  
PR 6-91/ZC 6/91/CS 6-91/WRG 7/91**

**COMMISSION MEMBERS PRESENT: CHAIRMAN LEONARD, AL-SOFI, INGLE,  
ATWILL, DOUGLAS, FRITZ, FRY, YOON**

**STAFF: HESS, PEMBLE, PRESCOTT, COWLEY**

BOARD OF  
COUNTY COMMISSIONERS  
MULTI-NOAH COUNTY  
OREGON  
1992 JAN 15 PM 4:38

**LEONARD:** We'll re-open the meeting and proceed with Line Item No. 3. Line 3 of the agenda is PR 6-91, 14460 N.W. Gillihan Road, ZC 6/91/CS 6/91/WRG 7-91. This is a scheduled time for deliberation and decision on a multi-part application; it was heard at a public hearing on November 1, 1991; the Record for that hearing was left open for additional written testimony until (let me get my dates right) the 14th. Opportunity for written rebuttal on that additional evidence was left open until the 18th, at which time, excuse me, the 20th, at which time the record for evidence and rebuttal was closed. The Planning Commission has received copies of all that written material for consideration in their deliberations and motions this evening.

We have eight Commissioners present for this deliberation, Commissioners Yoon Fry, Fritz, Al-Sofi, Leonard, Ingle, Douglas, Commissioner Hunt was not present at the earlier hearing, has not the record and has left until we are through with this decision.

We'll proceed with the oral Staff Report.

**PEMBLE:** I have something I'll read for you in terms of instruction on how to carry-on this part of the decision-making process, the deliberation part. Then we'll follow with Mark Hess giving you an overview.

The hearing process has been concluded, which you the Planning Commission and proponents and opponents ought to be commended. Each side has been provided an opportunity to comment on a very complex land use proposal, and a number of points of view have been shared. No one person, not one of us, could by ourselves could have collected as much information as we have collectively accomplished in a relatively short time period.



Through this process we have all been given an opportunity to learn more about this special place that we call "Sauvies Island".

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Tonight the Planning Commission will make decisions on this case based on this body of information received to date. You'll need to sort through the volume of evidence and identify the facts that you believe to be true. Based upon these facts, you will adopt findings or testimony for each approval criteria, come to conclusions, and render a decision. No additional testimony will be taken; the record is closed. This means no question will be directed to either proponents or opponents concerning the evidence or testimony submitted to date. You the Planning Commission must make your decision based on the record, which you've already heard and which you've already seen.

The Planning Staff will assist you. We will perform three basic tasks: provide background on the case, explain approval criteria, review and monitor procedures. We recommend you deliberate the applications, you have four of them, in the following order: Comp Plan first, zone change second, community service third, Willamette River Greenway fourth.

Deliberating each permit requires you to, again, conclude findings, come to conclusions, and render a decision.

With respects to each request, we suggest the following order: Planning Staff will review the approval criteria for each permit. Planning Commission will then direct questions to the Planning Staff concerning the approval criteria. Thirdly, the Commission will establish findings for each criteria as outlined in the Staff Report and a criteria check list that we've prepared for you. To assist you tonight I will distribute at this time, we have a Draft Decision and we have some criteria check list for you to use as you walk through the exercise this evening.

Fourthly, then, the Planning Commission must adopt findings and conclusions and render a decision for each permit in order as previously mentioned, that is, Comp Plan amendment, zone change, community service, Willamette River Greenway.

YOON: Chairman Leonard, I have a question.

LEONARD: Commissioner Yoon would like to ask a question before he gets this packet. Scott.

PEMBLE: Commissioner Yoon.

YOON: Why would I want to look at a proposed Draft Decision?

PEMBLE: You have, simple answer, you have about, which is the next part of my statement, you have approximately 86 criteria that you have to consider this evening. What the Draft Decision is based on the Staff Report. What we're doing is giving you a starting point for that deliberation and we suggest that you work from that common starting point. And you may choose to amend it considerably, but our intent is to give you a starting point as opposed to having you debate each criteria.

LEONARD: Commissioner Al-Sofi.

AL-SOFI: So are you saying that if we were to decide the applicant didn't meet each one the certain requirements that we would still have to go through all of these?

PEMBLE: Yes. It follows that, the hierarchy that we have is in the Comp Plan, is the first level decision making and you must find that, in fact, the Comp, the argument carried by the applicant responds the burden of proof for the approval of the Comp Plan amendment. Failure to do so, at the Comp Plan level, would make it virtually impossible to get approval for the other three descending requests, that is the zone change, community service, and Willamette River Greenway. Because, looking at all three of those the approval criteria says you must meet the Comp Plan requirements. But you must make four separate findings such as in each of the four decisions. Okay?

LEONARD: Commissioner Fry.

FRY: Basically, there's five decisions. Right? And, if we...

PEMBLE: Four decisions.

FRY: Okay.

LEONARD: Four requested actions.

FRY: Right. And then there's the fifth issue of the exception, which I want to talk about in a little bit.

**LEONARD:** Well, the Goal Exception issue is part of the Plan Amendment, the first request.

**FRY:** Okay. That's fine, and I wanted to talk about that in a little bit.

So, are you saying that if we were to deny, say, the first decision, that's the end of it?

**PEMBLE:** No. What I'm saying is that you have to make all four decisions but if you deny the Comp Plan you cannot approve the zone change, a community service, or a Willamette River Greenway permit.

**FRY:** But basically we've denied the other ones based on the fact that the it was not consistent with the Comprehensive Plan.

**PEMBLE:** Correct. And any other criteria of approval that you deem appropriate. But you should go through the entire deliberative process for all four requests.

**LEONARD:** To clarify the decision process, Scott, the Plan Amendment, action on the Plan Amendment, by the Commission, is for a recommendation which would be forwarded to the Board of County Commissioners.

**PEMBLE:** Correct.

**LEONARD:** That's not a final decision by the Planning Commission.

**FRY:** I have on other question. You've handed out the Draft Decision, which has changed the Staff's recommendation from, the original recommendation was "Deny 1 and 2, Approve 3 and 4" and this decision is to Deny 1 through 4, and the question is, has the applicant seen this yet?

**PEMBLE:** No. We've distributed it this evening. There is no additional comment period by the applicant. This is strictly Staff attempt to get you to Base 1 and ....

**FRY:** INAUDIBLE.

**PEMBLE:** Let me explain the comment, the question just raised concerning the distinction between the previous Staff Report and what we have prepared for you as a Draft Decision. That is, in the previous Staff Report you have, if

you recall, an explanation that the community service and the Willamette River Greenway permit were considered as though you had in fact approved the Comp Plan amendment. In this decision, again, there is criteria that says you must meet the Comprehensive Plan criteria, approval criteria, therefore if you recommend denial on the Comprehensive Plan approval criteria you must deny also the zone change, the Willamette River Greenway permit, and the community service. You cannot write it in terms of the final findings in such a way that you deny the Comp Plan permit application and approve the Willamette River Greenway, zone change, and community service request. Does that explain that question?

**FRY:** We can talk about it later.

**PEMBLE:** Again, what you have before you is a Draft Findings, a Draft Decision prepared by the Staff that reflects the Staff Report. There's not any substantive change; its not intended to be your final decision. It gives you a starting point. One that we have suggests recommend to you a denial. It gives you a starting point for consideration of this question. You can do wholesale revisions, change, throw that on the floor and start out from base zero if you choose, but you will need to make similar findings this evening, or types of findings that you will find in the Draft Decision that Staff has prepared for you.

Let me finish my statement before you ask more questions.

We have prepared two handouts to assist you with the deliberations: a criteria checklist and a Draft Decision. The Draft Decision is based on the Staff Report indicating the applicant failed to carry the burden of proof for the Comprehensive Plan, zone change, community service, and Willamette River Greenway requests. This should be used as a starting point. The Planning Commission, however, needs to modify this Draft Decision as deemed appropriate.

It is possible for fair and objective people to come to different conclusions in reviewing the same body of evidence. This is the nature of the marriage between the arts, science, and land use planning.

Before I read the last statement are there any questions before you start your deliberations?

**YOON:** I have one question.

**LEONARD:** Commissioner Yoon.

**YOON:** Let me, are we allowed to make one motion that either approves or denies, you know, or agrees or disagrees with Staff or do we have to make four separate motions?

**PEMBLE:** We recommend you make four separate motions. And take them, again, in order of Comp Plan amendment, zone change, community service, and Willamette River Greenway.

**LEONARD:** To build a decision and findings as our action response to each separate criteria we could eventually make a separate motion and reach a separate decision for each criteria.

**YOON:** If that was in the positive.

**LEONARD:** Or in the negative. In order to build a record that could be carried through the potential appeal process we should introduce as much of our thinking as possible and whether we agree with whether the application has met a given criteria or not. Its quite possible the application, the applicant, has met the burden of proof to the Planning Commission on some criteria but not all criteria. We should consider that as we wade into this.

**PEMBLE:** Any other questions before the final statement here?

First I'd like Mark to review the background information concerning this application. Then secondly, and assuming there's no questions, we'd have him begin with a quick explanation of the approval criteria of the Comp Plan revision, then again, following the procedure, you would deliberate findings for those approval criteria and come to conclusions and render a decision and then move on, same procedure, for the zone change amendment. Mark would again review for you the approval criteria, clarify any questions you might have about the criteria, and have you deliberate the findings and render a conclusion and make the decision, and so forth.

**AL-SOFI:** I just want to state that I was contacted by a reporter from Channel 8 to discuss some procedural aspects. There was nothing substantive to discuss but I think I should disclose that and say that it would have no effect on my decision.

LEONARD: Commissioner Fry.

FRY: I'm really sorry I have to do this but I really appreciate what you're doing, Scott, and I think this is a good idea and I want to say that up front. I think it was a good idea and it really helps us on complicated cases, but my problem is I don't want to go through this whole process and then have this thing go to LUBA then thrown out because the Staff Report is different than what the applicant has seen. And, I looked through it briefly and it is different. The words are different, they're two different things, and so, somehow this has got to be resolved now, it seems to me. The applicant has to say that they're fine; they've seen it; its over or we go away for a month and they have a chance to see it; its over; but I don't really want to spend two hours...

AL-SOFI: INAUDIBLE.

FRY: Right. I'm just...

PEMBLE: Let me speak to Commissioner Fry's concern. Concerning the question of a LUBA appeal because of the applicant has not had an opportunity to review the recommended, final decision, Draft Decision by the Staff, what we have in the final decision has taken for you the information that has been presented to date, no new evidence has been introduced, and simply applied them to the approval criteria and given you a starting point. The issue of LUBA is concerning this debate business, this opportunity to debate and rebut information, we haven't introduced new evidence; there is no debate involved in that; its a recommendation in terms of a starting point for you. You will have to go through a process of making the same kinds of findings; you can choose to disagree with the Staff recommendation on the Draft Decision; you can choose to accept it; but you will go through the same exercise. And you will not, in that exercise, during that process, engage in a conversation with the applicant concerning your opinion versus theirs.

LEONARD: Scott, has County Counsel had an opportunity to review this proposed procedure and the introduction of this criteria check list and this revised Staff....

PEMBLE: We have discussed with County Counsel this approach. They have no objection to it.

LEONARD: So they feel this procedure of reviewing additional Draft Staff Report, Draft Decision, is not in conflict with procedural requirements?

PEMBLE: Correct.

FRY: Just to close this off from my point of view, and I accept this, your suggesting this is Staff's prerogative at the end of any hearing to change their recommendation based on the information that they have heard in the process of that hearing and you're exercising that right?

PEMBLE: Correct. As long as we're not introducing new evidence. And, again...

FRY: I just wanted this really clear in the record.

PEMBLE: What we've done, again, in terms of differences, is basically concerned with the last two criteria or last two permits, the community service and Willamette River Greenway. It simply is an issue of understanding that at the outset if you have a recommendation for denial of the Comp Plan you cannot develop findings to support a community service approval nor a Willamette River Greenway approval. And, consistently, all along, we have recommended denial of the Comp Plan and zone change designations.

LEONARD: Further questions of Scott?

INAUDIBLE FROM COMMISSION.

LEONARD: Well, you certainly don't have to look at it.

YOON: Well, I'm uncomfortable INAUDIBLE.

DOUGLAS: I agree with you. I don't like the way this is handled either.

PEMBLE: Lets have Mark give a background on the application.

YOON: I've been reading this for four weeks. I don't need to hear any more from Staff on this.

**PEMBLE:** The background Mark is going to share with you is not background concerning the information you have heard. Its simply for the record, making clear what information has been submitted in the intervening period since the last time you had the hearing.

**LEONARD:** I think its appropriate to get that information clearly stated in the record what we are looking at is evidence, packages of information that were sent out.

**YOON:** I don't have a problem with that but I don't need to go ad nauseam into all of this again.

**LEONARD:** Point taken.

**PEMBLE:** Okay.

**HESS:** Thank you, I'm Mark Hess, Planning Staff. I just wanted to call your attention to the fact we sent you a cover memo dated November 21st for the new evidence that came in since the first hearing; the first hearing was held, again, on November 4, 1991, on the revised application for Alder Creek Marina. The Commission closed the oral portion of the hearing but kept the record open for seven working days until November 14th, to allow written evidence or rebuttal of evidence submitted at the November 4th hearing. The record was held open again for an additional four working days, until November 20, 1991, to allow written rebuttal of any new material that came in during the first open record period.

The materials that came in during both of those periods were distributed to you around the 21st of November and they were grouped into four packets; the second one was copies of citizens' and agencies' letters, a Staff memo and some photographs, copies of photographs. Packet Two was copies of the revised rebuttal from the F.O.R.C.E. Citizen Group, a neighborhood group in opposition. Packet Three was applicant's notebook of entitled "In Response to Questions and Issues Raised" and Packet Four was rebuttal correspondence received during the second extension.

As has already been stated we've included criteria worksheets to provide you a guide as you plow through the criteria in making your findings or deliberations tonight. Any questions for me?

**LEONARD:** Commissioner Fry.



**FRY:** Are we, can we ask a few questions about the Goal Exception? Is that premature?

**HESS:** I can speak to the criteria if that's your question.

**FRY:** Okay. Basically, as I understand the Goal Exception, in terms of Goal 3, Agricultural Land, that to me is pretty straightforward. We're talking about a marina; a marina in a Multiple Use Farm zone requires an exception. That's it. Right?

**HESS:** Well, not exactly. The exception is to take the land where the marina is proposed and re-designate it from EFU to, or agricultural, to Multiple Use Agricultural.

**FRY:** So,...

**HESS:** So, that's the exception part of it.

**FRY:** What the Goal Exception for Goal 3 is saying is that this can never meet that Goal, period, in the balancing act, therefore we eliminate that as an issue by taking an exception to it. Right?

**HESS:** Well, my understanding of it is that the county, in adopting its Plan, did identify this area as Goal 3 lands. In order to take land, rural land, out of Goal 3 protections, Goal 3 again being agricultural lands, protections, you have to meet the exceptions criteria for taking that land out of Goal 3; and that's what's before you.

**FRY:** Okay, .....

**LEONARD:** Ill try clarifying that question. There, as I understand it, there are three process for the Goal Exception: first, that the area is committed to non-resource uses; secondly that there are it is already built and developed with non-resource uses; and thirdly, there are justifiable reasons to justify using the land for non-resource purposes. This request is being put forward under the third choice, the "reasons" exception. We don't need to find that land could never be used for resource uses but alternatively we find reasons that it not be used for resource uses.

**FRY:** Okay. I didn't want to, maybe I should know this but, I was wondering why do they have to take an exception to

Goal 3? Why, and I should ask for Goal 14 easy because I think that's easier. My understanding the reason they have to take Exception to Goal 14 is because LCDC has determined that a marina is an urbanized use and therefore you must take an exception because its outside the urbanized areas. So, I applied that same logic to Goal 3. I'm just trying to understand why do we have to go through this Goal Exception process?

**HESS:** Essentially, all lands outside of the, when the Statewide Planning Goals were applied to cities and counties, lands that were outside of areas, outside of Urban Growth Boundaries, are rural; and rural lands are either resource lands, meaning they are protected for Goals 3, Agriculture, or Goals 4, Forest Lands, or they are non-resource lands. And those are these lands where you take exception to either Goals 3 or Goals 4. And, so, when the county gets its Comprehensive Plan adopted, along about 1980, they identified specific parts of the rural area of the county, outside the UGB, where they said exceptions to Goals 3 and 4 are warranted here, for a variety of reasons. This was not one of those areas; this area was included in the lands that were protected for Goal 3. They now are applying to you to remove those Goal 3 protections, which are in the form of our EFU zoning, and put the land under MUA, which is an exception, a rural exception zone.

**FRY:** Okay. So any converted to MUA would require a Goal Exception?

**HESS:** That's correct.

**FRY:** Okay. I just wanted to get this really clear in my mind. Thank you.

**LEONARD:** Commissioner Fry, you've raised another issue that the Commission asked the Staff to get some clarification on at the November 4th hearing, about the classification of this marina as an urban use, and Staff did ask LCDC, DLCD I should say, to clarify why this is considered an urban use, and we received a letter, or rather Mark received a letter dated November 14, 1991, from Michael J. Rupp answering four questions. That was included in Packet One that we received after the November 14th closing date. DLCD Staff is responding to our question "is a marina an urban use", by saying, yes, it is, without providing a great deal of detail. And they're responding to our question "since marinas are considered an urban use on rural land, are they

permitted in the existing Multiple Use Agricultural zone without an exception?" The answer to the first question appears to be that DLCD Staff says they're an urban because they think they're an urban use, because they look like an urban use, they have the scale and intensity of a use that looks urban to them.

As I understand this urban/rural question, there is not a state definition on what is an urban use. The Curry County Supreme Court decision that raised this question, that addressed this question, didn't decide the question of what's an urban use. They basically sent that back to LCDC to try and figure out how to define an urban use and to date LCDC has not come to grips with that. So, every time, as I understand it, every time the question "is this an urban use" comes up, if that question is contested then a local decision body has to make a determination "does it look like an urban use to us?" And, I would suggest that before we go further into this the first thing we try to decide tonight is the question of whether this marina is an urban use or an appropriate rural use.

**FRY:** Would that, that's where I wanted to eventually go. I got sidetracked by the Goal 3, but I don't understand the logic in asking for a Comprehensive Plan change from Exclusive Farm Use to MUA with MUA, or Multiple Use Agriculture allows so many different things, why do we, it just seems that exception to Goal 14, urbanization has to exist somewhere else because there isn't necessarily a link between the proposed proposal and the justification that in fact this type of Comprehensive Plan designation better serves the Statewide Planning Goals than another one. And, so, I've been always troubled by this exception occurring at this part of the process. Do you see what I mean? There's just, this proposal could go away or maybe it doesn't exist; maybe someone comes in and makes a Plan Goal change and doesn't even mention what they want to do with the land; they don't want to do anything with it and then they come back five, six years from now with a marina idea; do they have to get an exception to Goal 14, Urbanization?

**LEONARD:** Well, speculating that maybe in five or six years there will be a state shot at defining urban use, they may have to address, if someone were to ask for a Plan Amendment to change to EFU to MUA on this site six years from now they might have the question of urban/rural use clarified and have to go through one path or another.

**FRY:** I guess I'm saying that by linking a change to the proposed use, which is done for convenience and because the applicant's done it that way, is requiring them to go through this and that's ....

**LEONARD:** Now, the Goal Exception process for reasons requires that the request consider a specific use and that if the Goal Exception is granted that is is for that specific use only. And other uses that might otherwise be allowed in that zone, the Plan Amendment that's been granted, would not be allowed.

**FRY:** Good. That's very clear then. In other words, if they were allowed to change they would only be allowed to build this use or a use that would require an exception.

**LEONARD:** That procedural question I think is a fair question to address to Staff.

**HESS:** My understanding is just as you described, Mr. Chairman. And the exception is for the specific use proposed; and I'll call your attention to the criteria there on that criteria checklist, first page, Goal Exceptions, The Reasons Justify the Exception, Alternative Sites in Rural Area Exception Areas. Again, those criteria are speaking to a specific use that's proposed.

**LEONARD:** Doing a Plan Amendment proceeding without a Goal Exception the proposal, there would be not necessarily be a proposal, a specific proposal for a use, a Plan Amendment ..

**HESS:** That's correct.

**LEONARD:** ....just change the proceedings to apply to whatever the Plan provided...

**HESS:** And I guess, I imagine, along the same lines, if you had a Plan Revision without a specific use proposed that did require an exception you would have a range of uses considered for the exceptions.

**FRY:** Okay. Now you've confused me again. There's no requirement up-front for a proposal. That's this concern I'm raising is if the applicant came into the county and said it makes sense to make this change, and had no idea what they wanted to put on the property, would they be forced to make a proposal?

**HESS:** In the, in this case where they are going from EFU to MUA, yes, they would have to take a Goal 3 Exception. They may not have to take a Goal 14 Exception if they did not have a specific use that may be considered urban, and so, having a specific proposal that may be considered urban triggers perhaps a Goal 14 Exception. That's one of the things you must determine.

The Goal 3 Exception is a given on this particular site to move from EFU to MUA.

**LEONARD:** There is a question of whether this requires a Goal 14 Exception. I think, to clarify for the applicant and the appellants and everybody else, we should put in the record our thinking on whether we see this proposal as an urban use, thereby requiring a Goal 14 Exception, or whether we see it as a rural use not requiring a Goal 14 Exception.

**YOON:** If you do it that way then there's no way you would ever go to MUA then. After that. If you decided if it was only agricultural then you could never go to MUA because MUA allows low-density residential, which would be considered urban.

**LEONARD:** I don't follow your....

**FRY:** Mr. Chairman is asking if this proposal, in our opinion, is an urban use.

**YOON:** Yes, but what that question \_\_\_\_\_ is everything, if we do it that way then everything else is academic.

**LEONARD:** Well, if we find that a Goal 14, that this is an urban use, then the Goal 14 Exception requirements must be met and we must find something on that in the applicant's proposal.

If we determine that this is not an urban use, that its an appropriate use for the rural area, whether it be in, we'd provide for that in the MUA zone. Under the Community Service Conditional Use process. So the character of the use, I guess, if the first decision point.

**ATWILL:** Ask your question. I'm persuaded by DLCD's letter characterizing it as an urban use.

**DOUGLAS:** One question that I have, and I've read so much of this that, in places now it would be nearly impossible with the City of Portland, I believe, if I read this right, considers this a recreational use; the City Planners; and it seems like I read it in these... so, do we consider it the same as the City of Portland, or not?

**LEONARD:** Well, that's the first thing that we need to decide. Whether we consider this, I suggest we should do this with a motion. That we determine that this be either considered a rural use or an urban use. I think the nature of the application appears to be a recreation use. The study area needs analysis related to recreational activity, Columbia River, substantially outside of the urban area. And a determination that this is either as a general category that marinas per se are urban would be one course to follow; it would find that any marina would be urban and appropriate only in an urban area. You might find that this particular marina, because of its size, scale, \_\_\_\_\_, whatever, is not a rural use but is an urban use and proceed from there. Personally I'm persuaded that this is very much a rural use. The recreation activity is rural, appropriate to the rural area and in finding marinas are urban would probably require us, in order to be consistent, other recreational activities by urbanites are also urban, and lead to the question if any urbanites could leave the Urban Growth Boundary to pursue recreational opportunities.

**YOON:** I don't think I can agree with that.

**LEONARD:** Okay.

**YOON:** But, well said. The distinction between those is that this is essentially garaging, if you really want to look at it that way; or storage. Which means that the property will stay at the area. Now looking at that point of view, would you assume that an area that had storage garages is urban or rural? Its basically the same analogy. Its not forbidding people from doing something urban, people who are living in the urban area from doing something in the rural area but they are in fact leaving their thing there, which is a difference.

Now, I'm not, I have to separate the public ramp from the boat garages, boat house storages.

**LEONARD:** Well, its a good point. Its something we should be looking at. The nature of the proposed use, which is substantially

floating structures being used as garages, I see as an application of a marina use the basic question is a marina a place to tie up boats, is the first question. That's the fundamental use of the property. Community Service/Willamette River Greenway request, I think we would appropriately address whether they are structures that cover the boats or that's in keeping with the nature of the area. But the question of the marina to tie up recreational boats is appropriate in the rural area or should it exclusively exist in the urban area I think is the first hurdle to get over.

AL-SOFI: INAUDIBLE.

LEONARD: Yes. I think that's fair, that we could conclude that marinas per se are not inherently urban, that they appropriate and there is a place for them in the rural area. To meet rural and urban needs but the size of this or some nature of characteristic of this specific proposal makes it urban, or look urban, to us.

YOON: I think its based on composition, and this particular one we're talking about 90 boathouses and 55 covered boat slips and 25 open boat slips; that means there's 90 houses and there's 80 slips, which, you know,...

LEONARD: Okay. As I read the letter from DLCD Staff, their first conclusion is that marinas that serve urban needs are inherently urban, and I...

DOUGLAS: I've got a question for that one thing: serving urban needs would it be the fact they're houseboats rather than boathouses? If you were saying it was houseboats where people lived I could see urbanization, and yet we have granted in other areas there, that particular thing.

LEONARD: Well, that was exactly what led to our second question, why could we approve moorages/marinas in the MUA on the west side of the channel in recent months without going through the Goal Exception process, without looking at that question, when we're being asked to look at it on this, and Staff said, well, DLCD Staff said MUA was approved, acknowledged, in 1980 and if it come in the Plan for acknowledgement today they wouldn't let that slip by. I think in looking at that response, it did go through Periodic Review after the Curry County decision and DLCD Staff had an opportunity to ask the county to amend the

**DOUGLAS:** The thing that bothers me more than anything is the fact these are houseboats rather than boathouses. You know, in other words if it were a bunch of people living here, to me that is an urban usage.

**LEONARD:** Well, the first issue is just a marina, a moorage to tie up boats whether they're under covered or covered. And DLCD's argument is, because of the need for that use is substantially generated by population living in the urban area, that that categorically makes it an urban use. I would, following up on that argument, I would find that a parking lot at Multnomah Falls, because it is primarily serving visitors from the urban area, would be categorized as an urban use. And, I'm not persuaded of that argument.

**DOUGLAS:** That's my sentiments exactly.

**YOON:** I have a question...

**LEONARD:** I think that's a fair question.

**YOON:** I have a question of Staff. I know Sauvie Island is not in the Urban Growth Boundary; is the west side of the channel in the Urban Growth Boundary?

**HESS:** No, it is not. The Urban Growth Boundary is right at the head of the channel.

**LEONARD:** The MUA ...

**HESS:** Please talk into your microphones.

**LEONARD:** .... on the west side of the channel is classified as an exception area.

**YOON:** Let me ask one other question just to make sure I've got this.

I know Sauvie Island is also not in the Metropolitan District, Service District. Is the west side in the Metropolitan Service District?

**HESS:** I'm not certain.



YOON: I'm pretty sure, I mean, I don't know where it stops and ends, I know Sauvie Island isn't; I'm just trying to get some boundaries.

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FRY: Without having a definition of "urban" right before us, I have to go back to defining things. And to define things they're either an equivalent or they're a sub-set. And, so, I, this could be the form of a motion; I'll just discuss it. I think clearly a marina is not inherently a rural versus use. I think its ludicrous to say a marina is inherently one or the other. I think that a marina that substantially and primarily serves an urban area is defined by Oregon Planning as an urban use, because the purpose of Oregon Planning is to prevent the encroachment of urban activities, I'm talking about an urban use in the rural land, so if this is in fact something that is accessory to and supported by and part of the urban area for it to then it would be, in my opinion, defined as urban use as opposed to.... And the question is, what does that all mean "supported by and part of the urban area", and so I would try to define that in basically three ways: One is how much does the urban activity need to interact with this marina? In other words, if this marina was up there on the Columbia Gorge somewhere exactly like this, how much, is that going to work? Is that going to exist, because of the interaction of the owners and the marina? In my opinion, in this case, it would not exist. This marina could not exist anywhere but an urban area because the owners have got to interact with this marina. The second thing to me is the transitory nature of the marina. In other words, if you're out there with a parking lot on Multnomah Falls and constantly moving in new and different populations, people from all over the world as well as people from the urban area, you're not just dealing with an urban/Portland people at Multnomah Falls. You're dealing with people from all over the world. And, so based on that, in my opinion again, this marina serves primarily the people that live in the urban area and I have seen no evidence that people will rent a space as they come in from Hawaii or whatever, they come in, they rent a space for four weeks and they go out. So I'm saying in that criteria, so the first criteria is being the interaction of this marina with the urban area; the second criteria is that it doesn't turn-over; it doesn't accept people from rural areas, from international, whatever, it is predominantly rented by urban users. And then the third, these are just my little ideas, the third issue in defining this as urban versus rural I think this issue is the intensity of size and, again, in my opinion it is

definitely an urban as far as the size. And so, basically, to summarize the three criteria is 1) The issue of linkage on a daily basis, and I think it is linked clearly with the urban area, in my opinion. 2) Is the issue of transitory-ness as to how this thing turns over, and I think it does not clearly turn-over in the way that Multnomah Falls parking lot turns over, or a campground on Mt. Hood turns over. 3) And the third issue is the issue of size and scale, which, by the way, we're, the Forest Service's statement is issue size and scale, and my own opinion is that this is too large for a rural area. I suppose that they could try and argue the definition \_\_\_\_\_ argument \_\_\_\_\_ but, definition INAUDIBLE. So, basically, on those criteria, that's why I would call this an urban use.

#### MIXED CONVERSATION.

**FRY:** That's not to say that this marina couldn't be changed INAUDIBLE, but what we have before us, in my opinion, is not a rural marina.

**LEONARD:** NOISE INTERFERENCE ...your analysis identifies three issues that, in your mind, there's a linkage between, I'll paraphrase that, there's a proximity to the urban area that makes this urban where a similar moorage located 20 miles from outside the UGB would not be considered inherently urban?

**FRY:** I'm saying its because of this specific marina and because of the real linkage between this marina and their users. That this marina could not exist in a rural area. That's my personal thinking. The applicant can certainly try and raise, and should, raise the question.

**LEONARD:** The applicant doesn't have an opportunity to respond to this line of thinking.

**FRY:** ..... and then so that's the first issue that the linkage here causes it to be located in an urban area, or in close proximity to an urban area. And that is exactly why the Urban Growth Boundary exists, to prevent urban uses from spilling over into the rural lands adjacent to the urban areas. So, in an issue of the turn over here doesn't look like that horse to me, you know, and in other words its not, and then the third is its just too big.

LEONARD: You see an urban quality form of tenure because of their  
INAUDIBLE.

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MIXED CONVERSATION THAT IS INAUDIBLE.

AL-SOFI: We could make a motion.

FRITZ: I have a question. Assuming, on the third criteria, suppose we cut this \_\_\_\_\_ in half. Or suppose, what about what's on the west side of the bank, the other side of the channel. Is that in your opinion an urbanized use?

FRY: No. And that's one of the \_\_\_\_\_ I think inherently exists in this land use process and its unfortunate because what is happening on the other side of the channel is residential housing. And this use is, in my opinion, a commercial use. And so inherently what we have here is a conflict between a commercial activity and a residential. I mean, that's just a classic issue. But, because of the situation, everyone is dancing around that issue and not dealing with it up front. The issue of the houseboats, as I understand it, is that because they're a low density, and I'm not going to get into whether that's under a rule, you may just ask my opinion, that at least as I understand it houseboats has not been considered an urban use because they're low density or something.

LEONARD: To clarify what I think is in the record, there are just a bunch a number of moorage spaces on the west side of the channel, similar in nature to what's being proposed. And they're also residential houseboat moorages there.

FRITZ: We don't have to apply the Goals, because they're MUA. So, why get into that discussion?

LEONARD: Well, we aren't going to go back and undo what's already built there. The county does have a substantial amount of MUA zoned designated land that's not developed on the west side of the channel where moorage use is applicable, at least under our prior interpretations, if we conclude marinas/moorages are inherently urban; or if this scale makes it inherently urban or this proximity, then I think in order to be fair and consistent the county should go back and revise the MUA \_\_\_\_\_.

FRITZ: Can I put forth just a couple of these; I just want to get really focused before we go to far \_\_\_\_\_. In the areas of MUA, on the west bank, there is no Plan

LEONARD: That was DLCD's analysis.

FRITZ: Okay.

LEONARD: I'm not persuaded....

FRITZ: I'm trying to get a general consensus here. There may in fact be a consensus that marinas in of themselves are neither exclusively rural or exclusively urban. But, there is some sympathy, at least I tend to lean with Commissioner Fry, to say that this proposal would in my mind constitute an urban use of rural area.

INGLE: I agree with that too. I think originally, for the sake of brevity and simplicity, what Chairman Leonard had originally stated that its neither inherently urban or inherently rural. That may be in fact, this particular case, due to its intensity of development or however he worded it, I felt real comfortable with it. And it was very general, that it was neither urban nor rural. Now, let's examine this particular case on its own merit. Is it rural? Is it urban? Whereas what I'm starting to feel is that we're coming up with a set of criteria INTERFEREING NOISE FROM BACKGROUND.

AL-SOFI: I thought Commissioner Fry's proposal was going specifically with this marina proposal. And he was not getting into generalized questions and he was going to put that in the form of a motion.

YOON: Well, before we go forth on motions, I don't want to make one decision and then have to not where we're going from there and then have to go back and resurrect that because its basically, you know, there's no step by step process we're going through. Which I'm having a little difficulty with this process because I would rather take it globally than bring it back narrowly.

You are persuaded, Chairman Leonard, that this is essentially rural in nature.

LEONARD: Marinas.

YOON: Marinas.

**LEONARD:** A recreational use is appropriate for a rural area. A recreational use serving urban visitors is appropriate in a rural area and is not inherently urban because of the users.

**YOON:** Okay. I agree with that. I agree with that. But in this particular case I feel that I think I agree with the Commissioners that this particular one is urban in nature. So, the question I'm asking you is what are we dealing with? Are we dealing with general definition or a specific definition?

**LEONARD:** I guess we take it a step at a time and if there is consensus on that first motion I'll address that.

**YOON:** Not inherently rural or urban.

**ATWILL:** I'd like to make one point. I don't think we need to answer the question of what is inherently rural or urban. All we need to consider is this application. We just need to decide, and we can decide that this application, because of its scope and the criteria already put on the table, is urban.

**DOUGLAS:** I would, in a way, disagree with that. The reason for is, are the boats that are there, are they going to be used in urban? Can anybody on the Island or in Portland or Beaverton or wherever it is rent the space? To me its recreational. No matter where you are, if you have a boat of that size and stature, you want to moor. No matter if its in Portland or wherever. And you have that opportunity to rent that. The boats themselves are used primarily, according to facts delivered here, on the Columbia River. So therefore, its not used in the urban area; they're using outside the urban area. Now to usage, I consider it recreational entity when it comes to that. And then we go from there.

**FRY:** I just, I think you're right. I think we need to take this step by step and I would move that marinas, I think we need to provide at least our opinion that with \_\_\_\_\_ to the County Staff that whether marinas are inherently rural or inherently urban and I'd move that they're not. That marinas are not inherently urban nor rural. That each marina has to be dealt with on a case by case basis.

**FRITZ:** Second.

**LEONARD:** Okay. Discussion on the motion.

**DOUGLAS:** I have mixed emotions on that. The reason, in your explanation, if it had houses in there it would be rural because they were spread.

**LEONARD:** No.

**FRY:** INAUDIBLE.

**LEONARD:** That's one of the explanations you had earlier, I believe. Somebody had.

**FRY:** All this motion is I am saying that I don't believe, or we don't believe, that marinas are an inherently rural or urban but that each one has to be dealt with individually.

**DOUGLAS:** Well, I'll go along with that.

**ATWILL:** If we're going to take that step I will agree with you.

**LEONARD:** Call for the question.

**INGLE:** I have a quick question. Does a marina include boatslips, houseboats, boathouses? I mean, either that or a clarification.

**LEONARD:** Yes. Mark.

**HESS:** Our code has no definition of what a marina does. It does not include...all of those things has been my experience. All or some of those.

**LEONARD:** We do have a definition for houseboat moorage. No, wait.

**HESS:** Houseboats we have a definition for.

**LEONARD:** That's a narrowly defined..

**HESS:** Houseboats are a residential floating structure.

**LEONARD:** That is defined?

**HESS:** Yes.

**LEONARD:** We narrowly defined where houseboat moorages could be located.

HESS: That's true. But marinas are not so defined. Although they're, I guess by default they're defined by where we zoned lands that allow them as conditional uses.

LEONARD: So a marina located outside of the area where we've designated as permissible for houseboats would not allow houseboats?

HESS: That's correct. But it would allow boat slips or boat houses, meaning boat garages.

FRY: My motion does not say that a use is urban or rural, it just says that each marina has got to be....

HESS: If I could comment, excuse me, again, the issue that you need to decide so that you can move forward is if you find this application to be urban or not. If you do then Goal 14 needs to be applied and if you don't, then it does not. That's all you really need to resolve.

MIXED VOICES.

LEONARD: We're closing on it.

INAUDIBLE MIXED VOICES.

YOON: I call for the question.

LEONARD: All those in favor of the motion? Opposed? Okay.  
(According to minutes, motion carried unanimously).

FRY: Okay, now the second test, and I've already said up-front, so I'm going to take the flack and make a motion, that I believe that this proposed marina is clearly urban, for the three reasons that I stated; that it is by and needs to have a constant link on a daily basis with the urban activities; second that its not geared towards the transitory population, that would move through, that you would find in a recreational site in the rural area; and third, that its, in my opinion, clearly exceeds a scale that would be appropriate in terms of density of a rural area.

LEONARD: That's a motion?

FRY: Right. And I think we recognize that this is not nor has it ever been proposed as a destination resort, which is the only exception that I know of under state law, and I don't know everything. So that's my motion.

LEONARD: Okay. Is there a second to the motion?

For lack of a second to the motion...

AL-SOFI: I'll second it.

LEONARD: Commissioner Al-Sofi seconds.

FRITZ: I'd like to word that slightly differently its, because what we're doing is this is a finding of the Commission.

LEONARD: Yes.

FRITZ: And the Commission finds that the proposal, Alder Creek Marina...

LEONARD: Is an urban use for the reasons that Commissioner Fry stated.

INAUDIBLE.

YOON: I'd like to get a little clarification on the linkage too, because I think INAUDIBLE on this particular motion. I mean, if this marina was 100 miles away from Portland would the basic nature of the marina change? Or the moorage change?

FRITZ: Let me put forth that we could, and I'm not opposed to borrowing language from Michael Rupp, basically the motion, and I don't want this to be recorded, I worry about recorders, that the Commission finds that the proposed Alder Creek Marina is an urban use on rural land because it is intended to serve the urban population, quote.

FRY: I can't except that.

FRITZ: You can't?

FRY: Because I can't, there's a lot of rural activities there designed specifically to serve urban population, so I'm trying of go away from LCDC's logic, which I personally feel is flawed, and instead go to logic that I feel a little bit more comfortable with. Which is the linkage; the day to day linkage between an activity and what I'm trying to argue that Alder Creek Marina could not exist 100 miles away from the urban area because the people need to get to their boats, service them, take care of them, do



whatever they do with them, and it needs to be within an hours drive. You know, I'm just throwing that out. As a sake of argument too, the urban area, I'm not saying that the Urban Growth Boundary specifically to prevent that from happening; to prevent people from putting things close to the city in the rural area. That is the point of the Urban Growth Boundary; one of the points.

**LEONARD:** I would argue in response to that line of thinking that the primary focus of this Planning Commission's deliberation has been in response to exactly those needs. That Multnomah County is unique in the state; that we have such a large urban population, a relatively small rural population, and the land uses in the rural area are primarily driven by satisfying the open space and recreational needs of those urban residents.

The urban, the use on Sauvie Island, to get a little closer to home with the examples, such as a ...CHANGE OF TAPE...urban dwellers.

**FRY:** Just to debate that.

**LEONARD:** Certainly.

**FRY:** STATIC...residents of outside the urban area, one of our greatest problems in East County is the provision of the City, the urban area, putting uses into our area that could go into the urban area but they don't do in the urban area because they're not willing to spend the money to mitigate the impact, and so they put these uses, and by the way, the rifle range is a perfect example, where the Forest Service is currently looking at putting that use in the rural area to serve urban needs when that range could be put inside the urban area within an enclosed building, although it would cost more but it could, that use could in fact be put inside the urban area. And, so, what I'm saying is that that's a little \_\_\_\_\_ Goal Exception process, is that the Goal Exception process is to determine if there are no alternatives in the urban area for that urban use, and if there's not then its okay to if they, this Rag Rule Area, if an alternative is found then its not okay to invade the urban area. So, I still feel real ...MIXED VOICES....excuse me, Rugg Rule and I think the law is set a way to encroach in the rural area when there's no way to satisfy that urban need within the Urban Growth Boundary. And, that's the whole point of going around and doing all this research that they did.

**LEONARD:** Okay. Further discussion?

**FRITZ:** Where are we?

**LEONARD:** We have a motion, and a second, we're debating.

**FRITZ:** How many more do you need up front? Which is the Commission finds that?

**DOUGLAS:** Well, my only thought is that if these boats are not used for towing logs or not used for anything else but recreation so my vote will be for the recreation of it.

**LEONARD:** Well, I'm persuaded that the reason for the application being at this spot is at least partially in response to the amenity of the rural area and that there are legitimate energy conservation reasons to park the boats in the rural area and drive to the moorage and use the boats in the rural area that prevent this from being inherently an urban use. That the nature of the use of moorage/marina uses on the west bank of the channel are inherently similar in nature, similar in linkage, similar in market demand, size and scale to what is proposed here. So I would be persuaded to not vote for the motion.

Further discussion? Call for the question. All those in favor of the motion to consider this proposal as an urban use, for the reasons that Commissioner Fry stated, an urban use in a rural area. I think an urban use is an urban use whether its in a rural area or not. VOICE VOTES "AYE". Opposed, Ingle, Douglas, and Leonard. Motion carries. We will proceed then with considering this as an urban use in a rural area, which will require that we address the Goal 14 Exception criteria.

**FRITZ:** Now, back to the beginning.

**HESS:** Again, the Plan Revision request check sheet is provided for your convenience to just give you a check list to go through. The goals that have been identified by the Staff and the applicant in the Record is Goal 5, Goal 6, Goal 7, Goal 8, Goal 11, and Goal 15. And, the Goal Exceptions that are before you, then, are for Goal 3 and Goal 14.

**FRY:** I just wanted to say one other thing. In reading the application, I was troubled by the accusation that Staff does not meet a burden of proof, and its my opinion that

Staff has no obligation to meet a burden of proof. If I'm wrong I would like to be corrected.

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**WOMAN:** What are you referring to?

**FRY:** In the amended or more recent application the applicant argues that the Staff did not meet the burden of proof, that these alternatives were...and I just wanted to say its my opinion that Staff is under no obligation for any burden of proof. The burden of proof is with the applicant. And, if I'm wrong I want to discuss this.

**DOUGLAS:** My understanding is that the burden of proof is on the applicant to start with. And those have been addressed. Then I understand... INAUDIBLE...Maybe I'm wrong.

**HESS:** You're correct. The Code citation for Plan Revision, let me find it here just a moment,

**FRY:** I'm sorry I took so long. I just want to get these things cleared.

**HESS:** Yes, I'm sorry, its on page 25 of the Draft Decision, that indicates that the applicant shall persuade that the revision is based on whatever the criteria area and that language appears throughout the county's ...

**INGLE:** Its also on page 15 in the Goals Exception Analysis, MCC 11.05.2190.

**HESS:** So, Commissioner Fry is correct, it is the applicant's burden of proof, as shown.

**FRY:** I've got, basically what you're saying, Mark, is that the applicant doesn't have the burden of proof?

**HESS:** The applicant has the burden of proof to show the criteria are satisfied.

**FRY:** Right, so there's no obligation by Staff to carry a burden of proof that what is being proposed by the applicant is not reason, cannot reasonably accommodate ...?

**HESS:** The burden of proof is on the applicant. It is not on the Staff.

**FRY:** Okay. That's what I thought. It just bothered me the application that that occurred.

**LEONARD:** Well, that was part of the applicant's argument, to respond.

**INGLE:** I have a problem with that because my understanding, having read the material, is Round 1, the applicant identified some alternative sites. The county can then say, and has said, that some of those site, or actually, I'm getting confused here, the applicant said some of the sites identified by county are not reasonable; cannot reasonably be developed for the purposes stated. I thought it was incumbent upon the county then to identify what those reasons were. If I'm not mistaken, I thought that was clearly...

**FRY:** That's what I suggested, that its not; we can make the decision. Now, maybe the Staff, you know, Staff didn't raise enough information therefore they need a very low barrier for burden of proof.

**LEONARD:** The procedural requirements for a Goal Exception area spelled out in Oregon Administrative Rules, I think as cited...

**HESS:** It begins on page 18.

**LEONARD:** We take note of that procedural requirements. That's OAR 66004000. Mark, are you familiar with the portion of that administration rule that addresses this Round 1, Round 2 notion? Burden of Proof?

**HESS:** In terms of who has the burden to persuade...no I'm not. I think that to, that the Commission has a variety of evidence before it on that particular issue and simply your determination that you have to go through as far as which evidence you find most persuasive. I'm not sure that this label of who has the burden on the alternative sites issue is a critical question. The burden is for you, I guess,....

**LEONARD:** However it come down, the Commissioner has to be persuaded...

**HESS:** The Commission has to be persuaded by the applicant that the alternative sites cannot reasonably accommodate it. So, we've provided other information for you that shoots that, but its your decision as to what you finally decide on those.

**FRY:** And my concern is that I don't want our decision appealed because we adopt Staff's decision and report and therefore somehow accept the burden of proof. I don't think we should have to accept a burden of proof; and maybe state law is saying something differently but I would, I have not heard of a Planning Commission or a County Commissioner or whatever decision making body it is carry a burden of proof.

**HESS:** Well again, the criteria on page 15 tells you the burden of proof is on the person that is initiating a quasi-judicial Plan Revision. The burden shall be to persuade that the revision is consistent with ORS, and that's the ORS citations there are referring to the state goals or to the standards for Goal Exceptions. So the burden for either showing is the applicant's burden, the person initiating the revision.

**LEONARD:** Okay. We have a suggested series of criteria to respond to as we go through this, beginning on page 1 of the criteria check list addressing Statewide Goals Analysis, Goal 5, 6, 7, 8, 11, 15, followed by suggested criteria for the Goal Exception for reasons for both Goal 3 and Goal 14. Is it agreeable that the Commission proceed through in this sequence?

**FRITZ:** That's fine.

**YOON:** That's fine.

**MIXED VOICES.**

**LEONARD:** Commissioner Fritz.

**FRITZ:** No, I'm fine. No, I'm fine on procedure. I need some explanation of what all these, I mean, what are the questions to be asked?

**LEONARD:** Going to the Draft language is a point of beginning. Goal 5, beginning on page...

**FRITZ:** Page 10, through the top of page 14.

**LEONARD:** There are several points under Goal 5, Resources, on page 10, Goal 5, Open Space Resources; page 11, Goal 5, Natural Resources Fish and Wildlife Habitat; Goal 5, Natural Resources Water Areas; page 13, Goal 5, Scenic Areas; those are the four suggested criteria to look at under Goal 5.

YOON: I have a question.

LEONARD: Yes, Commissioner Yoon.

YOON: Its my understanding that they're going to finish reviewing the Goals for Sauvie Island and that year is what, 1992? Something like that. I'm trying to refresh my memory there. There's something tied to when it was projected those were going to be done.

LEONARD: We were told there was a revision for the Willamette River Greenway Plan addressing Multnomah Channel areas...

YOON: Right, but I meant Sauvie Island...

HESS: Are the, the record, as I understand it, is that the Lower Willamette River Management Plan, which is administered by the Division of State Lands, is now being updated for the section that it applies to, which is from Portland City Limits on the south to Kelly Point. They, DSL, Division of State Lands, has indicated, and its in the record, that they will likely extend to Multnomah Channel, the Lower Willamette River Management Plan, in '92 or '93.

YOON: Okay.

LEONARD: That's addressing only the management plan for the waterway?

YOON: Right.

HESS: That's correct. Its just the water surface of the channel that's affected in that plan.

LEONARD: Mark, to clarify, will that management plan include recommendations on shoreline uses?

HESS: If the Lower Willamette River Management Plan is an indicator of what the Multnomah Channel version might look like. It attempts the Lower Willamette River Management Plan, which is essentially is through the central Portland, does look at trying to manage the water use with what the City has planned and zoned on the adjacent uplands. And so there is an attempt to try to marry the two documents.

LEONARD: Looking for some clue at what might be coming to that document, then, the management plan would respond to

whatever land use designations the county maintains on the properties? That would not presumably change any of the circumstances of this request. Certainly doesn't today.

**YOON:** It doesn't do it today. But every decision we make will be included in that. Obviously.

**FRY:** Okay, I've got one last question. As far as the other Goals besides these ones, is Staff basically saying it does comply with those Goals? INAUDIBLE.?

**HESS:** The Goals that are identified in the Draft Decision are Goal 5, Goal 8, and Goal 15. Those are the only Goals that this Draft Decision would modify from the application, so therefore the application findings for Goals 6, 7, and 11 would stand as submitted.

**FRITZ:** In the revised application?

**HESS:** Correct.

**FRY:** And we're trying to get all these loose ends, this, this, and this now. So, Goal 1 through 4, and I know some of them have absolutely no application here, and Goals 9 and 10 and 12 and 13 and 14, can you say that this application either complies with them or they don't apply?

**LEONARD:** Commissioner Fry, I thin what you are asking Staff to offer here is an argumentative opinion and not a factual...

**FRY:** I wonder why we're not dealing with the schools. We've got 5,6,7, and 8...

**LEONARD:** Well, we would have, it would be the Commission's option if we feel that this decision should address those other Goals we should make that determination. Its not for Staff to make. Similar to the decision we just made on the urban use question.

**FRY:** I just wanted to submit,because the way I see it, is that they have to meet all these Goals or the Goals that apply. Basically, right? And so I just wanted the record some clarity as to why we're dealing with 5, 6, 7, 8, 11, and 15 and not the other Goals. That's all. So, and we can say they don't apply or ...

FRITZ: Those Goals were dealt with in the application and revised application. But there hasn't been any Staff findings and therefore no conclusions about Goals 6, 7, or 11. 33

LEONARD: The nature of the application and what the criteria we're looking at is that there are Goal 5 resources present in Multnomah Channel and we look at how this application affects those resources.

FRY: I don't have a problem with this. I just want INAUDIBLE.

LEONARD: We don't have any Goal 17, 18, 19.

AL-SOFI: We do have 3 and 14, they are...

FRY: Yes, they are on the Goal Exception list ...

LEONARD: Yes. We're looking at those resources under the exception question. And we agree don't have Goal 4, Forest Resources.

FRITZ: Right.

FRY: Right. Okay.

LEONARD: The decision does not affect Goal 9, Economy \_\_\_\_\_ County, or Goal 10, Housing.

MIXED CONVERSATION.

FRY: I guess where I was going on this, and this is again my INTERFERENCE FROM BACKGROUND NOISE...MUA. I personally can see no circumstance where that could occur outside of the legislative process. That's my own opinion, because by the nature of going from Exclusive Farm Use zone to MUA, by that action you then by definition violate the issue of Open Space: air, water and land resources quality; at least those two if not necessarily ... so I just wanted to say....

LEONARD: Question for Staff. Mark, could you clarify the distinction of a legislative decision and a quasi-judicial decision?

HESS: Yes, I'll attempt to. Legislative decisions are ones that have policy implications or apply to several properties or over several large areas of the county. Quasi-judicial decisions are site-specific, applied to a specific property or a group of properties. And, they have limited application as opposed to.



- FRY:** And the difference, in my mind, is the issue of criteria then and legislative process is a balancing act. And a quasi-judicial process you're testing a case request that the applicant has a burden against the Plan Policies. I just express again my own opinion that I don't see how \_\_\_\_\_ change, so I guess I'm saying up front that I would vote against the INAUDIBLE.
- LEONARD:** Well, the procedures we're following are appropriate for a quasi-judicial hearing and decision.
- FRY:** No, I'm not talking about procedures, I'm, but we have to test the change against the directly against these Goals. I understand the procedure.
- LEONARD:** Commissioner Atwill, you have a proposed motion?
- ATWILL:** I think the Staff is going to propose a motion. No, I'm just saying Staff has done a good job showing us what Goals are applicable. We don't need to worry about the other ones.
- YOON:** It kind of makes our job easy. INDAUDIBLE. They've done a great job.
- FRITZ:** Mr.Chairman, I just need to get a check on procedure here. Are we going to go through each Goal by Goal? Is that what we're going to do? I've done a lot of reading here and I'm ready to say yes to some things and no to others, in terms of whether or not the Goals are, I mean, we're....
- LEONARD:** That was the suggested procedure because we may agree with some of these recommendations and not others, to avoid getting into a gridlock where we can't have a comprehensive-covers-all-bases motion. To address each of these simultaneously, that we move them one at a time.
- YOON:** But the other way to do that, and I'm trying to get through this too, is we can accept what they've said and then add our own amendments to that particular motion, or opinions or whatever, and move forth on that, because, you know, I mean, because they did one, I'm not going to just sit here and go through this whole, re-do the whole thing \_\_\_\_\_.
- AL-SOFI:** Hopefully we may find INAUDIBLE
- LEONARD:** Okay. Commissioner Fritz.

**FRITZ:** I would move that the Commission find that the marina is not consistent with Goal 5.

**AL-SOFI:** Second.

**FRITZ:** For the reasons stated in the Draft Decision.

**FRY:** That's the point I'm trying to make. You have to separate what is truly an issue here at this level because it will be separated at other levels. What is at issue here it seems is that except for the exception process STATIC FROM PAPERS to take away Exclusive Farm Use zoning and replace it with Multiple Use Agriculture, regardless of the proposal. The proposal comes in at the two issues, Goal 14 and Goal 3. That's when the proposal kicks in. Okay? That's what I was trying to point out, and in my personal opinion the change from Exclusive Farm Use to Multiple Use Agriculture, that shifts, it violates, in my opinion, Goal 5 and Goal 6.

**YOON:** Well, I was a little slow on this too so I kind of, maybe I can help you on here. If you vote for or against particular Goals, and its going to be very easy to deal with, MUA and EFU, because you've already made a previous decision based upon accepting or rejecting these particular Goals or exceptions. Then we should not so much rubber stamp but we should be able to move very quickly through the second one and the third one and the fourth one because they will be based upon the first decision.

**FRY:** Oh, I see. Okay, I

**TWO VOICES TALKING AT ONCE.**

**LEONARD:** I wouldn't assume that at all. I think there is certainly a potential for divided opinion on a point by point basis.

**YOON:** Well, and I was going to, and that was the second point I was going to make, that I don't know if I want to vote on each particular Goal. I would basically take a motion to either deny the Comprehensive Plan Revision or approve the Comprehensive Plan Revision and then basically list some criteria why. Rather than say by Goal, by particular Goal, by Goal, by Goal, you know. Because then you have to, then we're going to have to make a motion that deals with all....

**LEONARD:** I will entertain a motion.

**YOON:** Well, if he will withdraw his then I'll...

**LEONARD:** We didn't have a second to that did we?

**AL-SOFI:** Yes, I did.

**LEONARD:** Oh, we did. Commissioner Yoon wants to jump into doing the whole thing.

**FRY:** Okay. Can I ask the Commissioner a question? Is your motion exclude any possibility of being against any of the other GOALS?

**YOON:** So you're going to take each Goal?

**LEONARD:** As I understand, Commissioner Fritz's motion was to find the Plan Amendment application is inconsistent with Goal 5 for the reasons stated in the Staff Draft Decision.

**YOON:** Well, then I have a procedural question to ask on that then of the Commission. If we do it that way then we're still going to have to make a motion that goes back and denies the Comprehensive Revision or approves it. Right? Let's go.

#### **MIXED VOICES.**

**LEONARD:** Okay. Discussion on the motion to find off the findings related to Goal 5 as proposed in the Staff Report.

**DOUGLAS:** The only thing I can say on that that's open space, historic area. Historic areas will be covered, as I understand, by the Plan here. Open space will be preserved because the only space that will be taken will be that primarily on the water. Scenic, we're talking about a disturbed area, the dike's primarily two, so I feel that Goal has been met.

**YOON:** Well, I kind of take a different tack. I kind of do but this previous discussion was, I don't think, but I think the burden of proof is on the applicant and I don't think they have adequately proved to us, because of the rebuttals by the opposition, that in fact they have met Goal 5.

**LEONARD:** Further discussion?

I'm not persuaded to agree with the Staff's conclusions and recommendations. This proposal, proposed Plan

Amendment, what with the evidence submitted, that the open space resources of Multnomah Channel are consistent, or this proposal is consistent with open space resources.

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YOON: Can I just \_\_\_\_\_ one here? I agree with you but I'm not persuaded by what the Staff has sent us tonight. That's the problem I'm having with taking this particular document, but I am persuaded that Goal 5 isn't being met.

AL-SOFI: INAUDIBLE.

INGLE: Water resources, fish and wildlife

LEONARD: I am persuaded by applicant's material they have met the applicable criteria for Goal 5, Open Spaces, and that this proposal is not inherently negative impact to fish and wildlife resources in Multnomah Channel. That this proposal does not inherently change the character of the water area that is presently occupied by log rafts, the shade, the habitat, at least in the symmetry to what is being proposed.

I'm more ambivalent about the scenic NOISE INTERFERENCE I think the specific proposal with the boat houses, the number of boat houses, the size of the boat houses proposed, the shape, scale, does conflict with the scenic area. I think a marina proposal would not inherently conflict with the scenic area qualities.

AL-SOFI: But INAUDIBLE. DOESN'T SPEAK INTO THE MICROPHONE

YOON: I guess where I was coming from on that was, after listening to the testimony on both sides there was enough conflict and differences of opinion on even a log that I was not convinced, and you know, and after walking the property, I'm not convinced about the data base that was used by the applicant sufficiently covered that, without raising any questions. And, that's kind of where I am. I don't, I would not go so far as Staff to say "no, no, no", I'm just saying I haven't been convinced. Point one.

Second point is, yes, I live there, but given its Sauvie Island, you know, to me piece-meal planning doesn't work in my life and I prefer to wait until in fact the Willamette River Plan was done; before making any decisions on things like this. So that's why I would vote on support of the motion.

- LEONARD: Further discussion of the motion? Okay. Commissioner Al-Sofi.
- AL-SOFI: I'd just like to say I don't feel the applicant necessarily \_\_\_\_\_. I don't believe the applicant has met his burden of proving that there wouldn't be significant devastation of open space and scenic, current scenic values, right now, as well as vegetation, etc. So I'm going to vote in favor of the motion.
- LEONARD: Okay. Further discussion? Call for the question. All those in favor of the motion. We've got Douglas and Leonard opposed to the motion and Ingle opposed to the motion. The motion to adopt this Goal 5 elements of the Draft Staff Report passes.
- Moving down the list; the criteria check list next addresses Goal 7, Hazards and...
- FRITZ: No, 6.
- LEONARD: Excuse me, 6, Water, Land Resources Quality, and looking at the Draft Staff Report...
- FRITZ: Doesn't deal with it.
- LEONARD: Doesn't deal with that.
- FRITZ: And, so, I would move, Mr. Chairman, the revised proposal in this marina does meet Goal 6. I've read the revised application findings on this and no evidence to the contrary.
- YOON: Well, I would use the same argument again that, well, someone commit to a second.
- DOUGLAS: I'll second.
- LEONARD: I've got a question to clarify us to Staff. Did any of the material in the record that addressed Goal 6 criteria either in support or opposition?
- HESS: I do not recall. I don't recall, specifically, other than the application certainly addressed it. And provides you findings supporting the conclusion that they adequately meet those, that Goal. I don't recall whether we heard other evidence on that matter or not.

YOON: I have a question of Staff.

LEONARD: Commissioner Yoon.

YOON: If natural resources are covered under Goal 5, aren't water and air and land resources natural resources?

HESS: They are.

LEONARD: They do have a separate Statewide Goal. And the application addresses Goal 6 criteria on page 37. I don't recall evidence in opposition that rebuts or argues contrary to this information.

FRITZ: Mr. Chairman, there was an opinion on this but there was no evidence that would overwhelm what the findings contained in the revised application.

YOON: Where does traffic fit in this? Is that covered under Public Service Need? I mean, I'm just trying to get these squared away as we go through this.

ATWILL. Eleven.

YOON: Oh, eleven.

LEONARD: ... whether the roads are adequate to provide...

HESS: There is Goal 12, Transportation.

MIXED. INAUDIBLE.

HESS: Its not identified by the applicant nor by your Staff Reports.

LEONARD: Traffic would be addressed under Goal 11.

YOON: What about the \_\_\_\_\_?

ATWILL: What about fish?

YOON: Fire department?

LEONARD: Fish.

YOON: Fish would be covered under this with Goal 5.

MANY VOICES SAYING: "Goal 5".

LEONARD: Habitat resource. We adopted the Staff recommendation that this is...

YOON: And how about public \_\_\_\_?

ATWILL: Are fish covered in Goal 6, Mark?

HESS: No. Goal 5 is fish and wildlife.

FRITZ: ....air quality, land resources and water quality.

LEONARD: Right. Period.

HESS: That's all it is.

LEONARD: We need to respond to the application as it relates to Goal 6.

YOON: I will just say I'm not persuaded that they basically proved it beyond a doubt to me so I won't vote for it. But \_\_\_\_\_.

LEONARD: Do we have a motion on Goal 6?

FRITZ: Yes. I made the motion and Commissioner Douglas seconded it. The application does meet Goal 6.

LEONARD: Further discussion on that motion?

YOON: I call for the question.

LEONARD: All those in favor of the motion? Opposed? Yoon, Fry and Al-Sofi opposed. Everyone else was in favor.

Goal 7, Hazards.

FRITZ: Mr, Chairman, I would move this Commission find that the revised application does meet Goal 7

DOUGLAS: I'll second that.

AL-SOFI: Hazards, as like voting hazards like going to fast....

FRITZ: Its all in the revised application.

**LEONARD:** The Goal statement is Natural Disasters and Hazards, in case you don't see it.

**FRITZ:** Right.

**INGLE:** Potential boating conflicts in the channel. Would that be counted under Goal 7 as a hazard?

**YOON:** Would the condition of the dike be covered under that?

**LEONARD:** Yes, it would. Land slides, earthquakes; we did receive testimony in opposition related to natural hazards.

**YOON:** So, shall we go through this making sure?

**LEONARD:** We have a motion to approve the Goal 7 findings proposed by the applicant. Second by Douglas. Further discussion on the motion? Call for the question. All those in favor of the motion? Opposed? Yoon, Al-Sofi, Commissioner Fry, you were opposed? Okay.

**FRY:** So, what happens?

**LEONARD:** Motion passes, ... to Goal 7.

Goal 8, to satisfy the recreation needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts as the Goal **INAUDIBLE, TWO VOICES.**

And we do have suggested Staff, Staff suggested Draft language for Goal 8 on page 14. And the recommended Staff conclusion is to find .."The Commission finds that substantial evidence persuades that the proposed Plan Revision to allow the marina is not consistent with Goal 8". As discussion on the Goal 8 issue?

**DOUGLAS:** Well, again, my thoughts are that they have met that criteria in the \_\_\_\_\_ recreational. Boats to me are recreational.

**FRITZ:** Well, I, excuse me, I was almost convinced but this particular proposal, I mean, I would agree with you in general, but I think this particular proposal tends to have an adverse affect on other types of recreational activities. And, that's, smaller boats; much smaller boats. But I agree, the boating, I mean, even large privately owned boats is



definitely recreational and its what this is all about. I'm not convinced either way I guess, I'm just talking to myself.

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**LEONARD:** I'm persuaded the evidence that's been submitted that there is a Goal 8 need for recreational boating and storage of recreational boats and that this application has met the burden of proof on that particular Goal criteria.

**YOON:** I hate to say this but they store boats in water too. I guess, broadly, since I agree with George that there's a recreational, I'm not persuaded this specific type of vehicle basically, I guess I keep thinking running numbers up the back-log or five years ago would be 2670 boats as a need for 2.1 million people and I can't reconcile in myself that the needs of the general public are being met by satisfying 2670 boat owners. Which is what in their study that basically what the tenth of demand is over five years. That's all \_\_\_\_\_

**LEONARD:** Commissioner Fritz, or Commissioner Douglas.

**DOUGLA:** I think there's an awful lot of need for the smaller of boats but we're engaged here in this larger size boats and I think there's an inherent need for the smaller one, and personally, in a different area might be better. With the larger boats we want them as near the Columbia as we can get them. And, consequently as far as I'm concerned for recreational purposes, the closer we get them there the better. As far as I'm concerned. In other words, you're not going to find a bunch of big boats running up to Oregon City.

**YOON:** Well, that may be true but I think that anybody that's trolled for Spring Salmon at the mouth of the channel would disagree with, it would be, you know, the conflict is very high.

The second thing, you know, I guess the question I have to ask on this is if you're taking away a certain amount of recreational things for somebody else, is that dealt with under Goal 8 also?

**LEONARD:** Yes, I think it is.

**YOON:** Okay.

**LEONARD:** I think we received quite a bit of testimony on that issue.

**YOON:** And we can argue until the birds and the dogs and the cows come home on this but I know that, you know, that that used to be a prime area for people to go and dink fish; they go, they park, and they go to fish. And since the construction activity been down they have quit doing that, and so I think that area is essentially going away for people who come out and park their car, go through the gate, and fish. So, that's another reason why I would probably vote against the thing.

**LEONARD:** Commissioner Fritz.

**FRITZ:** We don't have a motion in front of us so lets me just move to adopt. I would move to find that the proposal does meet Goal 8.

**INGLE** Second.

**LEONARD:** Ingle, second. Discussion of the motion? Call for the question. All those in favor of the motion signify by saying aye. Opposed. We've got Yoon, Fry, Al-Sofi, Atwill, opposed.

**FRITZ:** Opposed.

**LEONARD:** Fritz opposed.

**FRITZ:** Yes. I just wanted to get into \_\_\_\_\_

**LEONARD:** Okay. That's four/five votes. Motion fails. We don't have a finding on Goal 8.

**FRITZ:** Do we need, do we have one?

**LEONARD:** We need to adopt a finding.

**FRITZ:** I'm sorry. I should have asked. I wasted your time. I'm sorry.

**INGLE:** Go ahead and make the motion.

**YOON:** I make a motion that we adopt....

**COWLEY:** INAUDIBLE.

**LEONARD:** And Fritz.

**YOON:** I make a motion we adopt the Staff recommendation in the Draft Decision on Goal 8. 44

**FRITZ:** Second.

**LEONARD:** Further discussion? Discussion on that motion? Call for the question. All those in favor of the motion? Opposed? Douglas, Ingle, and Leonard Opposed.

Now we get to Goal 11, Public Facilities and Services. The Draft Staff Report does not have Goal 11 suggested language CHANGE OF TAPE.

Public safety.

**ATWILL:** Water traffic.

**LEONARD:** The channel capacity; the safety of navigation in the channel, is appropriately covered under this.

INAUDIBLE.

**LEONARD:** I think that given the structure the application is false under Goal 11.

INAUDIBLE AND STATIC.

**FRITZ:** No. The Draft Decision doesn't have anything. Its all contained on page 41 of the revised application.

**LEONARD:** Mark, do you have any thoughts on a more appropriate place to address the question of the channel capacity and the channel safety, other than and in addition to Goal 11?

**HESS:** I guess I would under Hazardous Conditions, perhaps, which is a Community Service criteria. Transportation System, Policy 33.

**LEONARD:** These are under county policy questions, but under the Statewide Goal question?

**HESS:** Under the Statewide Goals, well I don't have anything off the top of my head to direct you to. Did you say traffic?

**ATWILL:** Goal 11 \_\_\_\_\_.

**AL-SOFI:** That's public safety on the water....

**HESS:** Goal 11 is for to plan and develop timely, orderly, efficient arrangement of public facilities and services. To serve as a framework for urban and rural development. And that's of course, in the application, the revised application, the pages that we \_\_\_\_\_ you to. The Goal again, is for the public facilities and services and you must determine whether those facilities and services necessary to serve the proposed use are either there or can be provided to the proposed use.

**LEONARD:** Water services; sewer services; public safety.

**DOUGLAS:** Fire.

**HESS:** Police, fire, roads, schools.

**LEONARD:** Channel; presumably navigation; channel \_\_\_\_\_ drawn an analogy from road capacity.

**FRITZ:** Well, Mr. Chairman, with that, unless there's a lot more detail, with that I would move that the Commission find that this application does meet Goal 11.

**FRY:** Okay. I just want to make one more attack at this.

**LEONARD:** We don't have a second yet. Do we have a second for that motion?

**INGLE:** I'll second.

**LEONARD:** Ingle seconds? Discussion of the motion?

**FRY:** My impression, again, is that we're testing a change from Exclusive Farm Use to Multiple Use Agriculture, and the differences of their impact on these Plan Policies. In my analysis and in my voting to date it has nothing to do with the marina. The marina is only a test case; and this is my own analysis, but my own basis for my votes to this point is that, and I would argue that the issue is the inherent change from the uses allowed in the Exclusive Farm Use versus the Multiple Use Agricultural; does that support or violate Goal 11? I don't think its the issue, whether the services are available, but that's my own opinion. I think its an issue of whether this change better meets this Goal the way it is now. In other words, does it increase the demand of the service from this site because if the use is now going to be allowed on the site in an MUA situation, is that inherently a positive thing in meeting this Goal 11, or a

negative thing? That's the way I see it. I guess I personally see it inherently as a negative thing based on the fact that there aren't in my opinion services that can address these in in Multiple Use Agricultural zones.

**LEONARD:** I see the request somewhat differently because there is a Goal Exception, Plan Amendment/Goal Exception involved. We are tied to a specific use; I think our test here is to see whether this specific proposal, that if there are adequate public services planned for the area to serve this particular proposal. And, I find, I'm persuaded that there are and would support the motion on the floor.

Commissioner Yoon.

**YOON:** I feel like a broken record here. I think Commissioner Fritz's thought has actually come up with a couple of good points, and I'll just go through that quickly and I'll go through my specific concerns as, are we viewing this thing as an urban thing or as a rural thing? Because there's a whole different set of values as far as adequate public safety, etc., you know, from a rural suburban or an urban point of view. I'll just leave there and move on. And I think there are some basic problems there.

I'm intimate with this particular area and I have some real problems with this. I know, I mean, from little minute things like I know that the county does not come and mow either side of that road until September. And that grass is about this high. If someone was coming back towards the bridge, and they come pretty fast in the summertime, and people that pull out and made a left turn, by the time they got around that corner and saw them it would be all over. That's point number one.

Point number two: regardless of what the fire district has said I'm not persuaded that a rural fire district is equipped to deal with essentially what I would call a developed area. Now, I mean having a couple of, and so I have a particular problem with that. If they had a fire there they would definitely have to be calling services from some place else; other than Sauvie Island. You're talking about this many structures coming in. You know, the fire department is based on serving rural needs, single family residences, its not based upon the fact of taking care of essentially a developed area. That's the second point that I would make.

LEONARD: Further discussion of the motion?

DOUGLAS: Well, I feel they have met the needs there; that this is the appropriate place for it. And, every place else I've looked there is always some drawbacks, something that they have said, shown, that was not appropriate to put this in. So I feel this has met the need right there.

As far as safety is concerned, roadways and such as that can be made entrances to where the deal is adequate. That is a bad corner; there is no question about it. So, its imperative that it be built in a manner that would give you, well directs all directions actually.

YOON: That's the exact point that I made. They have not shown that they were going to do anything about that, you know, those particular points that I brought out. At this point I can't vote for it.

DOUGLAS: Don't you think that change? Don't you think that's Design Review rather than ours?

LEONARD: Add a caution of traffic safety at the proposed entry is....

YOON: Oh, I don't think that there data \_\_\_\_\_ has adequately covered it. You know, that is something they would have spotted immediately.

LEONARD: Further discussion of the motion? Call for the question. All those in favor of the motion to...

FRITZ: To find that the application meets Goal 11.

LEONARD: All those in favor signify by saying "aye". Opposed. Opposed is Yoon, Fry, Al-Sofi and Atwill. So the motion fails for lack of a majority. Okay.

HESS: So the Commission then needs to articulate findings supporting Goal 11 reversal.

LEONARD: We need to adopt a response to Goal 11. Statewide Goal criteria as an issue that relates to this proposal.

YOON: Well, that didn't.

LEONARD: Staff didn't but the issue is on the table because it was raised in the hearings.

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YOON: I think the issue was on the table and basically has been defeated that essentially, you know...

AL-SOFI: INAUDIBLE.

YOON: Right. The four of us don't agree that they met the Goal 11.

LEONARD: As I understand, what we need to wade through here is we need to adopt findings one way or the other on all development issues raised....

MIXED VOICES.

YOON: Well, I mean, I don't think anyone's going to change mine. I'll make a motion that essentially the applicant has not met Goal 11.

HESS: Based upon what findings?

YOON: Based on inadequate public safety; if you want to go from there.

LEONARD: We need to find some evidence in the record, testimony supporting the presence of....

YOON: Well, safe traffic. That's the question we're getting to. That's basically why I didn't vote for the motion in the first place because it wasn't proved to me that in fact they had met Goal 11. Which is what the motion was made.

AL-SOFI: And there was evidence from the record that there was concern about boating safety, traffic safety, and I'm just not persuaded by the applicant that those were met.

YOON: Well, I mean, I could even withdraw my motion. I think that procedurally we're correct.

FRITZ: I have a particular problem. The fact that someone expresses an opinion does not constitute evidence. I mean, we have things like a letter from a rural fire department ....

YOON: That's not the point. The point was that the applicant did not prove that .....

**FRITZ:** Well, let me look at this; fire safety. A May 1 letter from the rural fire department saying they can service it. The sheriff saying they can service. The school district didn't respond.

**YOON:** I'm not persuaded. Which is what the question, which is what the motion was made. If you hadn't made the motion at all I wouldn't have said anything.

**AL-SOFI:** Oral testimony is evidence, as far as my understanding of evidence.

**LEONARD:** Yes. we were shown a video tape of traffic conditions.

**AL-SOFI:** Yes. Absolutely.

**MIXED VOICES. INAUDIBLE.**

**FRY:** It seems to me that it doesn't really matter as the burden of proof is on the applicant and the applicant has not persuaded the majority of the Commission that they've met this Goal. That's the end of it and I don't think we need to spend any more time discussing it. And, everything is a matter of opinion. Frankly, there is no fact here. Its all dependent on people's, you know, I suppose they could bring Sauvie Island to us and \_\_\_\_\_.

**MIXED VOICES.**

**ATWILL:** For trying to adopt findings I think we do need to refer to evidence from the record. If we're just making a decision on this Goal then we can do the simpler part.

**FRY:** Well, the finding on Goal 11 to me is that the applicant did not persuade a majority of the Commission that they have met the burden of proof on Goal 11.

**ATWILL:** Okay. I don't know if this.....

**LEONARD:** Was that a motion? Commissioner Fry?

**FRY:** And I don't want to make that as a motion because I feel that if we make a motion that would not pass, then we're backing ourselves into another corner. No, I haven't made a motion. I stated an opinion.

**YOON:** I can withdraw my motion. Yes. No. I'm willing to withdraw that motion because I don't think I need to....



**MIXED VOICES.**

**YOON:** I mean, do we have to make a motion? I don't think we do.

**HESS:** I think you can move on and you have simply have findings in the record supporting approval without a motion to that effect.

**YOON:** Well, but it wasn't just on facts we're approving.

**FRITZ:** No, \_\_\_\_\_.

**HESS:** I mean, the application is the only findings that, other than the oral testimony, that you heard.

**LEONARD:** Okay. Lets move on to Goal 15, Willamette River Greenway.

**FRITZ:** I suppose its INAUDIBLE.

Mr. Chairman.

**LEONARD:** Commissioner Fritz.

**FRITZ:** I would move that the Commission find that the application does not, is not consistent with Goal 15.

**YOON:** I second the motion.

**LEONARD:** Do you, does your motion include adoption of .....

**FRITZ:** Adoption of the Draft, yes. Of the Draft Decision language.

**LEONARD:** Thank you. Discussion of the motion? Call for the question. All those in favor of the motion? Opposed? Nay. Douglas and Leonard.

Okay. We now get to, on the criteria list, a Goal Exception analysis, Goal 3 Agricultural Lands. I suggest we take a five minute recess and stretch and collect our thoughts. We'll reconvene at 10:35.

During the intermission, the recess, the question has come up whether or not we are going to be able to get to Line 4 on our agenda this evening. Line 4 is a report from the Staff in response to some questions that were raised by the Planning Commission some time ago relating to water dependent construction activities. There is a Staff Report

printed on that. Its my understanding there are a number of people here who want to testify on that report. How many people are here tonight to testify on that report and want to hang in, well, lets take it one at a time. How many people are here to testify on Line 4, Water Dependent Construction?

MAN: We've got seven.

LEONARD: Okay. Would you prefer to wait and take this question up, no matter how late we run tonight? Or see that question, report, continue to our January meeting? The people who are here for the hearing. We had one voice who would prefer to see a continuation. Hearing only continuation. Is there anyone who objects to a continuation of this item? Okay.

FRY: I'll move to continue Item 4 to our regular agenda in January. January 6th.

DOUGLAS: I'll second that.

LEONARD: At 6:00 p.m.?

FRY: At 6:00 p.m.

LEONARD: Motion to continue Line 4 to January 4th meeting at 6:00 p.m.. Discussion of the motion?

AL-SOFI: January 6th.

LEONARD: Excuse me. January 6th at 6:00 p.m. All those in favor of the motion? Opposed? Okay, Line 4 is continued to January 6th at 6:00 p.m.

Thank you for your patience as we wade through these marina and moorage issues.

FRY: Can I ask a quick procedure question?

LEONARD: Commissioner Fry.

FRY: Are we going to have to go through every one of these boxes under the Goal Exception Analysis and through the County Comprehensive Plan Policies?

FRITZ: I'm going to be ready when we get to number 3 to do it.

LEONARD: Okay. We'll continue now with the deliberations on the Plan Amendment request. We've gotten down to the Goal Exceptions Criteria, Goal 3, Agricultural Lands.

FRITZ: Can we make a motion or...

DOUGLAS: I would like to, well, go ahead and make your motion.

FRITZ: I move that the Commission find that the reasons do not justify the exception for the reasons stated in the Draft Decision.

AL-SOFI: I second.

LEONARD: Does your motion include adoption of the Draft language in the Staff Report?

FRITZ: Yes, the conclusion, that language.

MAN: Can you restate the motion?

FRITZ: I, hang in there, I move that the Commission adopt the Draft Decision language and find that the reasons do not justify why state policy should not apply.

LEONARD: Goal 3. We have a different set of alternative sites to look at under Goal 3 and compared to Goal 14.

FRY: Was that motion seconded?

AL-SOFI: Yes.

FRY: I'll just call for the question.

LEONARD: Discussion of the motion to adopt?

DOUGLAS: Let me understand your motion. Your motion is to adopt the policy of the Staff? In other words, to not approve the ....

FRITZ: Well, to find; that this Commission finds that the reasons do not justify exceptions.

DOUGLAS: I would like to counter that, for several reasons. Now, the main thing is that you're saying that there are other places to have this. Is that correct?

FRY: No. We're not getting to that yet.

LEONARD: No, this is the question of the reasons; are there reasons to justify....

DOUGLAS: Changing from agriculture to MUA?

LEONARD: Yes.

DOUGLAS: Okay. In that I oppose it, and the reason for that is several. First of all, the letter dated June 19, 1991 from Alder Creek Lumber, and I state the second paragraph down there. It says...*"Paragraph 4 (f): It is extremely unlikely the property could ever be used for agricultural or residential purposes, and therefore it would fall under Land Irrevocably Committed Exception"* This is just an indication, as I understand.

Now, the other reasons for it are that it is surrounded by MUA-20 with possibly one exception. If the others are MUA-20, it is in an area that like that it has been filled by one form or another and consequently, in my estimation, would not be Exclusive Farm Use land.

LEONARD: Further discussion of the motion?

YOON: We're not dealing with MUA -INAUDIBLE DUE TO NOISE INTERFERENCE - we're dealing with exception to Goal 3.

LEONARD: That's correct. Do the reasons the applicant has submitted persuade the Commission that an exception to Goal 3 should be taken? Should we allow a non-resource use of this particular site for this use?

YOON: I'm inclined to support the motion. One of the reasons, besides what's been stated before, is that the alternative sites analysis, just because its not available because someone else is developing a moorage and marina, is not a reason that they don't have a place to live. That whole rationale bothered me during the discussion when they would list other alternative sites that were going to be used as moorages, or marinas were in the development process, and therefore was not available to the applicant.

FRY: I might argue that Commissioner Douglas may have actually come up with reasons that I might buy. Unfortunately, the applicant, and at least I'd double check

the application, they didn't raise it in the application. In the applications, that there is a public need for this therefore that's the reason for the change. And, because of that, I would have to support the motion. Although I have to give Commissioner Douglas those are the kind of reasons I would vote for.

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**DOUGLAS:** These are facts here. They're not just....

**LEONARD:** I'm persuaded the application and the other evidence submitted about the need for the recreational use persuades me that there is sufficient reason to allow the proposed use on this site, to justify a reasons exception for Goal 3.

**AL-SOFI:** Well, I'm not persuaded that this particular type of recreational use should have a priority over some of the other uses that are already there without having to make a Goal Exception.

**ATWILL:** I agree.

**YOON:** Call for the question.

**LEONARD:** All those in favor of the motion to adopt the Staff Draft language and deny the reasons for the exceptions say aye. Oppose the motion, nay. Five/three. Okay. (The Minutes show five in favor; three opposed).

The next criteria is the Alternative Sites Analysis for Goal 3, Alternative Goal 3 Lands Analysis.

**FRITZ:** Mr. Chairman.

**LEONARD:** Commissioner Fritz.

**FRITZ:** I would move that this Commission find that alternative sites do exist in rural exception areas or inside the UGB.

**AL-SOFI:** Second.

**LEONARD:** Discussion of this motion?

**INGLE:** Well, just for the record, I think that's one of the major points that I have a lot of trouble with. On the one hand I don't think that the applicant has firmly convinced me that there has been a rigorous process to either cast doubt on

this site or that site as being a viable, reasonable alternative. On the other hand, I think the applicant also states very aptly that the county takes exception to the alternative sites that they believe should be considered. Its incumbent upon the county to show without a shadow of doubt the reasons why. I don't know if I'm making...its a point that was made earlier in the various rounds of steps that one has to go through, through the alternative site analysis. And in particular I would reference page 15 in our green notebook, which clearly states the various steps that one needs to go through. I think the applicant has indeed indicated the study area; I think the second step, that they've assessed which sites, alternative sites, would be reasonable to accommodate the proposed use; they've also evaluated those alternative sites on a very broad review on a variety of number of factors, both economic and market-driven. In step 4, they indicate that ...*"If a party to the proceedings believes that a specific site within the study area is an alternative site, that party must describe why this specific site can more reasonably accommodate the proposed use."* I'm not certain the county has done an adequate job of addressing that particular point. Nor do I believe that perhaps the applicant has either. I'm kind of mixed opinion, but I guess the only reason I bring this up, this page 15, was that a point that was made earlier about the various steps and who has the burden of proof, and I think in this situation they share the responsibilities. And, I'm not firmly convinced that both sides have adequately addressed that particular issue.

AL-SOFI: May I just say...

LEONARD: Commissioner Al-Sofi.

AL-SOFI: Thank you. That I believe that the applicant himself, and I can probably find it for you, but specifically stated that some of the alternative sites are, and the owners of those sites, are actively in the process of seeking to develop those sites for the exact same purposes that we're looking for. Therefore the applicants themselves have proven that there are alternative sites which can be developed for this purpose.

YOON: That was the point that I was trying to make.

I mean, if you go through this particular book you can, there's letters from people who own the property saying

that its not for sale, and we have put in sanitation steps, and everything, and we're ready to develop it. So, that proves to me that there is an alternative site; however it wasn't available for them to buy. You know, its not something that we have to deal with. That's

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**LEONARD:** I'm more troubled with the alternative site analysis for Goal 3 than some of these other issues and criteria that have been raised similar to Commissioner Ingle. And, looking at the Administrative Rules and Goal Exception language, I'll read it here, under .660-04-020(1)(2)(C)...*"This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use."* I think our standard there is to whether those areas that were identified in the study area that don't require a Goal 3 Exception, which is broadly all of the water front in the urban area and all of the MUA in Multnomah County on the west side of the channel. And I'm not fully persuaded that those areas can't accommodate at least this level of development. There are issues raised by a number of the specific sites, but I....

#### **MIXED VOICES.**

**LEONARD:** In all of the criteria in our review, this is the one that I'm least persuaded of. This test of "reasonably meet the use" and an alternative site that doesn't require Goal 3 Exception.

**DOUGLAS:** I think if we hit into the alternative sites, let's say one was proposed, we'd have fish and wildlife and all the environmentalists down here, since all the analysis on these showed those were potentially more for habitat than this present site. Wetlands also is another review. Believe me, if you get into that you....

**LEONARD:** The standard of the Goal Exception is not find which sites is the best or the least impact but only to find whether these alternative sites can reasonably accommodate the use without a Goal Exception.

**FRITZ:** What I find is that it really doesn't even have to be one site. It can be a combination of three, five different sites that could absorb the same number of boats.

**LEONARD:** As I stated earlier, I'm persuaded that there is a need for marina/moorage facilities, at least as large as what is proposed here. And certainly more than that based on the evidence in the record. And, I'm also not persuaded that at least this 170-boat capacity can't be reasonably met at some combination of the alternative sites. So, I'd be persuaded to vote for the motion to deny the alternatives. Have we got a motion here?

**INGLE:** Yes.

**FRITZ:** The motion is CHANGE OF TAPE.

**LEONARD:** Commissioner Ingle?

**INGLE:** No. I voted aye.

**LEONARD:** Okay. Seven to one on that motion. (Minutes show motion passed).

Where is our criteria list?

Compatibility with Adjacent Uses.

MIXED VOICES.

**FRITZ:** Well, I'll stick it out there.

**YOON:** Is this very similar to the one we just, I mean, ...

**AL-SOFI:** Mark is able, willing to answer these.

**LEONARD:** Mark, are you alert enough to answer procedures?

**HESS:** I don't know. The alternative Goal 3 Lands is asking you to compare this EFU site with other EFU sites; that you could conceivably convert from EFU to MUA for purposes of developing a marina. So, a little different twist.

**YOON:** So, its only EFU sites?

**HESS:** Pardon me.

**YOON:** Only EFU sites?



FRITZ: That's right.

HESS: Well, EFU is the only Goal 3 Lands that we have, so Goal 3 and EFU lands are one and the same in our county.

LEONARD: Okay. The applicant didn't suggest that there were alternative EFU sites that should be considered. I don't recall any evidence that presented argument in favor of this.

FRITZ: Mr. Chairman, I would move that this Commission find that consequences resulting from use at this proposed site are not significantly more adverse than would typically result from this same proposal being located in another EFU or Goal 3 site. That's my motion.

LEONARD: Discussion of the motion?

AL-SOFI: Well, I would like to state that in this particular place we have that double-loading phenomena, which may have greater impact and we have to talk about that with scenic impact and residential and --STATIC --- and so I think it may have more impact than...there would be other places on this area in this channel that have less impact.

LEONARD: EFU sites that may have less...

AL-SOFI: Less impact INAUDIBLE.

LEONARD: Less impact to all criteria or to agricultural lands? I think there's ...

INGLE: I don't think so.

LEONARD: I think the agricultural lands analysis asks us to look at the agricultural lands impact.

INAUDIBLE.

LEONARD: I'm not persuaded that this is really significantly impacting agriculture practices.

FRITZ: Or any more than it would in any other area.

LEONARD: Similar use of the Sauvie Island Dike in other EFU areas.

YOON: Right. Any other site would have the same problems. So, I'd vote for it.

LEONARD: Vote for the motion? Further discussion of the motion? All those in favor? Opposed to the motion? Al-Sofi opposed.

Now we get to Compatibility with Adjacent Uses. You've been doing a great job.

FRITZ: Thanks.

Mr. Chairman, I would move that the Commission find that the proposed use is not compatible with adjacent uses.

YOON: I'll second the motion, to get it open for discussion.

LEONARD: Discussion of the motion?

DOUGLAS: Might I ask Commissioner Fritz, what about compatible land?

FRITZ: Well, this whole proposal, you know, although we do have marina and boat moorages on the west bank, basically the size and density of this proposal would have a significant impact on the use, you know, on the island itself. It makes me conclude that it is not compatible with the current use on the island.

YOON: It also sets up the first double-loading too. Which is most significant.

AL-SOFI: I think its not compatible with the residential character across the way, I mean more than in a residential urban area because you could just put up row after row of houses and garages. Its somewhat similar in that respect.

LEONARD: So, your argument is that this proposed use on the east bank of the channel is not compatible with the residential, houseboat/moorage uses in the MUA on the west bank of the channel.

YOON: That's not why I would vote against it.

AL-SOFI: That's not appropriate \_\_\_\_\_

YOON: The reason I would vote against it, it would be double-loading on the channel for the first time.

FRITZ: I also think the east side of the channel has an agricultural character. I disagree with... 60

YOON: There are houseboats on the east side already but they don't have houseboats across from them.

INGLE: Houseboats, sailboats,...

LEONARD: They're houseboats and MIXED VOICES.

YOON: A mile and a half north of the bridge.

DOUGLAS: And also, you have a dock area. And if that dock area across from another area on the west bank. At Virginia Lake...

LEONARD: The county boat ramp?

DOUGLAS: No, no, no. There is some across from there but its very little there. But I'm thinking down further where the dock is from Virginia Lake.

YOON: Yes, but that's a little bit different than running 130 spots double-loading against the same size on the other side. That's what I think. I think its not compatible. That's where I come from.

ATWILL: I think there's a compatibility problem also with the smaller crafts, which are adjacent uses in the channel.

YOON: I would agree with that too.

INGLE: Actually, I would assume its a split decision. I think that it an argument can be made that its probably not compatible with the dominant use on Sauvie Island, whatever that might be and Commissioner Fritz might want to elaborate on that. I would agree that it is compatible with the existing uses in the channel. And just leave it at that. And, so, in my opinion I think it is a mixed decision.

DOUGLAS: Well, since the west bank has marinas as well as boathouses, you know, houseboats. I think the compatibility is already built in there. The compatibility on the island side itself is compatible with the sawmill, its compatible with the fill on the dump site there; its compatible with the pellet mill; the gas plant; and such as that. And, I question whether farming itself is compatible with that.

**YOON:** I think you make a good point. I don't think boats are compatible with those at all.

**DOUGLAS:** Well, farming itself is not compatible with that so you're saying its not Exclusive Farm Use. So, what I'm saying is this is as compatible as I think we can get.

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**LEONARD:** Further discussion? Call for the question on the motion. All those in favor of the motion? Opposed to the motion? Okay. Seven to one on that criteria. (Motion passed).

Now we get to the Goal Exception for Goal 14, Urbanization.

**HESS:** Chairman Leonard, I just wanted to remind you that the Goal 14 Exception, you need to find the reasons, the alternative sites, and so on, the same way for the Goal Exception.

**LEONARD:** I think we, because of the nature of the Goal 14 request, we have a different alternative sites standard to.....

**HESS:** That was the big difference but the other reasons and so forth, that were offered for the Goal 3, also apply to the Goal 14, according to the record.

**LEONARD:** The reasons portions of this meeting recreational needs would be presumably similar to the Goal 3 reasons.

**YOON:** I agree. As a matter of fact, I agree with your statement, basically, that I'm not persuaded that it couldn't be broken up into several spots and done within the Urban Growth Boundary. Which is one of the things that we talked about in Alternative Sites.

**LEONARD:** That's the Alternative Sites question.

**YOON:** Right.

**LEONARD:** The first question is the reasons; are there sufficient reasons to justify a Goal 14 Exception for this use?

**YOON:** Right. So, its kind of a passive....

Yes, right.

**AL-SOFI:** INAUDIBLE.

FRITZ: So we have to be persuaded too then.

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FRY: So, how are we going to do this? Are we going to go back through this? Because I think that market demand is clearly not a reason to justify putting an urban use outside the Urban Growth Boundary.

INGLE: What is the question before us?

INAUDIBLE.

MIXED VOICES.

LEONARD: Is the Commission persuaded that there is evidence in the record, that there are reasons to grant a Goal 14 Exception for this use at this site? Has the applicant persuaded us of that?

MIXED VOICES. INAUDIBLE.

LEONARD: Well, not according to DLCD.

HESS: If I could add to that; you have already found earlier this evening that this is urban. You know, you determined that this use or this proposal is urban and so then you just go through that same exercise you just went through with Goal 3. The reasons, the alternative sites, the alternative Goal 3 sites, and the compatibility with adjacent uses.

MIXED VOICES.

LEONARD: Staff didn't write up the criteria for this stuff. I agree with Mark; we need to address separately.

FRITZ: Good Lord. You mean go back through these \_\_\_\_\_ ?

INGLE: So, like on the first one, the reasons justify the exception? We were not persuaded that reasons were given to justify the exception \_\_\_\_\_.

FRY: That could be a motion.

LEONARD: Is that a motion?

YOON: State that in a motion. And, I'm not persuaded that the reasons justify the exception to Goal 14.

FRITZ: Second.

**LEONARD:** Okay. Discussion of the motion?

**AL-SOFI:** Do we want to adopt the findings of the Draft Decision as well, or not?

**MIXED VOICES.**

**FRITZ:** I haven't gotten into this but I'm not convinced that market demand equates \_\_\_\_\_ but I'm not going to argue that for half an hour.

**LEONARD:** No.

**YOON:** And for the reasons stated INTERFERENCE identify this as an urban activity.

**LEONARD:** The application, in reviewing what the the applicant has submitted, essentially argued the reasons and criteria for establishing an Urban Growth Boundary rather than a Goal Exception. And, therefore I don't find argument in the record to support the reasons for a Goal 14 Exception. I would

**YOON:** I would like to add that to the motion if the person who seconded that would accept that.

**FRITZ:** I'd second that, yes.

**LEONARD:** Further discussion of the motion? All those in favor of the motion? Opposed? Douglas. (Douglas opposed).

**HESS:** Did that just affirm your finding on earlier Goal 3 reasons not being adequate as per the Draft Decision?

**LEONARD:** No. \_\_\_\_\_ in finding that the applicant did not persuade that there were reasons to grant a Goal 14 Exception. That the application hadn't specifically addressed those criteria that the application had addressed: Urban Growth Boundary, Location Criteria,  
\_\_\_\_\_

**HESS:** Thank you.

**LEONARD:** Approval criteria would be alternative sites inside the Urban Growth Boundary to accommodate the proposed marina use.

**FRITZ:** Mr. Chairman, I would move that the Commission find that there are alternative sites within the Urban Growth Boundary.

**AL-SOFI:** I'll second it.

**FRITZ:** And, under the discussion, just simply, it may not be practical. I mean, from somebody's opinion, but placing this marina at River Place, you know, meets these needs.  
**MIXED VOICES.**

**LEONARD:** In light of discussion on that issue, I, in looking at the alternative site analysis that did review some undeveloped waterfront sites in the urban area and looking at the additional information that was submitted to the City of Portland about their land use regulations that provide for waterfront marina development, I'm persuaded that there are at least reasonable alternative sites in the Urban Growth Boundary, that don't require Goal 14 Exceptions.

**DOUGLAS:** That was apparently outside the study area though. As I understand it.

**LEONARD:** No. There was alternative sites viewed in the application on the Columbia River/Hayden Island area and east along Marine Drive that are inside the Urban Growth Boundary that wouldn't require an exception to Goal 14.

**AL-SOFI:** I don't believe we're bound by the study area.

**MIXED VOICES.**

**LEONARD:** But, we do have to stick with the record.

**MIXED VOICES.**

**FRITZ:** I think the alternative sites study area should include the Willamette into the City of Portland.

**YOON:** I would have to disagree. I think the applicant has made a very clear statement why he decided there could be segmentation \_\_\_\_\_ where the Willamette River serves a particular type of use; the Columbia River serves another boater-type use; I would agree with Chairman Leonard that there probably are alternative sites on the Columbia River, as identified by subsequent testimony by the City of Portland that would be reasonable alternative sites to accommodate boaters who want to go to the Columbia.

But I don't think River Place, I don't the OMSI site would accommodate the Columbia River users. Just for the record too, that I've been chewing on for some time and I made some contact with the Port of Vancouver to find out what their land development plans are; I think maybe its oversight on the part of the county; maybe its oversight on part of the applicant; maybe I just don't clearly understand it; however, there's that whole side of the river over there that can be used to accommodate the type of uses that we're currently reviewing, and yet we pay really minor lip service to that fact. And, unfortunately, I haven't flown over the area and I haven't walked it and I don't know, but, its a vast stretch of land that clearly could accommodate some kind of marina development. I know for a fact the Port of Vancouver is considering something along that line. Maybe not necessarily like this application.

**LEONARD:** Well, that raises an interesting question whether Oregon's land use laws and exceptions to Oregon land use laws should consider out of state sites as within the realm of reasonable alternatives to a Goal Exception.

**YOON:** Well, I think we'd have some real conflict. The other thing is if you're registered in Oregon and you have a boat over in Vancouver do you pay taxes on the boat that's registered in Vancouver?

**LEONARD:** I'm not persuaded we should ask the applicant to look out of state for a reasonable Goal 14 site.

**YOON:** That's not what I'm suggesting. I was just indicating this.

**FRY:** Just two points. One is, that on that issue we're Multnomah County; our jurisdiction is within the county boundaries and it doesn't see like we're high enough up to talk about any outside of the county's borders. Second is that, I want it in the record that I think the definition of study area is flawed. Absolutely. I think that it is flawed. I just, my own personal opinion, I do not think you can make the case that the Columbia River has a different type of boat than the Willamette River. In fact, ...

**YOON:** Have you ever tried sailing on the Willamette?

**FRY:** I don't want to get into ....

**LEONARD:** We've got a discussion of the motion, and my recollection of the motion is that it did not include a notion that we



expand the study area to include the Willamette River. I think the motion explicitly says MIXED VOICES. INAUDIBLE.

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...within the alternative sites within the Urban Growth Boundary that the applicant submitted in their alternative sites analysis.

DOUGLAS: Well now, that is a reasonable alternative you're talking about. Something that can, reasonably can do....

LEONARD: I think the motion said that we're not persuaded those sites are unreasonable.

Call for the question. All those in favor of the motion? Opposed?

DOUGLAS: I'm going to abstain from this one because I don't know for sure whether its reasonable or not.

LEONARD: Okay.

Under Goal 14, Exception Criteria, we don't have a Goal 3 lands analysis question to address.

HESS: Excuse me. I wanted to just clarify, the Draft Decision had findings about expanding the study area. You don't want those included in the decision? Is that correct?

LEONARD: Well, this issue of the appropriateness of the study area was raised. I think it would be prudent to adopt findings on whether we think that should be expanded to include the Willamette River.

FRITZ: Yes, the last sentences of that second full paragraph on page 23 should be deleted.

HESS: That's what I heard but I just wanted to clarify that was your intent.

FRITZ: The Planning Commission is persuaded that the alternative sites study should include Portland sites on the Willamette River. There was not a majority support for that.

FRY: Well, there was no vote on that.

HESS: You have heard conflicting argument on both side of that and that's why I'm asking you to...

LEONARD: I suggest we should address that specific ....

FRITZ: Well, I'll move that that sentence from the second full paragraph on page 23 be deleted from the Draft Decision.

LEONARD: Is there a second to that? Okay. Discussion of the motion to delete reference to the Willamette River from the study area, the appropriate study area. Discussion of the motion? Call for the question. All those in favor of the motion. Opposed. We have Fry, Al-Sofi, and Atwill.

MIXED VOICES. INAUDIBLE.

LEONARD: The motion was to not include the Willamette River within the urban study area; to limit the study area for the needs analysis to the Columbia River.

FRITZ: To delete the reference to the Willamette River.

LEONARD: All right.

FRY: The voting wasn't clear. Could we do a good vote?

LEONARD: Well, the motion fails.

FRITZ: I will then move, Mr. Chairman, that we adopt the language in the Draft Decision ...

MIXED CONVERSATION. INAUDIBLE.

YOON: I ask for a re-statement of the motion so that we...

MIXED CONVERSATION.

FRITZ: The motion was....

LEONARD: Commissioner Fritz' motion was to delete the lower Willamette River Management Plan Area...

FRITZ: No, no, no. Its actually in the second full paragraph on page 23, and the language reads: "The Planning Commission is persuaded that the alternative sites study area should include Portland sites on the Willamette River upstream of the St. Johns Bridge." My motion was to delete that language from the Draft Decision.

YOON: And, I seconded that.

LEONARD: So, yes on that motion was to eliminate the Willamette River from the alternative sites study area.

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FRY: So, just in terms of discussion of voting....

LEONARD: Procedurally I think we need to have a motion for reconsideration of the motion.

YOON: I make a motion for reconsideration of the motion.

FRITZ: Second.

LEONARD: Okay. All those in favor of reconsideration? Yoon?

YOON: Yes, I made the motion.

LEONARD: Fritz?

FRITZ: Yes. I seconded.

MIXED VOICES VOTING.

LEONARD: The motion is back before us. All those in favor of Commissioner Fritz' motion to delete reference to the Willamette River from the study area say aye.

VOTE

MIXED VOICES AND COMMENTS. INAUDIBLE FOR TRANSCRIPTION.

LEONARD: Did we get...

FRY: I think the motion is too confusing. I think it can be said more simply in a discussion.

LEONARD: We just voted in favor of the motion. We approved the motion. Five-three to eliminate the area upstream from the St. Johns Bridge from the study area.

YOON: Oh, were you opposed also?

MIXED VOICE.

DOUGLAS: As I understand it, this would eliminate the Willamette River from the study.

LEONARD: Upstream from the St. Johns Bridge.

It would narrow the burden of finding alternative sites in the Urban Growth Boundary.

INGLE: So, how did you vote?

DOUGLAS: I voted to keep it down. To eliminate that above the St. Johns Bridge.

LEONARD: That's not the way you voted

MIXED VOICES.

DOUGLAS: And I voted yes. What I wanted was to eliminate that....

LEONARD: Lets clarify; those in favor of the motion to eliminate Willamette River from the study upstream from the St. Johns Bridge. Votes in favor of that motion were Douglas, Ingle, Leonard, Fritz and Yoon. Opposed were Fry, Al-Sofi, and Atwill.

INGLE: Do we have to do anything more with Goal 14?

HESS: That's sufficient direction for me.

You're accepting the applicant's study area?

INGLE: That's confusing the motion but there was a specific question about that from Staff. That's what brought about the motion.

LEONARD: I think we're through the Goal Exception criteria.

We have Compatibility With Adjacent Uses for Goal 14.

MIXED VOICES.

LEONARD: Wait a minute. We didn't specifically adopt findings on compatibility with the marina with adjacent uses from a Goal 14 Goal Exception standpoint. Does that look or feel any different from compatibility criteria under Goal 3 Exception? Mark, do you see compatibility with adjacent uses, questions and issues that are different for Goal 14 than for Goal 3?

HESS: I guess you have to determine if the urban character of this use renders it compatible or incompatible.

LEONARD: Okay.

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INGLE: If we've established that this particular marina is urban we can't....

DOUGLAS: That's your opinion.

MIXED VOICES.

LEONARD: This Commission made that determination by a split decision earlier this evening.

MIXED VOICES.

LEONARD: I'll entertain a motion regarding the compatibility of this use with adjacent uses under Goal 14, under the Exception criteria for Goal 14. Under the exception criteria for Goal 14.

FRITZ No, no, no. What?

LEONARD: We're trying to adopt a finding about the compatibility of adjacent uses.

ATWILL: Adjacent to what?

LEONARD: This proposed use at this site.

INAUDIBLE VOICE.

MIXED VOICES.

HESS: Its really not much different than what you've just done on the Goal 3. The application and other evidence in the record is arguing the compatibility for Goals 3 and 14 together.

LEONARD: I think its different.

MIXED VOICES:

FRY: .....with other adjacent uses or will, it doesn't say if the uses are committed or anything. Its just says the uses exist. INAUDIBLE....or could they render...

LEONARD: Peter, could you \_\_\_\_\_ up your lights.

**FRY:** The way I read this standard is that the proposed uses are compatible with other adjacent uses or will be rendered through measures designed to reduce effort's impact. It doesn't say whether those uses are permitted or just exist. And the question is, is it compatible with what exists? Or can this be mitigated to be compatible with what exists. And, we've found once it can.

**YOON:** And so you're saying that, defacto, we are saying about the food mill and the mill basically are agricultural. Cause that's how we voted the first time. Because we said the marina was not compatible.

#### **MIXED VOICES.**

**FRY:** Right. But it doesn't, it just says .."with other adjacent uses". It doesn't say "with other similar uses" or "with other permitted uses" or "with other agricultural uses" but ....

**YOON:** But what \_\_\_\_\_ Goal 14, urban \_\_\_\_\_.

**FRY:** Would the exception to the ....

**INGLE:** What is the question before us?

**LEONARD:** The reasons Goal Exception requirements for, these are Goal Exceptions for reasons in general under criteria "D" that states the proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts the exception shall describe how the proposed use will be rendered compatible with the adjacent land uses.

**YOON:** Assuming that the basic nature is rural \_\_\_\_\_, I make a motion that it is not compatible with adjacent uses. That's the only way I can put it. Its getting a little complicated here.

**LEONARD:** Okay.

**ATWILL:** Second.

**DOUGLAS:** Has the motion by Yoon been seconded?

**LEONARD:** Yes.

DOUGLAS: Okay. Then I'll just put in my two-bits worth first. That's all its amounted to tonight, so we'll let it go at that.

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The adjacent uses there are saw mill, pellet mill, gas plant, and a dump. I don't know how you can call it agriculture there, but in my estimation agriculture is more outlawed there than it is for the marina.

YOON: Well, I guess I take the tack on this because I made the motion, but I have a difficult time looking at marina being compatible with a mill.

LEONARD: I should read the rest of this language. That would help clarify. "The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with the surrounding natural resources and resource management or production practices. Compatible is not intended as an absolute term meaning no interference or adverse impacts on any type of adjacent uses." So, I think its focusing us on compatibility with the natural resources themselves or resource management practices.

MIXED VOICES.

LEONARD: The motion is that the proposed use is incompatible; the Commission is persuaded that the proposed use is incompatible with the surrounding uses.

INAUDIBLE.

LEONARD: Who made the motion

YOON: I did.

AL-SOFI: I have a question. I hate to be nit picking, but is there a difference between "not compatible" and "incompatible"? I think that there is and I thought the initial motion was that its not compatible as opposed to incompatible, which is what you said.

LEONARD: The Administrative Rule criteria says the proposed uses are compatible with other adjacent uses. And the motion was "the Commission finds that the proposed use is not compatible, which I think is consistent with the criteria language.

INAUDIBLE.

**FRITZ:** Mr. Chairman, I do recognize the motion that's before us but is that the question that we should be asking and answering? In order to get us past Goal 14 Exception?

**LEONARD:** Its the Administrative Rule approval criteria for a Goal Exception.

**FRITZ:** All right. So, we deal with this one up or down and we're done with Goal 14?

**LEONARD:** Yes.

Call for the question. All those in favor of the motion? Opposed? (Ingle and Douglas opposed).

**YOON:** So now do we make a motion that STATIC.for Goal 14?

**FRY:** For Goal 1.

**YOON:** For Goal 14.

**LEONARD:** No, that completes the Statewide Goal criteria. We're now to the county comp plan policies compatibility.

**FRITZ:** Mr. Chairman, I'm very reluctant to go through this point by point. Can I try it? One motion?

**LEONARD:** Yes.

**FRITZ:** I'll just give it a whirl. Mr. Chairman, I move that the Commission adopt the Draft Decision as it relates to whether county policies are satisfied, and as it relates to policy No. 2, Policy No. 9, Policy No. 10, Nos. 13, 14, 15, 16, Policy No. 26, 31, 33, 37, 38, and 39.

**LEONARD:** Do we have a second?

**INGLE:** Nobody's going to second it.

**YOON:** I just need to understand the motion.

**MIXED VOICES.**

**YOON:** Are you denying the Comprehensive Plan Revision? That's all I need to ask before I second it, in doing this.

**FRY:** No, the motion....



YOON: The Draft denies it based upon all, you know, not meeting it.

LEONARD: Right. The motion was to adopt the findings related to all of those county plan policies.

AL-SOFI: I have a question.

LEONARD: Commissioner Al-Sofi.

AL-SOFI: I'm not entirely convinced that Staff has adequately addressed these. For example, No. 2, especially, it just says it recommends denial. But it doesn't give any, I don't find any reasoning on page 25 that specifically addresses off-site effects, so, I have a problem just adopting everything \_\_\_\_\_ when we don't have any underlying reason for that particular policy.

HESS: Could I comment on your reading of the Draft Decision.

LEONARD: Yes.

HESS: It was not the intent to only identify those policies that Staff believed were not satisfied. So, as you go through this list some are "yes", some are "no".

AL-SOFI: But I don't find anything that truly addresses them.

HESS: So, by the reference to the application then, the applicant's findings would stand. Unless modified or reversed by the findings in this decision draft.

AL-SOFI: INAUDIBLE.

MIXED VOICES.

HESS: The reference to the application is in the introductory section, Revised Application, pages 49 to 78, identifying specific county plan policies.

LEONARD: Application on page \_\_\_\_

HESS: Its on page 25.

AL-SOFI: And, there's a general, you find that in the general comp \_\_\_\_\_ as opposed to specific?

HESS: That's correct.

LEONARD: The application on page 50, the application ...

AL-SOFI: I would rather have something specific to follow.

LEONARD: Okay. You have a motion. Any discussion on the motion? Further discussion? Call for the question on the motion to adopt findings relating to, draft findings relating to Policies 2,...

FRITZ: Do you want to name them all again?

LEONARD: No.

FRITZ: Thank you. My motion is in the record.

INGLE: Two through 39.

LEONARD: County's Comprehensive Plan Policies as listed in my motion.

YOON: So, does that in fact deny the Comprehensive Plan Revision?

FRITZ: Not yet.

INGLE: We're getting there.

Call for the question.

LEONARD: All those in favor of the motion? Opposed? Al-Sofi, Leonard, and Douglas vote nay. Motion carries to adopt that language.

FRY: We've got three more to go.

FRITZ: On this?

FRY: On just this issue

LEONARD: The question, issue No. 4, the Plan Revision will not destabilize land use pattern in the vicinity. Yes or No.

FRITZ: Mr. Chairman, I would move that the Planning Commission find that the Plan Revision will destabilize the land use pattern in the vicinity.

AL-SOFI: Second that, based on the...

FRITZ: Based on the, yes, based on the ...

LEONARD: The Draft Language.

Discussion of the motion? I'm not persuaded that the decision, the proposed use of the site would destabilize agricultural practices in the area.

INAUDIBLE VOICE.

LEONARD: The rest in land use pattern?

INGLE: So it would set a precedent for further moorage development.

LEONARD: I think the Administrative Rule language on Goal Exceptions specifically precludes a Goal Exception, a particular Goal Exception, from being used as a precedent.

AL-SOFI: May I ask to re-state that?

LEONARD: Yes.

AL-SOFI: The criteria is not to prove that it will destabilize the land use pattern. Criteria that the applicant says that it will not destabilize the land use pattern.

LEONARD: Right. I'll restate my reaction to this. The applicant has persuaded me that this proposed use would not destabilize land use in the area. Further discussion on the motion?

YOON: What does that mean? INAUDIBLE.

LEONARD: That it wouldn't, I'm not, I'm persuaded that this would not become a precedent for further EFU zone changes and plan amendments and it would precipitate further change in the land use in the area.

YOON: INAUDIBLE.

LEONARD: That that would destabilize land use....the motion is to adopt language that says that we're convinced that it would destabilize land use in the area.

AL-SOFI: The motion is, I thought he said the revision would...

**FRITZ:** The plan revision will destabilize the land use. I have to say that the Chair has convinced me against my motion. No, I'm going the other way on that.

**LEONARD:** Further discussion of the motion? All those in favor of the motion? All those opposed to the motion? So that motion fails.

We have an opposite motion.

**FRITZ:** Two in favor. Everyone else was opposed. No, I voted no.

**LEONARD:** Al-Sofi and Fry were in favor of the motion.

**FRITZ:** Do we have enough to make that affirmative?

**LEONARD:** Yes.

**FRITZ:** Mr. Chairman, I would move that the Commission find that the plan revision will not destabilize the land use pattern in the vicinity.

**LEONARD:** Discussion of the motion?

**INGLE:** I'll vote for that, based on what you two said.

**LEONARD:** Okay. Call for the question. Those in favor of the motion? Opposed? Okay. Did you get the vote? Finding the reverse that the proposed action does not destabilize land use in the area. Carried. Al-Sofi and Fry opposed. The other six in favor.

**YOON:** Mr. Chairman, I'll make a motion that the plan revision will not be in conflict with existing or planned uses on adjacent land.

**MIXED VOICES.**

**LEONARD:** We find that they do or do not conflict? Your motion is ...

**YOON:** Shall not conflict.

**FRITZ:** Shall not conflict.

**AL-SOFI:** Shall not sounds like....

**MIXED VOICES.**

LEONARD: That's the criteria.

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HESS: The Draft Decision doesn't show you any proposed findings for those two criteria. So you need to, you have spoken to that issue; or spoken to those issues in earlier decisions that you've made so far.

AL-SOFI: \_\_\_\_\_ has a mandatory kind of thing.

FRITZ: All right. Well, its not likely to.

YOON: Let me say why I...

LEONARD: Did we get a second?

YOON: ...which is consistent with the way I voted previously, why I made this motion, because we were dealing before with the land itself and how it was being \_\_\_\_\_ now we're dealing with the land and whether their next door neighbor can continue to run the mill, continue to farm, etc. That's what this is saying basically. As far as I'm concerned I think they can continue to do that. That's why I made the motion.

INAUDIBLE.

YOON: It doesn't deal with compatibility.

ATWILL: I disagree, I think its closer to compatibility...

LEONARD: Can we have a second.

DOUGLAS: I'll second.

LEONARD: Second, Douglas.

Discussion of the motion.

ATWILL: I disagree. I think is closer to compatibility than to stabilize the land use patterns. This standard. So, I would say to be consistent with what we voted before that we'd have to say that....

FRITZ: But, it doesn't say that.

ATWILL: It says "conflict".

FRITZ: What are you arguing? You're saying it will not?

INGLE: Yes.

FRITZ: You've found that it won't <sup>z</sup> conflict? You're saying that it will.

YOON: I made a motion that it will not conflict. Because it, you know, this is the reverse of how \_\_\_\_\_.

#### MIXED VOICES.

LEONARD: This is in relation to MCC 11.05.290, which has three criteria: 1) not destabilize land use patterns; 2) not conflict with existing or planned uses on adjacent lands; 3). Two is what Commissioner Yoon is \_\_\_\_\_.

INGLE: Well, I feel comfortable with \_\_\_\_\_.

LEONARD: This use will not conflict with existing or planned uses on adjacent lands?

INGLE: Right.

AL-SOFI: Well, we're still not \_\_\_\_\_ MIXED VOICES. IMPOSSIBLE TO TRANSCRIBE.

ATWILL: I understand but I have a little problem with that.

LEONARD: The draft language on page 36. Says "will not conflict".

HESS: If I could point a couple things out to you, if I may. My reading of the record is that there has not been findings presented by the applicant on these two, No. 2 and No. 3, Item "C" on page 36, but, however, you have made some decisions regarding compatibility under the Goal Exception. So, to the extent that you can distinguish between the word "compatibility" versus "not conflict" you may want to simply reference your earlier decisions on those other.

YOON: Well, no. I mean, I'll say the same thing again, that I find there is a distinction between "compatibility" and "not conflict"; a considerable difference. I mean, English language, those words are not similar at all.

LEONARD: I agree with your analysis. The record shows that adjacent uses are land fill, pellet mill, saw mill, log storage, houseboat moorage. Its not a question of compatibility. Its a question of conflict.

INAUDIBLE.

AL-SOFI: I would also like to say will we use the word "will" rather than "shall"? Shall has a mandatory connotation.

YOON: Okay. I'll change my motion to \_\_\_\_\_

FRITZ: To a finding that....I can use will or shall.

LEONARD: Code language uses "will".

YOON: Well, if the code uses "will" we should use "will".

LEONARD: Commissioner Fry.

FRY: This also goes out beyond when they say "on adjacent lands", are we talking about lands across the water from this site? That we're accepting that as adjacent? And second, that we're accepting all property contiguous to the site? Even if the property is across the road? INAUDIBLE. Because that does include, it looks like farm land INAUDIBLE.

LEONARD: That's my understanding about what we're looking at.

YOON: I'll clarify my motion. I don't think having a moorage here is going to stop someone from running the mill, running the food processing, farming.

AL-SOFI: INAUDIBLE.

YOON: Well, I don't consider stuff across the water as adjacent. And, I've been consistent through this.

FRY: We could make a motion on that. You're the only one that doesn't assume the houseboats are \_\_\_\_\_. Or, at least I thought there was some consensus.

YOON: Well, that was what I was interpreting my motion to basically, essentially, \_\_\_\_\_. That land directly adjacent to this particular piece of property.

LEONARD: Okay. Abutting parcels.

YOON: Exactly.

AL-SOFI: Of land as opposed to usage on the water.

Y00N: Right. Exactly.

LEONARD: Okay. That clarifies the motion. With that clarification in mind I'll call for the question. All those in favor of the motion? Opposed. Okay, motion carries.

Y00N: No. Atwill and Fry.

LEONARD: Okay. The third leg of that criteria is the uses allowed by the proposed change will and third, that necessary public services are or will be available to serve the allowed uses.

Y00N: Well, lets get it on to a motion so we can get this thing moving. I'm not persuaded that the proposed revision has demonstrated that the necessary public services are or will be available.

LEONARD: Motion is, the Commission is not persuaded....

Y00N: That the necessary public services are or will be available under this revision.

LEONARD: Second, Atwill?

ATWILL: Yes.

LEONARD: Okay. Discussion of the motion.

DOUGLAS: Will you clarify that again? Read me the motion again please.

Y00N: The Commission finds that the proposed revision does not demonstrate that necessary public services are or will be available.

LEONARD: This is similar to the question we addressed under the Statewide Goal 11.

MIXED VOICES.

LEONARD: Some of the Commissioners in the discussion of that failed motion of Goal 11 expressed a concern we do reach some findings on Goal 11. Lets do it here. Call for the question on the motion. The motion is that the Commission finds that it is not demonstrated that the necessary public services are or will be available to serve the allowed uses. As I stated earlier, the motion which failed, I'm persuaded



by the evidence in the record that the necessary public services are available or will be available to serve the proposed use.

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DOUGLAS: I agree with that.

YOON: INAUDIBLE DUE TO NOISE.

LEONARD: Further discussion of the motion. Call for the question. All those in favor? Opposed? We're at four/four, again. Opposed to the motion.

YOON: Fritz, Douglas.

LEONARD: Douglas, Ingle, Leonard. Fritz was opposed to the motion. So we don't have a finding on that criteria. To get off the impasse, it's my understanding that we need to make findings to respond to the issues raised in the urban process.

AL-SOFI: INAUDIBLE

FRY: Well, at this point there's only been a failure to persuade us that the services are not, failed to be persuaded they're not available, so we need to make a motion...

LEONARD: To get off this impasse I suggest a motion that evidence in the record has failed to persuade the Commission that there are adequate services to satisfy that approval criteria.

HESS: Are there specific services that are at issue? Or that you...

LEONARD: Well, we're still dealing with them as a lump.

FRY: We could still \_\_\_\_\_ discussion....

LEONARD: We could address the services one by one or we could merely find...

FRITZ: Or we could unanimously agree that there is not a majority who is persuaded.

LEONARD: That was my suggested language.

MIXED VOICES.

**FRY:** That is exactly what that means, that the burden of proof wasn't met. That they could prove to us...

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**LEONARD:** That's adopting findings that respond to that.

**FRY:** We're not obligated to \_\_\_\_\_.

**LEONARD:** What I'm suggesting is....

**FRITZ:** Let me make that motion \_\_\_\_\_ second on it. I move that the Commission finds that a majority of the Commission is not persuaded that the proposed revision demonstrates that necessary public services are or will be available.

**AL-SOFI:** I'll second that.

**INGLE:** \_\_\_\_\_ the reality is that there isn't five votes.

**MIXED VOICES.**

**LEONARD:** Discussion of the motion? Those in favor of the motion? Entertain similar motion back to the Goal 11 question.

**HESS:** Was that unanimous?

**LEONARD:** Yes.

**HESS:** Goal 11 was a similar issue; public facilities. And you had reached a tie on that Goal and so there was no majority either way.

**YOON:** So you're basically saying it was agreed by the Commission that a majority of the Commission was not persuaded.

**LEONARD:** The Commission finds that the majority was not persuaded.

**YOON:** The Commission finds that the majority was not persuaded that Goal 11 has been met.

**FRITZ:** Is that your motion?

**YOON:** Yes.

**FRITZ:** Second.

**LEONARD:** Discussion of the motion? All those in favor? Opposed? Motion carries unanimously.

We have findings on Goal 11.

HESS: So, that...

INGLE: So that's all the issues on the Comprehensive Plan?

HESS: That's correct.

FRY: Now we have to adopt...

INGLE: Can we make ...

LEONARD: Yes. Entertain a motion on the overall request to amend the Comprehensive Plan from EFU to MUA.

INGLE: You're on a roll, ....

FRITZ: Move that the Commission deny the Comprehensive Plan Revision from agricultural to multiple use agricultural.

LEONARD: Based on the adopted...

FRITZ: Based on the findings, conclusions, comments, in the Draft Decision.

LEONARD: Discussion? Second?

AL-SOFI: I'll second.

LEONARD: Al-Sofi. Discussion of the motion. Call for the question. All those in favor of the motion? Opposed? (Douglas opposed). (Seven in favor).

FRITZ: We've got to keep moving, don't we.

FRY: Can we make this a lot simpler by, can I move that we deny the zone change and the community service use and the Willamette River Greenway permit because the proposed use is not allowed in the Exclusive Farm Use zone?

HESS: We don't recommend that you use that as your only basis for a denial simply because you are a recommending body on the Plan Revision part of it, so you are presuming that the recommendation will be followed at the next step; and then should it not be you would not have findings

supporting the subsequent denials, if that is in fact your decision.

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LEONARD: ...suggested draft language specifically addresses multiple criteria for zone change, community service, and Willamette River Greenway.

YOON: INAUDIBLE. ...burden of proof will be on the applicant?

LEONARD: Yes.

FRITZ: We must be persuaded.

YOON: So, you would like us to go through four....

LEONARD: Well, I think we could adopt all of the conclusions and findings in the Staff Report relating to these three requests.

HESS: You can do it that way or you can identify only those you have issue with, or whatever. Or, one by one, whichever.

Again, the criteria are on your check sheet; the zone change, there is four of them, and the *Request is in the Public Interest*. Second one is the *Public Need* test, and which is combined with an alternative sites kind of analysis; number three is *Comply with Comprehensive Plan Policies*; and number four is a discussion about a proof of change in the neighborhood or a mistake in the planning or zoning. Those are the four zone change criteria.

YOON: I was going to approach this a different way. Basically, I have a definition of EFU and MUA as is stated in the book, EFU and MUA. As stated in the book. Based upon that I'm not persuaded that a clear and compelling rationale has been made to change the zoning designation from EFU to MUA. EFU speaks to scenic, forest, and open spaces, as well as agricultural uses. EFU also speaks to maintenance of water and land resources. The applicant argument has \_\_\_\_\_ economic opportunity marginal; aptitude of the land is full use agricultural. Economic review is not the responsibility of this body and EFU carries a broader definition than demonstrated high efficiency agricultural grazing land. Its not been demonstrated to me through knowledgeable or agronomous testimony that this land does not have quality agricultural potential. Further, it has not been demonstrated that air, water, and land quality will be maintained or improved. That's kind of where I am.

And, based upon that, I'll make a motion to adopt the findings ....

# MIXED VOICES

YOON: No. I'm just stating my position because I think that's too complicated. Now, what they want us to do is go through these first four points and I'm ready to through, I'm just stating my position. I can go through these four points and them come to the thing about the zone change...

LEONARD: I'll entertain a motion relating to the zone change.

YOON: Okay. I make a motion that we deny the zone change request based upon the findings and recommendations....

FRITZ: Found in the Draft Decision.

YOON: Well, ....

LEONARD: I suggest that you, your motion, if you're going to state to deny the zone change request that you also adopt some set of findings and fact to support that decision.

YOON: Well, I'm not going to read it again because I've got it all written down. What I just stated is the reason I would deny the zone change request based upon the findings in the Draft Decision by Staff as well as \_\_\_\_\_.

LEONARD: What you just stated?

YOON: Exactly.

LEONARD: Do we have a second? Seconded by Fritz. Do we have discussion on the motion?

I guess, just commenting on this, I'm not persuaded that the agricultural use that's been alleged for this site is in fact what's primarily what's happening on the site. The dike, with the related regulations relating to the use of the dike severely restricts the agricultural activity, and any grazing that might occur on the dike is only incidental to the primary use for that piece of land as a dike. And, I'm not persuaded that this is in fact prime agricultural land, as defined in our zoning code.

**YOON:** Well, if I may, I'd like to read what EFU states: *"The purposes of the Exclusive Farm Use District are to preserve and maintain agricultural lands for farm use consistent with existing and future needs for agricultural products, forests and open spaces; to conserve and protect scenic resources, to maintain and improve the quality of the air, water and land resources of the County and to establish criteria and standards for farm uses related and supportive uses which are deemed appropriate."* Based upon that, I'm not persuaded to change the zoning.

**FRY:** What he's saying is that there's three issues, not just agricultural.

**LEONARD:** Point taken.

**FRY:** Which was my original point, by the way, and I wish to heck I had that because that was my first point regarding all these other Comprehensive Plan Policies; and why I have consistently voted against them all the way through, because there's just no way I can be persuaded that EFU to MUA is appropriate.

**DOUGLAS:** Well, I disagree with that, by this court decree number 250675 of the Circuit Court, the State of Oregon for Multnomah County, dated July 1959. And, again, it says here that its extremely unlikely that this property could ever be used for agriculture or residential purposes. Now, the court decided that and to me that's an indication. The other indication is to me that this is a dike that was built there and cannot be tilled or anything like that, so consequently its uses are very, very restricted. So, how can you claim its agricultural land?

**FRY:** The point that Mr. Yoon made is that agriculture is only one of three; that the other two are to maintain and improve the quality of air, water and land resources; and to conserve and protect scenic resources. So, the, and then in fact, so there are two other things that are completely unrelated to agriculture that apply to the EFU zone. Okay? And then, even in the agricultural part of this they have forest and open space, so agriculture is very watered down in the EFU zone.

**YOON:** The other thing is the court case that Commissioner Douglas mentioned was before the Comprehensive Land Use Plan.

DOUGLAS: Its still a very good indication of what that land is. Very definitely. And, to change to a MUA, to me does not change the quality of the water, air, such as that. I see no indication of any change. 88

AL-SOFI: It would change the scenic aspect and the open spaces aspect.

YOON: Well, its got to change the water if you've got a bunch of boats there.

DOUGLAS: Well, if you've got log rafts there that's going to change it.

LEONARD: Further discussion of the motion? Call for the question. All those in favor of Commissioner Yoon's motion to deny the zone change request for the stated reasons? Opposed? Douglas, Ingle, Leonard. Anyone else opposed?

HESS: So, you're up to the CS use now? Is that correct?

MIXED VOICES: Yes.

DOUGLAS: Why do we have to, if this is killed right here from now, why ...

LEONARD: Lets respond to all of the requests and adopt findings relating to all of the requests, and move this forward. Do we have a motion on the CS?

FRITZ: INAUDIBLE. Mr. Commission, I move that the Commission adopt the findings and conclusions in the Draft Decision and deny the community service use for a marina.

LEONARD: Discussion? Yes, Commissioner Atwill seconds. Discussion of the motion? All those in favor of the motion? Opposed? (Minutes show Douglas, Ingle, and Leonard opposed).

AL-SOFI: Well, may I just make, sorry, the problem in taking a blanket statement like that, we've created a conflict between some of our earlier findings. \_\_\_\_\_ important to, and I'd like to address it, we have voted public services are not adequate. One of the findings of this community service request is that public services would adequately serve, and I think that's in conflict with one of our earlier decisions; and I think we shouldn't be in conflict.

LEONARD: Okay. I think, no, I think we can \_\_\_\_\_ be in conflict. The motion was to deny the request and adopt these proposed draft findings.

AL-SOFI: Which is that we agreed that because public services would adequately serve the proposed development which I think is not what we said earlier. And I don't want to be in conflict with my earlier findings \_\_\_\_\_.

LEONARD: Are you voting no?

AL-SOFI: Well, I just want to call your attention that if anyone wants to reconsider at least that one issue.

HESS: She's talking about the Plan .... the findings she's referring to are on page 40.

AL-SOFI: Its just that its improper for us to be in conflict with our earlier specific findings and that by doing the blanket we may not have adequately \_\_\_\_\_criteria. INAUDIBLE.

YOON: Well, you're right.

LEONARD: Do we have a motion to reconsider the last motion?

YOON: I make a motion to reconsider the \_\_\_\_\_.

FRY: I'll second it.

LEONARD: Discussion of the motion to reconsider? Or should I say, any further discussion to reconsider the motion?

AL-SOFI: I would like us to just sit here and wait until we can \_\_\_\_\_ this particular one from maybe a prior....

LEONARD: A motion can be made to adopt...

YOON: After we do this.

LEONARD: We've got a question of re-consideration of the motion that we consider alternate findings on specific motions...

FRY: Call for the question.

LEONARD: All those in favor of the motion to reconsider? (Minutes show this was unanimously carried).



FRITZ: Okay. Move that we adopt the findings, INAUDIBLE, as it , 90 ,  
relates to community service ....

LEONARD: Please take them one at a time, or...

MIXED. INAUDIBLE.

FRITZ: I'd like a little guidance.

AL-SOFI: Those are the two that I think have...

YOON: Well, yes, even before we go through that particular...I've  
been reading this first paragraph and we have to make a  
vote on it on the assumption that \_\_\_\_\_ has been  
approved.

INGLE: Can't we make a motion that...

LEONARD: No. No, we need to, we are asked to respond to the  
criteria for approval, which include all of the list of factors.

YOON: Well we can make a motion to deny the community service  
use request based on the fact that we have not  
approved....

LEONARD: No, I think Commissioner Al-Sofi's point, if I can restate it,  
the draft findings concluded that there are adequate public  
services to support the proposed use,...

MIXED VOICES.

FRY: Which one?

LEONARD: The Community services.

FRITZ: That's the only one that's inconsistent?

FRY: Right.

LEONARD: In the earlier decisions the Commission failed to find that  
there were adequate public services. Our findings state  
that.

FRY: Well, can we adopt the...can I make a motion or a  
suggestion that we adopt the Staff Report and then amend  
it? Can, we can do that can't we?

MIXED VOICES.

**ATWILL:** Or we're just going to adopt it with the exception of Staff's finding on ....

**LEONARD:** Commissioner Fritz.

**FRITZ:** In regards to the community service use request, I move that the Commission adopt the language and conclusions in the Draft Decision with the exception of the conclusion dealing with required public services. And, propose that that language, that conclusion language, read "the Commission agrees that existing public services would not adequately serve the proposed development."

**ATWILL:** Second.

**LEONARD:** Okay. Discussion of the motion.

**FRY:** Okay, but I'd like to add a conclusion.

**YOON:** I suggest that we accept the motion with the understanding that the Commission did not agree that there was adequate public services. The majority of the Commission did not agree that there were adequate public services.

**LEONARD:** I think that's what Commissioner Fritz' motion stated.

**FRY:** I'd like to add an amendment. I want to make an amendment that the conclusion the proposed marina is generally consistent with the character of Multnomah Channel it is approved, so that Staff, I want to make it clear, Staff said that this proposed marina is consistent with the character of the area and I would amend your motion to add the language that finds the proposed use is not consistent with the area. Multnomah Channel. That's a motion to amend the motion.

**MIXED VOICES.**

**FRY:** I'm just trying to keep \_\_\_\_\_. One motion is intact. The second one, I think, without a second.

**ATWILL:** Second.

**FRY:** Now the second one has a second. Okay, so my motion to amend the original motion to add the issue of character of the area \_\_\_\_ to it.

YOON: I would second that.

FRY: Its been seconded.

LEONARD: Peter, your motion is to amend the earlier motion to find the opposite conclusion under "consistent with the character of the area"?

FRY: Right.

LEONARD: The proposed marina use is generally inconsistent with the character of Multnomah Channel.

ATWILL: We can make it several sentences if its too much for one.

MIXED VOICES.

LEONARD: But its coherent. Discussion of Commissioner Fry's motion. All those in favor of Commissioner Fry's motion to amend? Opposed? (Leonard, Ingle, and Douglas opposed).

Back to the primary motion.

MIXED VOICES.

HESS: That was on the amendment.

LEONARD: Now we're back to the primary motion. All those in favor of the motion as amended? Opposed? (Transcriber hears two no votes).

FRITZ: Mr. Chairman, can I take this head on then?

LEONARD: I move that the Commission deny the community service use for a marina.

ATWILL: Second.

LEONARD: Based on the....

FRITZ: Yes, based on our findings and the language of the Draft Decision as amended.

LEONARD: The earlier motion adopted findings relating to the community service request.

FRITZ: We reconsidered the whole things.

HESS: The last motion simply adopted the findings. This motion is a motion to deny the community service use. Correct?

LEONARD: Yes.

FRITZ: For the record, my previous motion which was reconsidered, adopted both the findings in the Draft Decision and denied the community service use. That was reconsidered so now we're back.

LEONARD: Call for the question. Those in favor of the motion to deny the community service request based on the previously adopted findings? Opposed?

MIXED VOICES: Five - three.

FRITZ: One more question.

LEONARD: No, we have Willamette River Greenway.

FRITZ: Oh God.

LEONARD: Discussion of the Willamette River Greenway Permit request, and criteria for approval or deny.

MIXED VOICES.

ATWILL: I think we may be able to short circuit this decision based on the last criteria, which is that the applicable policies of the Comprehensive Plan are satisfied. We've already established that some of them aren't so, on that criteria alone, we could...

AL-SOFI: But we weren't going to do that in case we're overturned on that issue.

MIXED VOICES.

LEONARD: Take a couple of minutes to read through the Staff suggested criteria points and the draft language.

FRY: Can I ask Staff a question?

LEONARD: Certainly.

FRY: Mark.

HESS: Yes.

FRY: I'm assuming this is a water dependent use. Is that what this thing is classified as by the state? The marina?

HESS: What agency of the state? State parks?

FRY: Who I'm getting at to the greenway trail, I just wanted to, is there going to be a requirement if this were to be permitted? That a greenway trail would be constructed along the waterfront, or would they consider water a co-dependent use with the greenway trail then be put basically on the road?

HESS: The earlier Staff Report, which had recommended on November 4th, an approval of the greenway permit portion with conditions, suggested that either you impose a trail along the top of the dike or you impose a trail along Gillihan Loop Road; I mean, a bicycle shoulder-lane is actually what the Transportation Division ....

FRY: Right. I've got the conditions, I'm saying that my understanding is that its a water dependent use; the trail goes around the outside of the property...

HESS: Our Code does not speak to that, make that distinction that you're referring to. That's the Portland Code that you're referring to.

FRY: So, essentially there's no requirement for a greenway trail under the Multnomah County Code?

HESS: That's right. There is no explicit requirement for that. There are the, Item No. B., or Item No. 2, ..."reasonable public access to and along the river shall be provided by appropriate legal means to the greatest possible degree." And, with emphasis on urban and urbanizable areas.

FRY: Now, lets, okay, so if we were to say deny this, would we want to stay silent on the issue of the greenway trail if somehow this were overturned at a higher level? I mean, how did that all work with the county as opposed to the city?

HESS: My experience has been that there is not a greenway trail implementation program at the county level; in the rural parks.

FRY: Is it very likely that they've forgotten us?

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HESS: That's a fair assumption, I believe.

LEONARD: Code has 19 criteria that relates to the Willamette River Greenway request that are stated in this draft staff report. As I read this, the draft staff report has comments relating to those comments; it does not have conclusions and suggested findings related to them.

HESS: It actually has conclusions within the comments sections for most...

YOON: Except for those where there's nothing to comment.

MIXED VOICES.

LEONARD: Has everyone had a chance to read the criteria?

YOON: Yes. Now, wouldn't it be acceptable to say that we move to deny the Willamette River Greenway Permit based on the conclusions stated in Section 5.D., 1 through 19 of the Draft Decision?

AL-SOFI: It would except I think there are some conflicting \_\_\_\_\_ again here as earlier. INAUDIBLE.

MIXED VOICES.

FRY: Well, the only thing I found, which I already expressed, was my concern INAUDIBLE.

MIXED VOICES.

YOON: There's a different set of criteria INAUDIBLE.

No, I made that motion.

LEONARD: Did we have a second?

AL-SOFI: What was it?

FRITZ: Second.

YOON: I made the motion to deny the Willamette River Greenway Permit request based upon the findings and conclusions in Section 5.D, 1 through 19 of the Draft Decision.

LEONARD: Do you want to phrase that motion to deny the request and adopt the Draft Findings and Conclusions? 96

YOON: Right.

I can't believe there's anymore left.

LEONARD: Who seconded that?

FRITZ: I did.

LEONARD: Fritz seconded. Discussion of the motion?

DOUGLAS: I don't understand, but then again, with the others going down I don't think approve the Willamette River Greenway.

YOON: I'm denying it.

DOUGLAS: Yes. INAUDIBLE.

LEONARD: Yes. And adopting all of these conclusions as the findings, and I'll repeat, just for consistency, I'm not persuaded to vote for this motion. and all of the findings and conclusions related to it. With that I'll call for the question. All those in favor of the motion? Opposed? (Douglas, Ingle, and Leonard opposed).

FRITZ: Mr. Chairman, there is one thing in the last two pages of the Draft Decision, in Conclusions, and Conclusion No. 3 is something that I think ought to be, we dealt with that, and it ought to be deleted. These are general conclusions. I don't know, but....

MIXED VOICES.

LEONARD: They're not, I think we've addressed each of the four requests separately already and adopted findings and conclusions related to those requests.

FRITZ: But these are six different general conclusions on two pages, and conclusion No. 3 is not consistent at all with the

YOON: We didn't adopt these did we?

LEONARD: These have not been adopted by any previous motions.

MIXED VOICES.

**PEMBLE:** You're referring to what pages, 48 and 49 on the Draft Decision?

**MIXED VOICES:** YES.

**PEMBLE:** We will modify that page as you have incrementally adopted changes throughout the process. Now, just to kind of throw salt in the wound and set the record straight, we initiated our discussion a couple of hours ago concerning this application and in that early presentation by Staff there was some concern on the part of the Planning Commission about having a Draft Decision before them. I want to make two points concerning that: 1) given the time of the early responses, the 10 day period followed by the subsequent 4 day period, we in fact did not complete the draft of the decision until this afternoon. So there was not time for distribution. Secondly, within your own rules, Planning Commission Rules, explicitly it states that the Planning Staff may prepare a recommended decision for the Planning Commission consideration. **CHANGE OF TAPE.** Seeing these types of applications, Planning Staff will continue to prepare draft statements for your consideration.

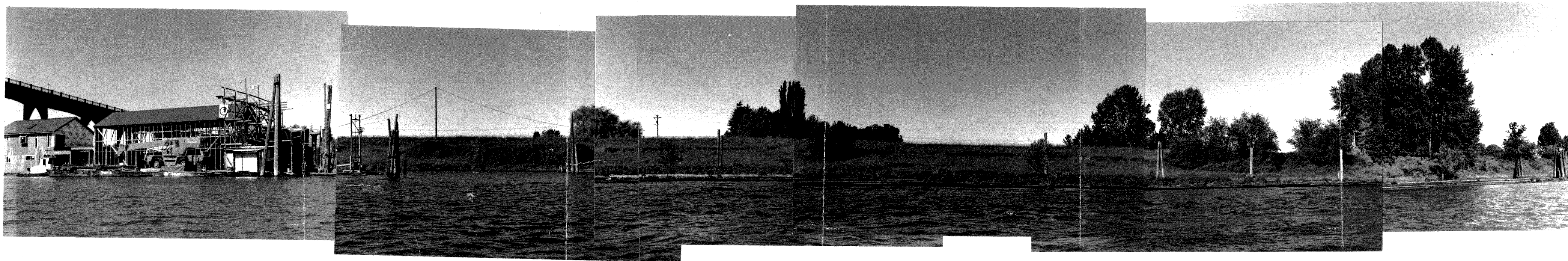
**YOON:** Well, I'm comfortable with that. I would have been uncomfortable with that if there would have still been open discussion.

**LEONARD:** Argument from the applicant.  
No, we have a closing statement. Planning Commission has recommended denial of the four requests for Plan Amendment with Goal Exceptions; a zone change, community service/conditional use; and Willamette River Greenway Permit. This recommendation will be forwarded to the Board of County Commissioners at their next available hearing on Planning matters. Any appeal from our decision must be filed at the Land Development Offices no later than 4:30 p.m., 21 days from this date.

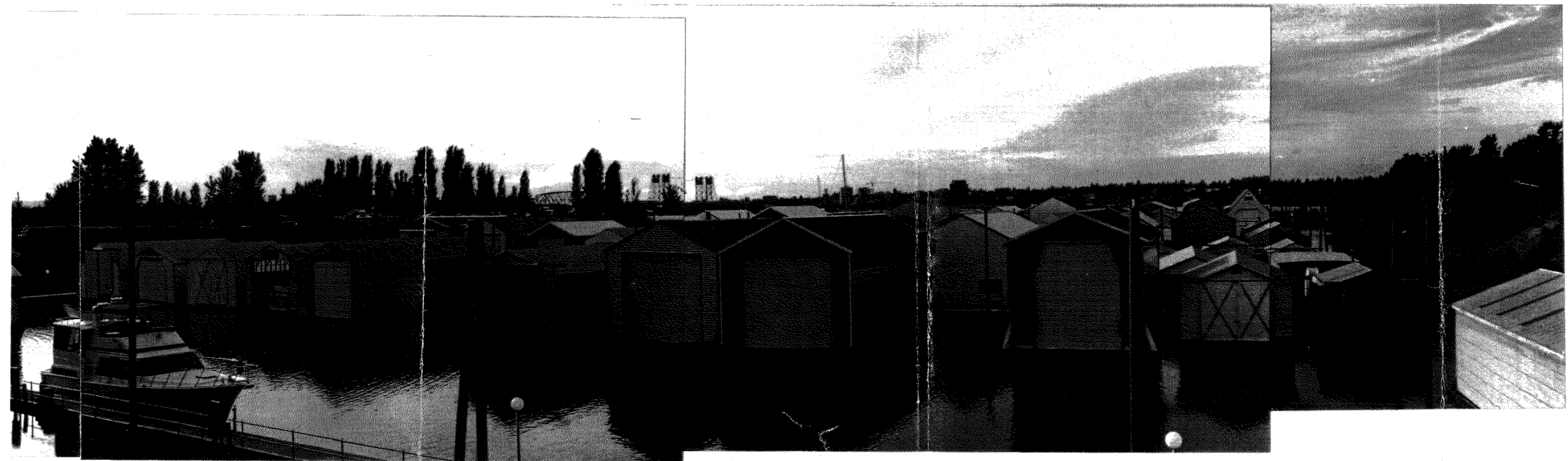
**PEMBLE:** We will confirm the reporting time given the Christmas Board meeting schedule. At this point in time we're not sure they are meeting on the 24th, which would be the reporting day.

**LEONARD:** That concludes the agenda for this evening. Meeting is adjourned.





Dike area where the proposed Alder Creek Marina is to be sited.



Sample string of boat garages.

**A PORTION OF THE PLANNING COMMISSION HEARING  
OF DECEMBER 2, 1991  
PR 6-91/ZC 6/91/CS 6-91/WRG 7/91**

**COMMISSION MEMBERS PRESENT: CHAIRMAN LEONARD, AL-SOFI, INGLE,  
ATWILL, DOUGLAS, FRITZ, FRY, YOON**

**STAFF: HESS, PEMBLE, PRESCOTT, COWLEY**

**LEONARD:** We'll re-open the meeting and proceed with Line Item No. 3. Line 3 of the agenda is PR 6-91, 14460 N.W. Gillihan Road, ZC 6/91/CS 6/91/WRG 7-91. This is a scheduled time for deliberation and decision on a multi-part application; it was heard at a public hearing on November 1, 1991; the Record for that hearing was left open for additional written testimony until (let me get my dates right) the 14th. Opportunity for written rebuttal on that additional evidence was left open until the 18th, at which time, excuse me, the 20th, at which time the record for evidence and rebuttal was closed. The Planning Commission has received copies of all that written material for consideration in their deliberations and motions this evening.

We have eight Commissioners present for this deliberation, Commissioners Yoon Fry, Fritz, Al-Sofi, Leonard, Ingle, Douglas, Commissioner Hunt was not present at the earlier hearing, has not the record and has left until we are through with this decision.

We'll proceed with the oral Staff Report.

**PEMBLE:** I have something I'll read for you in terms of instruction on how to carry-on this part of the decision-making process, the deliberation part. Then we'll follow with Mark Hess giving you an overview.

The hearing process has been concluded, which you the Planning Commission and proponents and opponents ought to be commended. Each side has been provided an opportunity to comment on a very complex land use proposal, and a number of points of view have been shared. No one person, not one of us, could by ourselves could have collected as much information as we have collectively accomplished in a relatively short time period.



Through this process we have all been given an opportunity to learn more about this special place that we call "Sauvies Island".

Tonight the Planning Commission will make decisions on this case based on this body of information received to date. You'll need to sort through the volume of evidence and identify the facts that you believe to be true. Based upon these facts, you will adopt findings or testimony for each approval criteria, come to conclusions, and render a decision. No additional testimony will be taken; the record is closed. This means no question will be directed to either proponents or opponents concerning the evidence or testimony submitted to date. You the Planning Commission must make your decision based on the record, which you've already heard and which you've already seen.

The Planning Staff will assist you. We will perform three basic tasks: provide background on the case, explain approval criteria, review and monitor procedures. We recommend you deliberate the applications, you have four of them, in the following order: Comp Plan first, zone change second, community service third, Willamette River Greenway fourth.

Deliberating each permit requires you to, again, conclude findings, come to conclusions, and render a decision.

With respects to each request, we suggest the following order: Planning Staff will review the approval criteria for each permit. Planning Commission will then direct questions to the Planning Staff concerning the approval criteria. Thirdly, the Commission will establish findings for each criteria as outlined in the Staff Report and a criteria check list that we've prepared for you. To assist you tonight I will distribute at this time, we have a Draft Decision and we have some criteria check list for you to use as you walk through the exercise this evening.

Fourthly, then, the Planning Commission must adopt findings and conclusions and render a decision for each permit in order as previously mentioned, that is, Comp Plan amendment, zone change, community service, Willamette River Greenway.

YOON: Chairman Leonard, I have a question.

**LEONARD:** Commissioner Yoon would like to ask a question before he gets this packet. Scott.

**PEMBLE:** Commissioner Yoon.

**YOON** Why would I want to look at a proposed Draft Decision?

**PEMBLE:** You have, simple answer, you have about, which is the next part of my statement, you have approximately 86 criteria that you have to consider this evening. What the Draft Decision is is based on the Staff Report. What we're doing is giving you a starting point for that deliberation and we suggest that you work from that common starting point. And you may choose to amend it considerably, but our intent is to give you a starting point as opposed to having you debate each criteria.

**LEONARD:** Commissioner Al-Sofi.

**AL-SOFI:** So are you saying that if we were to decide the applicant didn't meet each one the certain requirements that we would still have to go through all of these?

**PEMBLE:** Yes. It follows that, the hierarchy that we have is in the Comp Plan, is the first level decision making and you must find that, in fact, the Comp, the argument carried by the applicant responds the burden of proof for the approval of the Comp Plan amendment. Failure to do so, at the Comp Plan level, would make it virtually impossible to get approval for the other three descending requests, that is the zone change, community service, and Willamette River Greenway. Because, looking at all three of those the approval criteria says you must meet the Comp Plan requirements. But you must make four separate findings such as in each of the four decisions. Okay?

**LEONARD:** Commissioner Fry.

**FRY:** Basically, there's five decisions. Right? And, if we...

**PEMBLE:** Four decisions.

**FRY:** Okay.

**LEONARD:** Four requested actions.

**FRY:** Right. And then there's the fifth issue of the exception, which I want to talk about in a little bit.

**LEONARD:** Well, the Goal Exception issue is part of the Plan Amendment, the first request.

**FRY:** Okay. That's fine, and I wanted to talk about that in a little bit.

So, are you saying that if we were to deny, say, the first decision, that's the end of it?

**PEMBLE:** No. What I'm saying is that you have to make all four decisions but if you deny the Comp Plan you cannot approve the zone change, a community service, or a Willamette River Greenway permit.

**FRY:** But basically we've denied the other ones based on the fact that the it was not consistent with the Comprehensive Plan.

**PEMBLE:** Correct. And any other criteria of approval that you deem appropriate. But you should go through the entire deliberative process for all four requests.

**LEONARD:** To clarify the decision process, Scott, the Plan Amendment, action on the Plan Amendment, by the Commission, is for a recommendation which would be forwarded to the Board of County Commissioners.

**PEMBLE:** Correct.

**LEONARD:** That's not a final decision by the Planning Commission.

**FRY:** I have on other question. You've handed out the Draft Decision, which has changed the Staff's recommendation from, the original recommendation was "Deny 1 and 2, Approve 3 and 4" and this decision is to Deny 1 through 4, and the question is, has the applicant seen this yet?

**PEMBLE:** No. We've distributed it this evening. There is no additional comment period by the applicant. This is strictly Staff attempt to get you to Base 1 and ....

**FRY:** INAUDIBLE.

**PEMBLE:** Let me explain the comment, the question just raised concerning the distinction between the previous Staff Report and what we have prepared for you as a Draft Decision. That is, in the previous Staff Report you have, if

you recall, an explanation that the community service and the Willamette River Greenway permit were considered as though you had in fact approved the Comp Plan amendment. In this decision, again, there is criteria that says you must meet the Comprehensive Plan criteria, approval criteria, therefore if you recommend denial on the Comprehensive Plan approval criteria you must deny also the zone change, the Willamette River Greenway permit, and the community service. You cannot write it in terms of the final findings in such a way that you deny the Comp Plan permit application and approve the Willamette River Greenway, zone change, and community service request. Does that explain that question?

**FRY:** We can talk about it later.

**PEMBLE:** Again, what you have before you is a Draft Findings, a Draft Decision prepared by the Staff that reflects the Staff Report. There's not any substantive change; its not intended to be your final decision. It gives you a starting point. One that we have suggests recommend to you a denial. It gives you a starting point for consideration of this question. You can do wholesale revisions, change, throw that on the floor and start out from base zero if you choose, but you will need to make similar findings this evening, or types of findings that you will find in the Draft Decision that Staff has prepared for you.

Let me finish my statement before you ask more questions.

We have prepared two handouts to assist you with the deliberations: a criteria checklist and a Draft Decision. The Draft Decision is based on the Staff Report indicating the applicant failed to carry the burden of proof for the Comprehensive Plan, zone change, community service, and Willamette River Greenway requests. This should be used as a starting point. The Planning Commission, however, needs to modify this Draft Decision as deemed appropriate.

It is possible for fair and objective people to come to different conclusions in reviewing the same body of evidence. This is the nature of the marriage between the arts, science, and land use planning.

Before I read the last statement are there any questions before you start your deliberations?

**YOON:** I have one question.

**LEONARD:** Commissioner Yoon.

**YOON:** Let me, are we allowed to make one motion that either approves or denies, you know, or agrees or disagrees with Staff or do we have to make four separate motions?

**PEMBLE:** We recommend you make four separate motions. And take them, again, in order of Comp Plan amendment, zone change, community service, and Willamette River Greenway.

**LEONARD:** To build a decision and findings as our action response to each separate criteria we could eventually make a separate motion and reach a separate decision for each criteria.

**YOON:** If that was in the positive.

**LEONARD:** Or in the negative. In order to build a record that could be carried through the potential appeal process we should introduce as much of our thinking as possible and whether we agree with whether the application has met a given criteria or not. Its quite possible the application, the applicant, has met the burden of proof to the Planning Commission on some criteria but not all criteria. We should consider that as we wade into this.

**PEMBLE:** Any other questions before the final statement here?

First I'd like Mark to review the background information concerning this application. Then secondly, and assuming there's no questions, we'd have him begin with a quick explanation of the approval criteria of the Comp Plan revision, then again, following the procedure, you would deliberate findings for those approval criteria and come to conclusions and render a decision and then move on, same procedure, for the zone change amendment. Mark would again review for you the approval criteria, clarify any questions you might have about the criteria, and have you deliberate the findings and render a conclusion and make the decision, and so forth.

**AL-SOFI:** I just want to state that I was contacted by a reporter from Channel 8 to discuss some procedural aspects. There was nothing substantive to discuss but I think I should disclose that and say that it would have no effect on my decision.

**LEONARD:** Commissioner Fry.

**FRY:** I'm really sorry I have to do this but I really appreciate what you're doing, Scott, and I think this is a good idea and I want to say that up front. I think it was a good idea and it really helps us on complicated cases, but my problem is I don't want to go through this whole process and then have this thing go to LUBA then thrown out because the Staff Report is different than what the applicant has seen. And, I looked through it briefly and it is different. The words are different, they're two different things, and so, somehow this has got to be resolved now, it seems to me. The applicant has to say that they're fine; they've seen it; its over or we go away for a month and they have a chance to see it; its over; but I don't really want to spend two hours...

**AL-SOFI:** INAUDIBLE.

**FRY:** Right. I'm just...

**PEMBLE:** Let me speak to Commissioner Fry's concern. Concerning the question of a LUBA appeal because of the applicant has not had an opportunity to review the recommended, final decision, Draft Decision by the Staff, what we have in the final decision has taken for you the information that has been presented to date, no new evidence has been introduced, and simply applied them to the approval criteria and given you a starting point. The issue of LUBA is concerning this debate business, this opportunity to debate and rebut information, we haven't introduced new evidence; there is no debate involved in that; its a recommendation in terms of a starting point for you. You will have to go through a process of making the same kinds of findings; you can choose to disagree with the Staff recommendation on the Draft Decision; you can choose to accept it; but you will go through the same exercise. And you will not, in that exercise, during that process, engage in a conversation with the applicant concerning your opinion versus theirs.

**LEONARD:** Scott, has County Counsel had an opportunity to review this proposed procedure and the introduction of this criteria check list and this revised Staff....



PEMBLE: We have discussed with County Counsel this approach. They have no objection to it.

LEONARD: So they feel this procedure of reviewing additional Draft Staff Report, Draft Decision, is not in conflict with procedural requirements?

PEMBLE: Correct.

FRY: Just to close this off from my point of view, and I accept this, your suggesting this is Staff's prerogative at the end of any hearing to change their recommendation based on the information that they have heard in the process of that hearing and you're exercising that right?

PEMBLE: Correct. As long as we're not introducing new evidence. And, again...

FRY: I just wanted this really clear in the record.

PEMBLE: What we've done, again, in terms of differences, is basically concerned with the last two criteria or last two permits, the community service and Willamette River Greenway. It simply is an issue of understanding that at the outset if you have a recommendation for denial of the Comp Plan you cannot develop findings to support a community service approval nor a Willamette River Greenway approval. And, consistently, all along, we have recommended denial of the Comp Plan and zone change designations.

LEONARD: Further questions of Scott?

INAUDIBLE FROM COMMISSION.

LEONARD: Well, you certainly don't have to look at it.

YOON: Well, I'm uncomfortable INAUDIBLE.

DOUGLAS: I agree with you. I don't like the way this is handled either.

PEMBLE: Lets have Mark give a background on the application.

YOON: I've been reading this for four weeks. I don't need to hear any more from Staff on this.

**PEMBLE:** The background Mark is going to share with you is not background concerning the information you have heard. Its simply for the record, making clear what information has been submitted in the intervening period since the last time you had the hearing.

**LEONARD:** I think its appropriate to get that information clearly stated in the record what we are looking at is evidence, packages of information that were sent out.

**YOON:** I don't have a problem with that but I don't need to go ad nauseam into all of this again.

**LEONARD:** Point taken.

**PEMBLE:** Okay.

**HESS:** Thank you, I'm Mark Hess, Planning Staff. I just wanted to call your attention to the fact we sent you a cover memo dated November 21st for the new evidence that came in since the first hearing; the first hearing was held, again, on November 4, 1991, on the revised application for Alder Creek Marina. The Commission closed the oral portion of the hearing but kept the record open for seven working days until November 14th, to allow written evidence or rebuttal of evidence submitted at the November 4th hearing. The record was held open again for an additional four working days, until November 20, 1991, to allow written rebuttal of any new material that came in during the first open record period.

The materials that came in during both of those periods were distributed to you around the 21st of November and they were grouped into four packets; the second one was copies of citizens' and agencies' letters, a Staff memo and some photographs, copies of photographs. Packet Two was copies of the revised rebuttal from the F.O.R.C.E. Citizen Group, a neighborhood group in opposition. Packet Three was applicant's notebook of entitled "In Response to Questions and Issues Raised" and Packet Four was rebuttal correspondence received during the second extension.

As has already been stated we've included criteria worksheets to provide you a guide as you plow through the criteria in making your findings or deliberations tonight. Any questions for me?

**LEONARD:** Commissioner Fry.

- FRY:** Are we, can we ask a few questions about the Goal Exception? Is that premature?
- HESS:** I can speak to the criteria if that's your question.
- FRY:** Okay. Basically, as I understand the Goal Exception, in terms of Goal 3, Agricultural Land, that to me is pretty straightforward. We're talking about a marina; a marina in a Multiple Use Farm zone requires an exception. That's it. Right?
- HESS:** Well, not exactly. The exception is to take the land where the marina is proposed and re-designate it from EFU to, or agricultural, to Multiple Use Agricultural.
- FRY:** So,...
- HESS:** So, that's the exception part of it.
- FRY:** What the Goal Exception for Goal 3 is saying is that this can never meet that Goal, period, in the balancing act, therefore we eliminate that as an issue by taking an exception to it. Right?
- HESS:** Well, my understanding of it is that the county, in adopting its Plan, did identify this area as Goal 3 lands. In order to take land, rural land, out of Goal 3 protections, Goal 3 again being agricultural lands, protections, you have to meet the exceptions criteria for taking that land out of Goal 3; and that's what's before you.
- FRY:** Okay, .....
- LEONARD:** Ill try clarifying that question. There, as I understand it, there are three process for the Goal Exception: first, that the area is committed to non-resource uses; secondly that there are it is already built and developed with non-resource uses; and thirdly, there are justifiable reasons to justify using the land for non-resource purposes. This request is being put forward under the third choice, the "reasons" exception. We don't need to find that land could never be used for resource uses but alternatively we find reasons that it not be used for resource uses.
- FRY:** Okay. I didn't want to, maybe I should know this but, I was wondering why do they have to take an exception to

Goal 3? Why, and I should ask for Goal 14 easy because I think that's easier. My understanding the reason they have to take Exception to Goal 14 is because LCDC has determined that a marina is an urbanized use and therefore you must take an exception because its outside the urbanized areas. So, I applied that same logic to Goal 3. I'm just trying to understand why do we have to go through this Goal Exception process?

**HESS:** Essentially, all lands outside of the, when the Statewide Planning Goals were applied to cities and counties, lands that were outside of areas, outside of Urban Growth Boundaries, are rural; and rural lands are either resource lands, meaning they are protected for Goals 3, Agriculture, or Goals 4, Forest Lands, or they are non-resource lands. And those are these lands where you take exception to either Goals 3 or Goals 4. And, so, when the county gets its Comprehensive Plan adopted, along about 1980, they identified specific parts of the rural area of the county, outside the UGB, where they said exceptions to Goals 3 and 4 are warranted here, for a variety of reasons. This was not one of those areas; this area was included in the lands that were protected for Goal 3. They now are applying to you to remove those Goal 3 protections, which are in the form of our EFU zoning, and put the land under MUA, which is an exception, a rural exception zone.

**FRY:** Okay. So any converted to MUA would require a Goal Exception?

**HESS:** That's correct.

**FRY:** Okay. I just wanted to get this really clear in my mind. Thank you.

**LEONARD:** Commissioner Fry, you've raised another issue that the Commission asked the Staff to get some clarification on at the November 4th hearing, about the classification of this marina as an urban use, and Staff did ask LCDC, DLCD I should say, to clarify why this is considered an urban use, and we received a letter, or rather Mark received a letter dated November 14, 1991, from Michael J. Rupp answering four questions. That was included in Packet One that we received after the November 14th closing date. DLCD Staff is responding to our question "is a marina an urban use", by saying, yes, it is, without providing a great deal of detail. And they're responding to our question "since marinas are considered an urban use on rural land, are they

permitted in the existing Multiple Use Agricultural zone without an exception?" The answer to the first question appears to be that DLCD Staff says they're an urban because they think they're an urban use, because they look like an urban use, they have the scale and intensity of a use that looks urban to them.

As I understand this urban/rural question, there is not a state definition on what is an urban use. The Curry County Supreme Court decision that raised this question, that addressed this question, didn't decide the question of what's an urban use. They basically sent that back to LCDC to try and figure out how to define an urban use and to date LCDC has not come to grips with that. So, every time, as I understand it, every time the question "is this an urban use" comes up, if that question is contested then a local decision body has to make a determination "does it look like an urban use to us?" And, I would suggest that before we go further into this the first thing we try to decide tonight is the question of whether this marina is an urban use or an appropriate rural use.

**FRY:** Would that, that's where I wanted to eventually go. I got sidetracked by the Goal 3, but I don't understand the logic in asking for a Comprehensive Plan change from Exclusive Farm Use to MUA with MUA, or Multiple Use Agriculture allows so many different things, why do we, it just seems that exception to Goal 14, urbanization has to exist somewhere else because there isn't necessarily a link between the proposed proposal and the justification that in fact this type of Comprehensive Plan designation better serves the Statewide Planning Goals than another one. And, so, I've been always troubled by this exception occurring at this part of the process. Do you see what I mean? There's just, this proposal could go away or maybe it doesn't exist; maybe someone comes in and makes a Plan Goal change and doesn't even mention what they want to do with the land; they don't want to do anything with it and then they come back five, six years from now with a marina idea; do they have to get an exception to Goal 14, Urbanization?

**LEONARD:** Well, speculating that maybe in five or six years there will be a state shot at defining urban use, they may have to address, if someone were to ask for a Plan Amendment to change to EFU to MUA on this site six years from now they might have the question of urban/rural use clarified and have to go through one path or another.

**FRY:** I guess I'm saying that by linking a change to the proposed use, which is done for convenience and because the applicant's done it that way, is requiring them to go through this and that's ....

**LEONARD:** Now, the Goal Exception process for reasons requires that the request consider a specific use and that if the Goal Exception is granted that is is for that specific use only. And other uses that might otherwise be allowed in that zone, the Plan Amendment that's been granted, would not be allowed.

**FRY:** Good. That's very clear then. In other words, if they were allowed to change they would only be allowed to build this use or a use that would require an exception.

**LEONARD:** That procedural question I think is a fair question to address to Staff.

**HESS:** My understanding is just as you described, Mr. Chairman. And the exception is for the specific use proposed; and I'll call your attention to the criteria there on that criteria checklist, first page, Goal Exceptions, The Reasons Justify the Exception, Alternative Sites in Rural Area Exception Areas. Again, those criteria are speaking to a specific use that's proposed.

**LEONARD:** Doing a Plan Amendment proceeding without a Goal Exception the proposal, there would be not necessarily be a proposal, a specific proposal for a use, a Plan Amendment ..

**HESS:** That's correct.

**LEONARD:** ....just change the proceedings to apply to whatever the Plan provided...

**HESS:** And I guess, I imagine, along the same lines, if you had a Plan Revision without a specific use proposed that did require an exception you would have a range of uses considered for the exceptions.

**FRY:** Okay. Now you've confused me again. There's no requirement up-front for a proposal. That's this concern I'm raising is if the applicant came into the county and said it makes sense to make this change, and had no idea what they wanted to put on the property, would they be forced to make a proposal?

**HESS:** In the, in this case where they are going from EFU to MUA, yes, they would have to take a Goal 3 Exception. They may not have to take a Goal 14 Exception if they did not have a specific use that may be considered urban, and so, having a specific proposal that may be considered urban triggers perhaps a Goal 14 Exception. That's one of the things you must determine.

The Goal 3 Exception is a given on this particular site to move from EFU to MUA.

**LEONARD:** There is a question of whether this requires a Goal 14 Exception. I think, to clarify for the applicant and the appellants and everybody else, we should put in the record our thinking on whether we see this proposal as an urban use, thereby requiring a Goal 14 Exception, or whether we see it as a rural use not requiring a Goal 14 Exception.

**YOON:** If you do it that way then there's no way you would ever go to MUA then. After that. If you decided if it was only agricultural then you could never go to MUA because MUA allows low-density residential, which would be considered urban.

**LEONARD:** I don't follow your....

**FRY:** Mr. Chairman is asking if this proposal, in our opinion, is an urban use.

**YOON:** Yes, but what that question \_\_\_\_\_ is everything, if we do it that way then everything else is academic.

**LEONARD:** Well, if we find that a Goal 14, that this is an urban use, then the Goal 14 Exception requirements must be met and we must find something on that in the applicant's proposal.

If we determine that this is not an urban use, that its an appropriate use for the rural area, whether it be in, we'd provide for that in the MUA zone. Under the Community Service Conditional Use process. So the character of the use, I guess, if the first decision point.

**ATWILL:** Ask your question. I'm persuaded by DLCD's letter characterizing it as an urban use.

**DOUGLAS:** One question that I have, and I've read so much of this that, in places now it would be nearly impossible with the City of Portland, I believe, if I read this right, considers this a recreational use; the City Planners; and it seems like I read it in these... so, do we consider it the same as the City of Portland, or not?

**LEONARD:** Well, that's the first thing that we need to decide. Whether we consider this, I suggest we should do this with a motion. That we determine that this be either considered a rural use or an urban use. I think the nature of the application appears to be a recreation use. The study area needs analysis related to recreational activity, Columbia River, substantially outside of the urban area. And a determination that this is either as a general category that marinas per se are urban would be one course to follow; it would find that any marina would be urban and appropriate only in an urban area. You might find that this particular marina, because of its size, scale, \_\_\_\_\_, whatever, is not a rural use but is an urban use and proceed from there. Personally I'm persuaded that this is very much a rural use. The recreation activity is rural, appropriate to the rural area and in finding marinas are urban would probably require us, in order to be consistent, other recreational activities by urbanites are also urban, and lead to the question if any urbanites could leave the Urban Growth Boundary to pursue recreational opportunities.

**YOON:** I don't think I can agree with that.

**LEONARD:** Okay.

**YOON:** But, well said. The distinction between those is that this is essentially garaging, if you really want to look at it that way; or storage. Which means that the property will stay at the area. Now looking at that point of view, would you assume that an area that had storage garages is urban or rural? Its basically the same analogy. Its not forbidding people from doing something urban, people who are living in the urban area from doing something in the rural area but they are in fact leaving their thing there, which is a difference.

Now, I'm not, I have to separate the public ramp from the boat garages, boat house storages.

**LEONARD:** Well, its a good point. Its something we should be looking at. The nature of the proposed use, which is substantially



floating structures being used as garages, I see as an application of a marina use the basic question is a marina a place to tie up boats, is the first question. That's the fundamental use of the property. Community Service/Willamette River Greenway request, I think we would appropriately address whether they are structures that cover the boats or that's in keeping with the nature of the area. But the question of the marina to tie up recreational boats is appropriate in the rural area or should it exclusively exist in the urban area I think is the first hurdle to get over.

**AL-SOFI:** INAUDIBLE.

**LEONARD:** Yes. I think that's fair, that we could conclude that marinas per se are not inherently urban, that they appropriate and there is a place for them in the rural area. To meet rural and urban needs but the size of this or some nature of characteristic of this specific proposal makes it urban, or look urban, to us.

**YOON:** I think its based on composition, and this particular one we're talking about 90 boathouses and 55 covered boat slips and 25 open boat slips; that means there's 90 houses and there's 80 slips, which, you know,...

**LEONARD:** Okay. As I read the letter from DLCD Staff, their first conclusion is that marinas that serve urban needs are inherently urban, and I...

**DOUGLAS:** I've got a question for that one thing: serving urban needs would it be the fact they're houseboats rather than boathouses? If you were saying it was houseboats where people lived I could see urbanization, and yet we have granted in other areas there, that particular thing.

**LEONARD:** Well, that was exactly what led to our second question, why could we approve moorages/marinas in the MUA on the west side of the channel in recent months without going through the Goal Exception process, without looking at that question, when we're being asked to look at it on this, and Staff said, well, DLCD Staff said MUA was approved, acknowledged, in 1980 and if it come in the Plan for acknowledgement today they wouldn't let that slip by. I think in looking at that response, it did go through Periodic Review after the Curry County decision and DLCD Staff had an opportunity to ask the county to amend the

**DOUGLAS:** The thing that bothers me more than anything is the fact these are houseboats rather than boathouses. You know, in other words if it were a bunch of people living here, to me that is an urban usage.

**LEONARD:** Well, the first issue is just a marina, a moorage to tie up boats whether they're under covered or covered. And DLCD's argument is, because of the need for that use is substantially generated by population living in the urban area, that that categorically makes it an urban use. I would, following up on that argument, I would find that a parking lot at Multnomah Falls, because it is primarily serving visitors from the urban area, would be categorized as an urban use. And, I'm not persuaded of that argument.

**DOUGLAS:** That's my sentiments exactly.

**YOON:** I have a question...

**LEONARD:** I think that's a fair question.

**YOON:** I have a question of Staff. I know Sauvie Island is not in the Urban Growth Boundary; is the west side of the channel in the Urban Growth Boundary?

**HESS:** No, it is not. The Urban Growth Boundary is right at the head of the channel.

**LEONARD:** The MUA ...

**HESS:** Please talk into your microphones.

**LEONARD:** .... on the west side of the channel is classified as an exception area.

**YOON:** Let me ask one other question just to make sure I've got this.

I know Sauvie Island is also not in the Metropolitan District, Service District. Is the west side in the Metropolitan Service District?

**HESS:** I'm not certain.

Y00N: I'm pretty sure, I mean, I don't know where it stops and ends, I know Sauvie Island isn't; I'm just trying to get some boundaries.

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FRY: Without having a definition of "urban" right before us, I have to go back to defining things. And to define things they're either an equivalent or they're a sub-set. And, so, I, this could be the form of a motion; I'll just discuss it. I think clearly a marina is not inherently a rural versus use. I think its ludicrous to say a marina is inherently one or the other. I think that a marina that substantially and primarily serves an urban area is defined by Oregon Planning as an urban use, because the purpose of Oregon Planning is to prevent the encroachment of urban activities, I'm talking about an urban use in the rural land, so if this is in fact something that is accessory to and supported by and part of the urban area for it to then it would be, in my opinion, defined as urban use as opposed to.... And the question is, what does that all mean "supported by and part of the urban area", and so I would try to define that in basically three ways: One is how much does the urban activity need to interact with this marina? In other words, if this marina was up there on the Columbia Gorge somewhere exactly like this, how much, is that going to work? Is that going to exist, because of the interaction of the owners and the marina? In my opinion, in this case, it would not exist. This marina could not exist anywhere but an urban area because the owners have got to interact with this marina. The second thing to me is the transitory nature of the marina. In other words, if you're out there with a parking lot on Multnomah Falls and constantly moving in new and different populations, people from all over the world as well as people from the urban area, you're not just dealing with an urban/Portland people at Multnomah Falls. You're dealing with people from all over the world. And, so based on that, in my opinion again, this marina serves primarily the people that live in the urban area and I have seen no evidence that people will rent a space as they come in from Hawaii or whatever, they come in, they rent a space for four weeks and they go out. So I'm saying in that criteria, so the first criteria is being the interaction of this marina with the urban area; the second criteria is that it doesn't turn-over; it doesn't accept people from rural areas, from international, whatever, it is predominantly rented by urban users. And then the third, these are just my little ideas, the third issue in defining this as urban versus rural I think this issue is the intensity of size.and, again, in my opinion it is

definitely an urban as far as the size. And so, basically, to summarize the three criteria is 1) The issue of linkage on a daily basis, and I think it is linked clearly with the urban area, in my opinion. 2) Is the issue of transitory-ness as to how this thing turns over, and I think it does not clearly turn-over in the way that Multnomah Falls parking lot turns over, or a campground on Mt. Hood turns over. 3) And the third issue is the issue of size and scale, which, by the way, we're, the Forest Service's statement is issue size and scale, and my own opinion is that this is too large for a rural area. I suppose that they could try and argue the definition \_\_\_\_\_ argument \_\_\_\_\_ but, definition INAUDIBLE. So, basically, on those criteria, that's why I would call this an urban use.

#### MIXED CONVERSATION.

**FRY:** That's not to say that this marina couldn't be changed INAUDIBLE, but what we have before us, in my opinion, is not a rural marina.

**LEONARD:** NOISE INTERFERENCE ...your analysis identifies three issues that, in your mind, there's a linkage between, I'll paraphrase that, there's a proximity to the urban area that makes this urban where a similar moorage located 20 miles from outside the UGB would not be considered inherently urban?

**FRY:** I'm saying its because of this specific marina and because of the real linkage between this marina and their users. That this marina could not exist in a rural area. That's my personal thinking. The applicant can certainly try and raise, and should, raise the question.

**LEONARD:** The applicant doesn't have an opportunity to respond to this line of thinking.

**FRY:** ..... and then so that's the first issue that the linkage here causes it to be located in an urban area, or in close proximity to an urban area. And that is exactly why the Urban Growth Boundary exists, to prevent urban uses from spilling over into the rural lands adjacent to the urban areas. So, in an issue of the turn over here doesn't look like that horse to me, you know, and in other words its not, and then the third is its just too big.

LEONARD: You see an urban quality form of tenure because of their  
INAUDIBLE.

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MIXED CONVERSATION THAT IS INAUDIBLE.

AL-SOFI: We could make a motion.

FRITZ: I have a question. Assuming, on the third criteria, suppose we cut this \_\_\_\_\_ in half. Or suppose, what about what's on the west side of the bank, the other side of the channel. Is that in your opinion an urbanized use?

FRY: No. And that's one of the \_\_\_\_\_ I think inherently exists in this land use process and its unfortunate because what is happening on the other side of the channel is residential housing. And this use is, in my opinion, a commercial use. And so inherently what we have here is a conflict between a commercial activity and a residential. I mean, that's just a classic issue. But, because of the situation, everyone is dancing around that issue and not dealing with it up front. The issue of the houseboats, as I understand it, is that because they're a low density, and I'm not going to get into whether that's under a rule, you may just ask my opinion, that at least as I understand it houseboats has not been considered an urban use because they're low density or something.

LEONARD: To clarify what I think is in the record, there are just a bunch a number of moorage spaces on the west side of the channel, similar in nature to what's being proposed. And they're also residential houseboat moorages there.

FRITZ: We don't have to apply the Goals, because they're MUA. So, why get into that discussion?

LEONARD: Well, we aren't going to go back and undo what's already built there. The county does have a substantial amount of MUA zoned designated land that's not developed on the west side of the channel where moorage use is applicable, at least under our prior interpretations, if we conclude marinas/moorages are inherently urban; or if this scale makes it inherently urban or this proximity, then I think in order to be fair and consistent the county should go back and revise the MUA \_\_\_\_\_.

FRITZ: Can I put forth just a couple of these; I just want to get really focused before we go to far \_\_\_\_\_. In the areas of MUA, on the west bank, there is no Plan

LEONARD: That was DLCD's analysis.

FRITZ: Okay.

LEONARD: I'm not persuaded....

FRITZ: I'm trying to get a general consensus here. There may in fact be a consensus that marinas in of themselves are neither exclusively rural or exclusively urban. But, there is some sympathy, at least I tend to lean with Commissioner Fry, to say that this proposal would in my mind constitute an urban use of rural area.

INGLE: I agree with that too. I think originally, for the sake of brevity and simplicity, what Chairman Leonard had originally stated that its neither inherently urban or inherently rural. That may be in fact, this particular case, due to its intensity of development or however he worded it, I felt real comfortable with it. And it was very general, that it was neither urban nor rural. Now, let's examine this particular case on its own merit. Is it rural? Is it urban? Whereas what I'm starting to feel is that we're coming up with a set of criteria INTERFEREING NOISE FROM BACKGROUND.

AL-SOFI: I thought Commissioner Fry's proposal was going specifically with this marina proposal. And he was not getting into generalized questions and he was going to put that in the form of a motion.

YOON: Well, before we go forth on motions, I don't want to make one decision and then have to not where we're going from there and then have to go back and resurrect that because its basically, you know, there's no step by step process we're going through. Which I'm having a little difficulty with this process because I would rather take it globally than bring it back narrowly.

You are persuaded, Chairman Leonard, that this is essentially rural in nature.

LEONARD: Marinas.

YOON: Marinas.

**LEONARD:** A recreational use is appropriate for a rural area. A recreational use serving urban visitors is appropriate in a rural area and is not inherently urban because of the users.

**YOON:** Okay. I agree with that. I agree with that. But in this particular case I feel that I think I agree with the Commissioners that this particular one is urban in nature. So, the question I'm asking you is what are we dealing with? Are we dealing with general definition or a specific definition?

**LEONARD:** I guess we take it a step at a time and if there is consensus on that first motion I'll address that.

**YOON:** Not inherently rural or urban.

**ATWILL:** I'd like to make one point. I don't think we need to answer the question of what is inherently rural or urban. All we need to consider is this application. We just need to decide, and we can decide that this application, because of its scope and the criteria already put on the table, is urban.

**DOUGLAS:** I would, in a way, disagree with that. The reason for is, are the boats that are there, are they going to be used in urban? Can anybody on the Island or in Portland or Beaverton or wherever it is rent the space? To me its recreational. No matter where you are, if you have a boat of that size and stature, you want to moor. No matter if its in Portland or wherever. And you have that opportunity to rent that. The boats themselves are used primarily, according to facts delivered here, on the Columbia River. So therefore, its not used in the urban area; they're using outside the urban area. Now to usage, I consider it recreational entity when it comes to that. And then we go from there.

**FRY:** I just, I think you're right. I think we need to take this step by step and I would move that marinas, I think we need to provide at least our opinion that with \_\_\_\_\_ to the County Staff that whether marinas are inherently rural or inherently urban and I'd move that they're not. That marinas are not inherently urban nor rural. That each marina has to be dealt with on a case by case basis.

**FRITZ:** Second.

**LEONARD:** Okay. Discussion on the motion.

**DOUGLAS:** I have mixed emotions on that. The reason, in your explanation, if it had houses in there it would be rural because they were spread.

**LEONARD:** No.

**FRY:** INAUDIBLE.

**LEONARD:** That's one of the explanations you had earlier, I believe. Somebody had.

**FRY:** All this motion is I am saying that I don't believe, or we don't believe, that marinas are an inherently rural or urban but that each one has to be dealt with individually.

**DOUGLAS:** Well, I'll go along with that.

**ATWILL:** If we're going to take that step I will agree with you.

**LEONARD:** Call for the question.

**INGLE:** I have a quick question. Does a marina include boatslips, houseboats, boathouses? I mean, either that or a clarification.

**LEONARD:** Yes. Mark.

**HESS:** Our code has no definition of what a marina does. It does not include...all of those things has been my experience. All or some of those.

**LEONARD:** We do have a definition for houseboat moorage. No, wait.

**HESS:** Houseboats we have a definition for.

**LEONARD:** That's a narrowly defined..

**HESS:** Houseboats are a residential floating structure.

**LEONARD:** That is defined?

**HESS:** Yes.

**LEONARD:** We narrowly defined where houseboat moorages could be located.



**HESS:** That's true. But marinas are not so defined. Although they're, I guess by default they're defined by where we zoned lands that allow them as conditional uses.

**LEONARD:** So a marina located outside of the area where we've designated as permissible for houseboats would not allow houseboats?

**HESS:** That's correct. But it would allow boat slips or boat houses, meaning boat garages.

**FRY:** My motion does not say that a use is urban or rural, it just says that each marina has got to be....

**HESS:** If I could comment, excuse me, again, the issue that you need to decide so that you can move forward is if you find this application to be urban or not. If you do then Goal 14 needs to be applied and if you don't, then it does not. That's all you really need to resolve.

**MIXED VOICES.**

**LEONARD:** We're closing on it.

**INAUDIBLE MIXED VOICES.**

**YOON:** I call for the question.

**LEONARD:** All those in favor of the motion? Opposed? Okay. (According to minutes, motion carried unanimously).

**FRY:** Okay, now the second test, and I've already said up-front, so I'm going to take the flack and make a motion, that I believe that this proposed marina is clearly urban, for the three reasons that I stated; that it is by and needs to have a constant link on a daily basis with the urban activities; second that its not geared towards the transitory population, that would move through, that you would find in a recreational site in the rural area; and third, that its, in my opinion, clearly exceeds a scale that would be appropriate in terms of density of a rural area.

**LEONARD:** That's a motion?

**FRY:** Right. And I think we recognize that this is not nor has it ever been proposed as a destination resort, which is the only exception that I know of under state law, and I don't know everything. So that's my motion.

LEONARD: Okay. Is there a second to the motion?

For lack of a second to the motion...

AL-SOFI: I'll second it.

LEONARD: Commissioner Al-Sofi seconds.

FRITZ: I'd like to word that slightly differently its, because what we're doing is this is a finding of the Commission.

LEONARD: Yes.

FRITZ: And the Commission finds that the proposal, Alder Creek Marina...

LEONARD: Is an urban use for the reasons that Commissioner Fry stated.

INAUDIBLE.

YOON: I'd like to get a little clarification on the linkage too, because I think INAUDIBLE on this particular motion. I mean, if this marina was 100 miles away from Portland would the basic nature of the marina change? Or the moorage change?

FRITZ: Let me put forth that we could, and I'm not opposed to borrowing language from Michael Rupp, basically the motion, and I don't want this to be recorded, I worry about recorders, that the Commission finds that the proposed Alder Creek Marina is an urban use on rural land because it is intended to serve the urban population, quote.

FRY: I can't except that.

FRITZ: You can't?

FRY: Because I can't, there's a lot of rural activities there designed specifically to serve urban population, so I'm trying of go away from LCDC's logic, which I personally feel is flawed, and instead go to logic that I feel a little bit more comfortable with. Which is the linkage; the day to day linkage between an activity and what I'm trying to argue that Alder Creek Marina could not exist 100 miles away from the urban area because the people need to get to their boats, service them, take care of them, do

whatever they do with them, and it needs to be within an hours drive. You know, I'm just throwing that out. As a sake of argument too, the urban area, I'm not saying that the Urban Growth Boundary specifically to prevent that from happening; to prevent people from putting things close to the city in the rural area. That is the point of the Urban Growth Boundary; one of the points.

**LEONARD:** I would argue in response to that line of thinking that the primary focus of this Planning Commission's deliberation has been in response to exactly those needs. That Multnomah County is unique in the state; that we have such a large urban population, a relatively small rural population, and the land uses in the rural area are primarily driven by satisfying the open space and recreational needs of those urban residents.

The urban, the use on Sauvie Island, to get a little closer to home with the examples, such as a ...CHANGE OF TAPE...urban dwellers.

**FRY:** Just to debate that.

**LEONARD:** Certainly.

**FRY:** STATIC...residents of outside the urban area, one of our greatest problems in East County is the provision of the City, the urban area, putting uses into our area that could go into the urban area but they don't do in the urban area because they're not willing to spend the money to mitigate the impact, and so they put these uses, and by the way, the rifle range is a perfect example, where the Forest Service is currently looking at putting that use in the rural area to serve urban needs when that range could be put inside the urban area within an enclosed building, although it would cost more but it could, that use could in fact be put inside the urban area. And, so, what I'm saying is that that's a little \_\_\_\_\_ Goal Exception process, is that the Goal Exception process is to determine if there are no alternatives in the urban area for that urban use, and if there's not then its okay to if they, this Rag Rule Area, if an alternative is found then its not okay to invade the urban area. So, I still feel real ...MIXED VOICES....excuse me, Rugg Rule and I think the law is set a way to encroach in the rural area when there's no way to satisfy that urban need within the Urban Growth Boundary. And, that's the whole point of going around and doing all this research that they did.

**LEONARD:** Okay. Further discussion?

**FRITZ:** Where are we?

**LEONARD:** We have a motion, and a second, we're debating.

**FRITZ:** How many more do you need up front? Which is the Commission finds that?

**DOUGLAS:** Well, my only thought is that if these boats are not used for towing logs or not used for anything else but recreation so my vote will be for the recreation of it.

**LEONARD:** Well, I'm persuaded that the reason for the application being at this spot is at least partially in response to the amenity of the rural area and that there are legitimate energy conservation reasons to park the boats in the rural area and drive to the moorage and use the boats in the rural area that prevent this from being inherently an urban use. That the nature of the use of moorage/marina uses on the west bank of the channel are inherently similar in nature, similar in linkage, similar in market demand, size and scale to what is proposed here. So I would be persuaded to not vote for the motion.

Further discussion? Call for the question. All those in favor of the motion to consider this proposal as an urban use, for the reasons that Commissioner Fry stated, an urban use in a rural area. I think an urban use is an urban use whether its in a rural area or not. VOICE VOTES "AYE". Opposed, Ingle, Douglas, and Leonard. Motion carries. We will proceed then with considering this as an urban use in a rural area, which will require that we address the Goal 14 Exception criteria.

**FRITZ:** Now, back to the beginning.

**HESS:** Again, the Plan Revision request check sheet is provided for your convenience to just give you a check list to go through. The goals that have been identified by the Staff and the applicant in the Record is Goal 5, Goal 6, Goal 7, Goal 8, Goal 11, and Goal 15. And, the Goal Exceptions that are before you, then, are for Goal 3 and Goal 14.

**FRY:** I just wanted to say one other thing. In reading the application, I was troubled by the accusation that Staff does not meet a burden of proof, and its my opinion that

Staff has no obligation to meet a burden of proof. If I'm wrong I would like to be corrected.

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**WOMAN:** What are you referring to?

**FRY:** In the amended or more recent application the applicant argues that the Staff did not meet the burden of proof, that these alternatives were...and I just wanted to say its my opinion that Staff is under no obligation for any burden of proof. The burden of proof is with the applicant. And, if I'm wrong I want to discuss this.

**DOUGLAS:** My understanding is that the burden of proof is on the applicant to start with. And those have been addressed. Then I understand... INAUDIBLE...Maybe I'm wrong.

**HESS:** You're correct. The Code citation for Plan Revision, let me find it here just a moment,

**FRY:** I'm sorry I took so long. I just want to get these things cleared.

**HESS:** Yes, I'm sorry, its on page 25 of the Draft Decision, that indicates that the applicant shall persuade that the revision is based on whatever the criteria area and that language appears throughout the county's ...

**INGLE:** Its also on page 15 in the Goals Exception Analysis, MCC 11.05.2190.

**HESS:** So, Commissioner Fry is correct, it is the applicant's burden of proof, as shown.

**FRY:** I've got, basically what you're saying, Mark, is that the applicant doesn't have the burden of proof?

**HESS:** The applicant has the burden of proof to show the criteria are satisfied.

**FRY:** Right, so there's no obligation by Staff to carry a burden of proof that what is being proposed by the applicant is not reason, cannot reasonably accommodate ...?

**HESS:** The burden of proof is on the applicant. It is not on the Staff.

**FRY:** Okay. That's what I thought. It just bothered me the application that that occurred.

**LEONARD:** Well, that was part of the applicant's argument, to respond.

**INGLE:** I have a problem with that because my understanding, having read the material, is Round 1, the applicant identified some alternative sites. The county can then say, and has said, that some of those site, or actually, I'm getting confused here, the applicant said some of the sites identified by county are not reasonable; cannot reasonably be developed for the purposes stated. I thought it was incumbent upon the county then to identify what those reasons were. If I'm not mistaken, I thought that was clearly...

**FRY:** That's what I suggested, that its not; we can make the decision. Now, maybe the Staff, you know, Staff didn't raise enough information therefore they need a very low barrier for burden of proof.

**LEONARD:** The procedural requirements for a Goal Exception area spelled out in Oregon Administrative Rules, I think as cited...

**HESS:** It begins on page 18.

**LEONARD:** We take note of that procedural requirements. That's OAR 66004000. Mark, are you familiar with the portion of that administration rule that addresses this Round 1, Round 2 notion? Burden of Proof?

**HESS:** In terms of who has the burden to persuade...no I'm not. I think that to, that the Commission has a variety of evidence before it on that particular issue and simply your determination that you have to go through as far as which evidence you find most persuasive. I'm not sure that this label of who has the burden on the alternative sites issue is a critical question. The burden is for you, I guess,....

**LEONARD:** However it come down, the Commissioner has to be persuaded...

**HESS:** The Commission has to be persuaded by the applicant that the alternative sites cannot reasonably accommodate it. So, we've provided other information for you that shoots that, but its your decision as to what you finally decide on those.

**FRY:** And my concern is that I don't want our decision appealed because we adopt Staff's decision and report and therefore somehow accept the burden of proof. I don't think we should have to accept a burden of proof; and maybe state law is saying something differently but I would, I have not heard of a Planning Commission or a County Commissioner or whatever decision making body it is carry a burden of proof. 30

**HESS:** Well again, the criteria on page 15 tells you the burden of proof is on the person that is initiating a quasi-judicial Plan Revision. The burden shall be to persuade that the revision is consistent with ORS, and that's the ORS citations there are referring to the state goals or to the standards for Goal Exceptions. So the burden for either showing is the applicant's burden, the person initiating the revision.

**LEONARD:** Okay. We have a suggested series of criteria to respond to as we go through this, beginning on page 1 of the criteria check list addressing Statewide Goals Analysis, Goal 5, 6, 7,8, 11, 15, followed by suggested criteria for the Goal Exception for reasons for both Goal 3 and Goal 14. Is it agreeable that the Commission proceed through in this sequence?

**FRITZ:** That's fine.

**YOON:** That's fine.

**MIXED VOICES.**

**LEONARD:** Commissioner Fritz.

**FRITZ:** No, I'm fine. No, I'm fine on procedure. I need some explanation of what all these, I mean, what are the questions to be asked?

**LEONARD:** Going to the Draft language is a point of beginning. Goal 5, beginning on page...

**FRITZ:** Page 10, through the top of page 14.

**LEONARD:** There are several points under Goal 5, Resources, on page 10, Goal 5, Open Space Resources; page 11, Goal 5, Natural Resources Fish and Wildlife Habitat; Goal 5, Natural Resources Water Areas; page 13, Goal 5, Scenic Areas; those are the four suggested criteria to look at under Goal 5.

YOON: I have a question.

LEONARD: Yes, Commissioner Yoon.

YOON: Its my understanding that they're going to finish reviewing the Goals for Sauvie Island and that year is what, 1992? Something like that. I'm trying to refresh my memory there. There's something tied to when it was projected those were going to be done.

LEONARD: We were told there was a revision for the Willamette River Greenway Plan addressing Multnomah Channel areas...

YOON: Right, but I meant Sauvie Island...

HESS: Are the, the record, as I understand it, is that the Lower Willamette River Management Plan, which is administered by the Division of State Lands, is now being updated for the section that it applies to, which is from Portland City Limits on the south to Kelly Point. They, DSL, Division of State Lands, has indicated, and its in the record, that they will likely extend to Multnomah Channel, the Lower Willamette River Management Plan, in '92 or '93.

YOON: Okay.

LEONARD: That's addressing only the management plan for the waterway?

YOON: Right.

HESS: That's correct. Its just the water surface of the channel that's affected in that plan.

LEONARD: Mark, to clarify, will that management plan include recommendations on shoreline uses?

HESS: If the Lower Willamette River Management Plan is an indicator of what the Multnomah Channel version might look like. It attempts the Lower Willamette River Management Plan, which is essentially is through the central Portland, does look at trying to manage the water use with what the City has planned and zoned on the adjacent uplands. And so there is an attempt to try to marry the two documents.

LEONARD: Looking for some clue at what might be coming to that document, then, the management plan would respond to



whatever land use designations the county maintains on the properties? That would not presumably change any of the circumstances of this request. Certainly doesn't today.

**YOON:** It doesn't do it today. But every decision we make will be included in that. Obviously.

**FRY:** Okay, I've got one last question. As far as the other Goals besides these ones, is Staff basically saying it does comply with those Goals? INAUDIBLE.?

**HESS:** The Goals that are identified in the Draft Decision are Goal 5, Goal 8, and Goal 15. Those are the only Goals that this Draft Decision would modify from the application, so therefore the application findings for Goals 6, 7, and 11 would stand as submitted.

**FRITZ:** In the revised application?

**HESS:** Correct.

**FRY:** And we're trying to get all these loose ends, this, this, and this now. So, Goal 1 through 4, and I know some of them have absolutely no application here, and Goals 9 and 10 and 12 and 13 and 14, can you say that this application either complies with them or they don't apply?

**LEONARD:** Commissioner Fry, I thin what you are asking Staff to offer here is an argumentative opinion and not a factual...

**FRY:** I wonder why we're not dealing with the schools. We've got 5,6,7, and 8...

**LEONARD:** Well, we would have, it would be the Commission's option if we feel that this decision should address those other Goals we should make that determination. Its not for Staff to make. Similar to the decision we just made on the urban use question.

**FRY:** I just wanted to submit,because the way I see it, is that they have to meet all these Goals or the Goals that apply. Basically, right? And so I just wanted the record some clarity as to why we're dealing with 5, 6, 7, 8, 11, and 15 and not the other Goals. That's all. So, and we can say they don't apply or ...

**FRITZ:** Those Goals were dealt with in the application and revised application. But there hasn't been any Staff findings and therefore no conclusions about Goals 6, 7, or 11.

**LEONARD:** The nature of the application and what the criteria we're looking at is that there are Goal 5 resources present in Multnomah Channel and we look at how this application affects those resources.

**FRY:** I don't have a problem with this. I just want INAUDIBLE.

**LEONARD:** We don't have any Goal 17, 18, 19.

**AL-SOFI:** We do have 3 and 14, they are...

**FRY:** Yes, they are on the Goal Exception list ...

**LEONARD:** Yes. We're looking at those resources under the exception question. And we agree don't have Goal 4, Forest Resources.

**FRITZ:** Right.

**FRY:** Right. Okay.

**LEONARD:** The decision does not affect Goal 9, Economy \_\_\_\_\_ County, or Goal 10, Housing.

#### **MIXED CONVERSATION.**

**FRY:** I guess where I was going on this, and this is again my INTERFERENCE FROM BACKGROUND NOISE...MUA. I personally can see no circumstance where that could occur outside of the legislative process. That's my own opinion, because by the nature of going from Exclusive Farm Use zone to MUA, by that action you then by definition violate the issue of Open Space: air, water and land resources quality; at least those two if not necessarily ... so I just wanted to say....

**LEONARD:** Question for Staff. Mark, could you clarify the distinction of a legislative decision and a quasi-judicial decision?

**HESS:** Yes, I'll attempt to. Legislative decisions are ones that have policy implications or apply to several properties or over several large areas of the county. Quasi-judicial decisions are site-specific, applied to a specific property or a group of properties. And, they have limited application as opposed to.

**FRY:** And the difference, in my mind, is the issue of criteria then and legislative process is a balancing act. And a quasi-judicial process you're testing a case request that the applicant has a burden against the Plan Policies. I just express again my own opinion that I don't see how \_\_\_\_\_ change, so I guess I'm saying up front that I would vote against the INAUDIBLE.

**LEONARD:** Well, the procedures we're following are appropriate for a quasi-judicial hearing and decision.

**FRY:** No, I'm not talking about procedures, I'm, but we have to test the change against the directly against these Goals. I understand the procedure.

**LEONARD:** Commissioner Atwill, you have a proposed motion?

**ATWILL:** I think the Staff is going to propose a motion. No, I'm just saying Staff has done a good job showing us what Goals are applicable. We don't need to worry about the other ones.

**YOON:** It kind of makes our job easy. INDAUDIBLE. They've done a great job.

**FRITZ:** Mr.Chairman, I just need to get a check on procedure here. Are we going to go through each Goal by Goal? Is that what we're going to do? I've done a lot of reading here and I'm ready to say yes to some things and no to others, in terms of whether or not the Goals are, I mean, we're....

**LEONARD:** That was the suggested procedure because we may agree with some of these recommendations and not others, to avoid getting into a gridlock where we can't have a comprehensive-covers-all-bases motion. To address each of these simultaneously, that we move them one at a time.

**YOON:** But the other way to do that, and I'm trying to get through this too, is we can accept what they've said and then add our own amendments to that particular motion, or opinions or whatever, and move forth on that, because, you know, I mean, because they did one, I'm not going to just sit here and go through this whole, re-do the whole thing \_\_\_\_\_.

**AL-SOFI:** Hopefully we may find INAUDIBLE

**LEONARD:** Okay. Commissioner Fritz.

**FRITZ:** I would move that the Commission find that the marina is not consistent with Goal 5.

**AL-SOFI:** Second.

**FRITZ:** For the reasons stated in the Draft Decision.

**FRY:** That's the point I'm trying to make. You have to separate what is truly an issue here at this level because it will be separated at other levels. What is at issue here it seems is that except for the exception process **STATIC FROM PAPERS** to take away Exclusive Farm Use zoning and replace it with Multiple Use Agriculture, regardless of the proposal. The proposal comes in at the two issues, Goal 14 and Goal 3. That's when the proposal kicks in. Okay? That's what I was trying to point out, and in my personal opinion the change from Exclusive Farm Use to Multiple Use Agriculture, that shifts, it violates, in my opinion, Goal 5 and Goal 6.

**YOON:** Well, I was a little slow on this too so I kind of, maybe I can help you on here. If you vote for or against particular Goals, and its going to be very easy to deal with, MUA and EFU, because you've already made a previous decision based upon accepting or rejecting these particular Goals or exceptions. Then we should not so much rubber stamp but we should be able to move very quickly through the second one and the third one and the fourth one because they will be based upon the first decision.

**FRY:** Oh, I see. Okay, I

**TWO VOICES TALKING AT ONCE.**

**LEONARD:** I wouldn't assume that at all. I think there is certainly a potential for divided opinion on a point by point basis.

**YOON:** Well, and I was going to, and that was the second point I was going to make, that I don't know if I want to vote on each particular Goal. I would basically take a motion to either deny the Comprehensive Plan Revision or approve the Comprehensive Plan Revision and then basically list some criteria why. Rather than say by Goal, by particular Goal, by Goal, by Goal, you know. Because then you have to, then we're going to have to make a motion that deals with all....

**LEONARD:** I will entertain a motion.

**YOON:** Well, if he will withdraw his then I'll...

**LEONARD:** We didn't have a second to that did we?

**AL-SOFI:** Yes, I did.

**LEONARD:** Oh, we did. Commissioner Yoon wants to jump into doing the whole thing.

**FRY:** Okay. Can I ask the Commissioner a question? Is your motion exclude any possibility of being against any of the other GOALS?

**YOON:** So you're going to take each Goal?

**LEONARD:** As I understand, Commissioner Fritz's motion was to find the Plan Amendment application is inconsistent with Goal 5 for the reasons stated in the Staff Draft Decision.

**YOON:** Well, then I have a procedural question to ask on that then of the Commission. If we do it that way then we're still going to have to make a motion that goes back and denies the Comprehensive Revision or approves it. Right? Let's go.

**MIXED VOICES.**

**LEONARD:** Okay. Discussion on the motion to find off the findings related to Goal 5 as proposed in the Staff Report.

**DOUGLAS:** The only thing I can say on that that's open space, historic area. Historic areas will be covered, as I understand, by the Plan here. Open space will be preserved because the only space that will be taken will be that primarily on the water. Scenic, we're talking about a disturbed area, the dike's primarily two, so I feel that Goal has been met.

**YOON:** Well, I kind of take a different tack. I kind of do but this previous discussion was, I don't think, but I think the burden of proof is on the applicant and I don't think they have adequately proved to us, because of the rebuttals by the opposition, that in fact they have met Goal 5.

**LEONARD:** Further discussion?

I'm not persuaded to agree with the Staff's conclusions and recommendations. This proposal, proposed Plan

Amendment, what with the evidence submitted, that the open space resources of Multnomah Channel are consistent, or this proposal is consistent with open space resources.

YOON: Can I just \_\_\_\_\_ one here? I agree with you but I'm not persuaded by what the Staff has sent us tonight. That's the problem I'm having with taking this particular document, but I am persuaded that Goal 5 isn't being met.

AL-SOFI: INAUDIBLE.

INGLE: Water resources, fish and wildlife

LEONARD: I am persuaded by applicant's material they have met the applicable criteria for Goal 5, Open Spaces, and that this proposal is not inherently negative impact to fish and wildlife resources in Multnomah Channel. That this proposal does not inherently change the character of the water area that is presently occupied by log rafts, the shade, the habitat, at least in the symmetry to what is being proposed.

I'm more ambivalent about the scenic NOISE INTERFERENCE I think the specific proposal with the boat houses, the number of boat houses, the size of the boat houses proposed, the shape, scale, does conflict with the scenic area. I think a marina proposal would not inherently conflict with the scenic area qualities.

AL-SOFI: But INAUDIBLE. DOESN'T SPEAK INTO THE MICROPHONE

YOON: I guess where I was coming from on that was, after listening to the testimony on both sides there was enough conflict and differences of opinion on even a log that I was not convinced, and you know, and after walking the property, I'm not convinced about the data base that was used by the applicant sufficiently covered that, without raising any questions. And, that's kind of where I am. I don't, I would not go so far as Staff to say "no, no, no", I'm just saying I haven't been convinced. Point one.

Second point is, yes, I live there, but given its Sauvie Island, you know, to me piece-meal planning doesn't work in my life and I prefer to wait until in fact the Willamette River Plan was done; before making any decisions on things like this. So that's why I would vote on support of the motion.

LEONARD: Further discussion of the motion? Okay. Commissioner Al-Sofi.

AL-SOFI: I'd just like to say I don't feel the applicant necessarily \_\_\_\_\_. I don't believe the applicant has met his burden of proving that there wouldn't be significant devastation of open space and scenic, current scenic values, right now, as well as vegetation, etc. So I'm going to vote in favor of the motion.

LEONARD: Okay. Further discussion? Call for the question. All those in favor of the motion. We've got Douglas and Leonard opposed to the motion and Ingle opposed to the motion. The motion to adopt this Goal 5 elements of the Draft Staff Report passes.

Moving down the list; the criteria check list next addresses Goal 7, Hazards and...

FRITZ: No, 6.

LEONARD: Excuse me, 6, Water, Land Resources Quality, and looking at the Draft Staff Report...

FRITZ: Doesn't deal with it.

LEONARD: Doesn't deal with that.

FRITZ: And, so, I would move, Mr. Chairman, the revised proposal in this marina does meet Goal 6. I've read the revised application findings on this and no evidence to the contrary.

YOON: Well, I would use the same argument again that, well, someone commit to a second.

DOUGLAS: I'll second.

LEONARD: I've got a question to clarify us to Staff. Did any of the material in the record that addressed Goal 6 criteria either in support or opposition?

HESS: I do not recall. I don't recall, specifically, other than the application certainly addressed it. And provides you findings supporting the conclusion that they adequately meet those, that Goal. I don't recall whether we heard other evidence on that matter or not.

YOON: I have a question of Staff.

LEONARD: Commissioner Yoon.

YOON: If natural resources are covered under Goal 5, aren't water and air and land resources natural resources?

HESS: They are.

LEONARD: They do have a separate Statewide Goal. And the application addresses Goal 6 criteria on page 37. I don't recall evidence in opposition that rebuts or argues contrary to this information.

FRITZ: Mr. Chairman, there was an opinion on this but there was no evidence that would overwhelm what the findings contained in the revised application.

YOON: Where does traffic fit in this? Is that covered under Public Service Need? I mean, I'm just trying to get these squared away as we go through this.

ATWILL. Eleven.

YOON: Oh, eleven.

LEONARD: ... whether the roads are adequate to provide...

HESS: There is Goal 12, Transportation.

MIXED. INAUDIBLE.

HESS: Its not identified by the applicant nor by your Staff Reports.

LEONARD: Traffic would be addressed under Goal 11.

YOON: What about the \_\_\_\_\_?

ATWILL: What about fish?

YOON: Fire department?

LEONARD: Fish.

YOON: Fish would be covered under this with Goal 5.



LEONARD: Goal 5.

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MANY VOICES SAYING: "Goal 5".

LEONARD: Habitat resource. We adopted the Staff recommendation that this is...

YOON: And how about public \_\_\_\_?

ATWILL: Are fish covered in Goal 6, Mark?

HESS: No. Goal 5 is fish and wildlife.

FRITZ: ....air quality, land resources and water quality.

LEONARD: Right. Period.

HESS: That's all it is.

LEONARD: We need to respond to the application as it relates to Goal 6.

YOON: I will just say I'm not persuaded that they basically proved it beyond a doubt to me so I won't vote for it. But  
\_\_\_\_\_.

LEONARD: Do we have a motion on Goal 6?

FRITZ: Yes. I made the motion and Commissioner Douglas seconded it. The application does meet Goal 6.

LEONARD: Further discussion on that motion?

YOON: I call for the question.

LEONARD: All those in favor of the motion? Opposed? Yoon, Fry and Al-Sofi opposed. Everyone else was in favor.

Goal 7, Hazards.

FRITZ: Mr, Chairman, I would move this Commission find that the revised application does meet Goal 7

DOUGLAS: I'll second that.

AL-SOFI: Hazards, as like voting hazards like going to fast....

FRITZ: Its all in the revised application.

**LEONARD:** The Goal statement is Natural Disasters and Hazards, in case you don't see it.

**FRITZ:** Right.

**INGLE:** Potential boating conflicts in the channel. Would that be counted under Goal 7 as a hazard?

**YOON:** Would the condition of the dike be covered under that?

**LEONARD:** Yes, it would. Land slides, earthquakes; we did receive testimony in opposition related to natural hazards.

**YOON:** So, shall we go through this making sure?

**LEONARD:** We have a motion to approve the Goal 7 findings proposed by the applicant. Second by Douglas. Further discussion on the motion? Call for the question. All those in favor of the motion? Opposed? Yoon, Al-Sofi, Commissioner Fry, you were opposed? Okay.

**FRY:** So, what happens?

**LEONARD:** Motion passes, ... to Goal 7.

Goal 8, to satisfy the recreation needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts as the Goal **INAUDIBLE, TWO VOICES.**

And we do have suggested Staff, Staff suggested Draft language for Goal 8 on page 14. And the recommended Staff conclusion is to find .."The Commission finds that substantial evidence persuades that the proposed Plan Revision to allow the marina is not consistent with Goal 8". As discussion on the Goal 8 issue?

**DOUGLAS:** Well, again, my thoughts are that they have met that criteria in the \_\_\_\_\_ recreational. Boats to me are recreational.

**FRITZ:** Well, I, excuse me, I was almost convinced but this particular proposal, I mean, I would agree with you in general, but I think this particular proposal tends to have an adverse affect on other types of recreational activities. And, that's, smaller boats; much smaller boats. But I agree, the boating, I mean, even large privately owned boats is

definitely recreational and its what this is all about. I'm not convinced either way I guess, I'm just talking to myself.

**LEONARD:** I'm persuaded the evidence that's been submitted that there is a Goal 8 need for recreational boating and storage of recreational boats and that this application has met the burden of proof on that particular Goal criteria.

**YOON:** I hate to say this but they store boats in water too. I guess, broadly, since I agree with George that there's a recreational, I'm not persuaded this specific type of vehicle basically, I guess I keep thinking running numbers up the back-log or five years ago would be 2670 boats as a need for 2.1 million people and I can't reconcile in myself that the needs of the general public are being met by satisfying 2670 boat owners. Which is what in their study that basically what the tenth of demand is over five years. That's all \_\_\_\_\_

**LEONARD:** Commissioner Fritz, or Commissioner Douglas.

**DOUGLA:** I think there's an awful lot of need for the smaller of boats but we're engaged here in this larger size boats and I think there's an inherent need for the smaller one, and personally, in a different area might be better. With the larger boats we want them as near the Columbia as we can get them. And, consequently as far as I'm concerned for recreational purposes, the closer we get them there the better. As far as I'm concerned. In other words, you're not going to find a bunch of big boats running up to Oregon City.

**YOON:** Well, that may be true but I think that anybody that's trolled for Spring Salmon at the mouth of the channel would disagree with, it would be, you know, the conflict is very high.

The second thing, you know, I guess the question I have to ask on this is if you're taking away a certain amount of recreational things for somebody else, is that dealt with under Goal 8 also?

**LEONARD:** Yes, I think it is.

**YOON:** Okay.

**LEONARD:** I think we received quite a bit of testimony on that issue.

**YOON:** And we can argue until the birds and the dogs and the cows come home on this but I know that, you know, that that used to be a prime area for people to go and dink fish; they go, they park, and they go to fish. And since the construction activity been down they have quit doing that, and so I think that area is essentially going away for people who come out and park their car, go through the gate, and fish. So, that's another reason why I would probably vote against the thing.

**LEONARD:** Commissioner Fritz.

**FRITZ:** We don't have a motion in front of us so lets me just move to adopt. I would move to find that the proposal does meet Goal 8.

**INGLE** Second.

**LEONARD:** Ingle, second. Discussion of the motion? Call for the question. All those in favor of the motion signify by saying aye. Opposed. We've got Yoon, Fry, Al-Sofi, Atwill, opposed.

**FRITZ:** Opposed.

**LEONARD:** Fritz opposed.

**FRITZ:** Yes. I just wanted to get into \_\_\_\_\_

**LEONARD:** Okay. That's four/five votes. Motion fails. We don't have a finding on Goal 8.

**FRITZ:** Do we need, do we have one?

**LEONARD:** We need to adopt a finding.

**FRITZ:** I'm sorry. I should have asked. I wasted your time. I'm sorry.

**INGLE:** Go ahead and make the motion.

**YOON:** I make a motion that we adopt....

**COWLEY:** INAUDIBLE.

**LEONARD:** And Fritz.

**YOON:** I make a motion we adopt the Staff recommendation in the Draft Decision on Goal 8.

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**FRITZ:** Second.

**LEONARD:** Further discussion? Discussion on that motion? Call for the question. All those in favor of the motion? Opposed? Douglas, Ingle, and Leonard Opposed.

Now we get to Goal 11, Public Facilities and Services. The Draft Staff Report does not have Goal 11 suggested language CHANGE OF TAPE.

Public safety.

**ATWILL:** Water traffic.

**LEONARD:** The channel capacity; the safety of navigation in the channel, is appropriately covered under this.

INAUDIBLE.

**LEONARD:** I think that given the structure the application is false under Goal 11.

INAUDIBLE AND STATIC.

**FRITZ:** No. The Draft Decision doesn't have anything. Its all contained on page 41 of the revised application.

**LEONARD:** Mark, do you have any thoughts on a more appropriate place to address the question of the channel capacity and the channel safety, other than and in addition to Goal 11?

**HESS:** I guess I would under Hazardous Conditions, perhaps, which is a Community Service criteria. Transportation System, Policy 33.

**LEONARD:** These are under county policy questions, but under the Statewide Goal question?

**HESS:** Under the Statewide Goals, well I don't have anything off the top of my head to direct you to. Did you say traffic?

**ATWILL:** Goal 11 \_\_\_\_\_.

**AL-SOFI:** That's public safety on the water....

**HESS:** Goal 11 is for to plan and develop timely, orderly, efficient arrangement of public facilities and services. To serve as a framework for urban and rural development. And that's of course, in the application, the revised application, the pages that we \_\_\_\_\_ you to. The Goal again, is for the public facilities and services and you must determine whether those facilities and services necessary to serve the proposed use are either there or can be provided to the proposed use.

**LEONARD:** Water services; sewer services; public safety.

**DOUGLAS:** Fire.

**HESS:** Police, fire, roads, schools.

**LEONARD:** Channel; presumably navigation; channel \_\_\_\_\_ drawn an analogy from road capacity.

**FRITZ:** Well, Mr. Chairman, with that, unless there's a lot more detail, with that I would move that the Commission find that this application does meet Goal 11.

**FRY:** Okay. I just want to make one more attack at this.

**LEONARD:** We don't have a second yet. Do we have a second for that motion?

**INGLE:** I'll second.

**LEONARD:** Ingle seconds? Discussion of the motion?

**FRY:** My impression, again, is that we're testing a change from Exclusive Farm Use to Multiple Use Agriculture, and the differences of their impact on these Plan Policies. In my analysis and in my voting to date it has nothing to do with the marina. The marina is only a test case; and this is my own analysis, but my own basis for my votes to this point is that, and I would argue that the issue is the inherent change from the uses allowed in the Exclusive Farm Use versus the Multiple Use Agricultural; does that support or violate Goal 11? I don't think its the issue, whether the services are available, but that's my own opinion. I think its an issue of whether this change better meets this Goal the way it is now. In other words, does it increase the demand of the service from this site because if the use is now going to be allowed on the site in an MUA situation, is that inherently a positive thing in meeting this Goal 11, or a

negative thing? That's the way I see it. I guess I personally see it inherently as a negative thing based on the fact that there aren't in my opinion services that can address these in in Multiple Use Agricultural zones.

**LEONARD:** I see the request somewhat differently because there is a Goal Exception, Plan Amendment/Goal Exception involved. We are tied to a specific use; I think our test here is to see whether this specific proposal, that if there are adequate public services planned for the area to serve this particular proposal. And, I find, I'm persuaded that there are and would support the motion on the floor.

Commissioner Yoon.

**YOON:** I feel like a broken record here. I think Commissioner Fritz's thought has actually come up with a couple of good points, and I'll just go through that quickly and I'll go through my specific concerns as, are we viewing this thing as an urban thing or as a rural thing? Because there's a whole different set of values as far as adequate public safety, etc., you know, from a rural suburban or an urban point of view. I'll just leave there and move on. And I think there are some basic problems there.

I'm intimate with this particular area and I have some real problems with this. I know, I mean, from little minute things like I know that the county does not come and mow either side of that road until September. And that grass is about this high. If someone was coming back towards the bridge, and they come pretty fast in the summertime, and people that pull out and made a left turn, by the time they got around that corner and saw them it would be all over. That's point number one.

Point number two: regardless of what the fire district has said I'm not persuaded that a rural fire district is equipped to deal with essentially what I would call a developed area. Now, I mean having a couple of, and so I have a particular problem with that. If they had a fire there they would definitely have to be calling services from some place else; other than Sauvie Island. You're talking about this many structures coming in. You know, the fire department is based on serving rural needs, single family residences, its not based upon the fact of taking care of essentially a developed area. That's the second point that I would make.

**LEONARD:** Further discussion of the motion?

**DOUGLAS:** Well, I feel they have met the needs there; that this is the appropriate place for it. And, every place else I've looked there is always some drawbacks, something that they have said, shown, that was not appropriate to put this in. So I feel this has met the need right there.

As far as safety is concerned, roadways and such as that can be made entrances to where the deal is adequate. That is a bad corner; there is no question about it. So, its imperative that it be built in a manner that would give you, well directs all directions actually.

**YOON:** That's the exact point that I made. They have not shown that they were going to do anything about that, you know, those particular points that I brought out. At this point I can't vote for it.

**DOUGLAS:** Don't you think that change? Don't you think that's Design Review rather than ours?

**LEONARD:** Add a caution of traffic safety at the proposed entry is....

**YOON:** Oh, I don't think that there data \_\_\_\_\_ has adequately covered it. You know, that is something they would have spotted immediately.

**LEONARD:** Further discussion of the motion? Call for the question. All those in favor of the motion to...

**FRITZ:** To find that the application meets Goal 11.

**LEONARD:** All those in favor signify by saying "aye". Opposed. Opposed is Yoon, Fry, Al-Sofi and Atwill. So the motion fails for lack of a majority. Okay.

**HESS:** So the Commission then needs to articulate findings supporting Goal 11 reversal.

**LEONARD:** We need to adopt a response to Goal 11. Statewide Goal criteria as an issue that relates to this proposal.

**YOON:** Well, that didn't.



LEONARD: Staff didn't but the issue is on the table because it was raised in the hearings.

YOON: I think the issue was on the table and basically has been defeated that essentially, you know...

AL-SOFI: INAUDIBLE.

YOON: Right. The four of us don't agree that they met the Goal 11.

LEONARD: As I understand, what we need to wade through here is we need to adopt findings one way or the other on all development issues raised....

MIXED VOICES.

YOON: Well, I mean, I don't think anyone's going to change mine. I'll make a motion that essentially the applicant has not met Goal 11.

HESS: Based upon what findings?

YOON: Based on inadequate public safety; if you want to go from there.

LEONARD: We need to find some evidence in the record, testimony supporting the presence of....

YOON: Well, safe traffic. That's the question we're getting to. That's basically why I didn't vote for the motion in the first place because it wasn't proved to me that in fact they had met Goal 11. Which is what the motion was made.

AL-SOFI: And there was evidence from the record that there was concern about boating safety, traffic safety, and I'm just not persuaded by the applicant that those were met.

YOON: Well, I mean, I could even withdraw my motion. I think that procedurally we're correct.

FRITZ: I have a particular problem. The fact that someone expresses an opinion does not constitute evidence. I mean, we have things like a letter from a rural fire department ....

YOON: That's not the point. The point was that the applicant did not prove that .....

**FRITZ:** Well, let me look at this; fire safety. A May 1 letter from the rural fire department saying they can service it. The sheriff saying they can service. The school district didn't respond.

**YOON:** I'm not persuaded. Which is what the question, which is what the motion was made. If you hadn't made the motion at all I wouldn't have said anything.

**AL-SOFI:** Oral testimony is evidence, as far as my understanding of evidence.

**LEONARD:** Yes. We were shown a video tape of traffic conditions.

**AL-SOFI:** Yes. Absolutely.

**MIXED VOICES. INAUDIBLE.**

**FRY:** It seems to me that it doesn't really matter as the burden of proof is on the applicant and the applicant has not persuaded the majority of the Commission that they've met this Goal. That's the end of it and I don't think we need to spend any more time discussing it. And, everything is a matter of opinion. Frankly, there is no fact here. It's all dependent on people's, you know, I suppose they could bring Sauvie Island to us and \_\_\_\_\_.

**MIXED VOICES.**

**ATWILL:** For trying to adopt findings I think we do need to refer to evidence from the record. If we're just making a decision on this Goal then we can do the simpler part.

**FRY:** Well, the finding on Goal 11 to me is that the applicant did not persuade a majority of the Commission that they have met the burden of proof on Goal 11.

**ATWILL:** Okay. I don't know if this.....

**LEONARD:** Was that a motion? Commissioner Fry?

**FRY:** And I don't want to make that as a motion because I feel that if we make a motion that would not pass, then we're backing ourselves into another corner. No, I haven't made a motion. I stated an opinion.

**YOON:** I can withdraw my motion. Yes. No. I'm willing to withdraw that motion because I don't think I need to....

## MIXED VOICES.

YOON: I mean, do we have to make a motion? I don't think we do.

HESS: I think you can move on and you have simply have findings in the record supporting approval without a motion to that effect.

YOON: Well, but it wasn't just on facts we're approving.

FRITZ: No, \_\_\_\_\_.

HESS: I mean, the application is the only findings that, other than the oral testimony, that you heard.

LEONARD: Okay. Lets move on to Goal 15, Willamette River Greenway.

FRITZ: I suppose its INAUDIBLE.

Mr. Chairman.

LEONARD: Commissioner Fritz.

FRITZ: I would move that the Commission find that the application does not, is not consistent with Goal 15.

YOON: I second the motion.

LEONARD: Do you, does your motion include adoption of .....

FRITZ: Adoption of the Draft, yes. Of the Draft Decision language.

LEONARD: Thank you. Discussion of the motion? Call for the question. All those in favor of the motion? Opposed? Nay. Douglas and Leonard.

Okay. We now get to, on the criteria list, a Goal Exception analysis, Goal 3 Agricultural Lands. I suggest we take a five minute recess and stretch and collect our thoughts. We'll reconvene at 10:35.

During the intermission, the recess, the question has come up whether or not we are going to be able to get to Line 4 on our agenda this evening. Line 4 is a report from the Staff in response to some questions that were raised by the Planning Commission some time ago relating to water dependent construction activities. There is a Staff Report

printed on that. Its my understanding there are a number of people here who want to testify on that report. How many people are here tonight to testify on that report and want to hang in, well, lets take it one at a time. How many people are here to testify on Line 4, Water Dependent Construction?

MAN: We've got seven.

LEONARD: Okay. Would you prefer to wait and take this question up, no matter how late we run tonight? Or see that question, report, continue to our January meeting? The people who are here for the hearing. We had one voice who would prefer to see a continuation. Hearing only continuation. Is there anyone who objects to a continuation of this item? Okay.

FRY: I'll move to continue Item 4 to our regular agenda in January. January 6th.

DOUGLAS: I'll second that.

LEONARD: At 6:00 p.m.?

FRY: At 6:00 p.m.

LEONARD: Motion to continue Line 4 to January 4th meeting at 6:00 p.m.. Discussion of the motion?

AL-SOFI: January 6th.

LEONARD: Excuse me. January 6th at 6:00 p.m. All those in favor of the motion? Opposed? Okay, Line 4 is continued to January 6th at 6:00 p.m.

Thank you for your patience as we wade through these marina and moorage issues.

FRY: Can I ask a quick procedure question?

LEONARD: Commissioner Fry.

FRY: Are we going to have to go through every one of these boxes under the Goal Exception Analysis and through the County Comprehensive Plan Policies?

FRITZ: I'm going to be ready when we get to number 3 to do it.

**LEONARD:** Okay. We'll continue now with the deliberations on the Plan Amendment request. We've gotten down to the Goal Exceptions Criteria, Goal 3, Agricultural Lands.

**FRITZ:** Can we make a motion or...

**DOUGLAS:** I would like to, well, go ahead and make your motion.

**FRITZ:** I move that the Commission find that the reasons do not justify the exception for the reasons stated in the Draft Decision.

**AL-SOFI:** I second.

**LEONARD:** Does your motion include adoption of the Draft language in the Staff Report?

**FRITZ;** Yes, the conclusion, that language.

**MAN:** Can you restate the motion?

**FRITZ:** I, hang in there, I move that the Commission adopt the Draft Decision language and find that the reasons do not justify why state policy should not apply.

**LEONARD:** Goal 3. We have a different set of alternative sites to look at under Goal 3 and compared to Goal 14.

**FRY:** Was that motion seconded?

**AL-SOFI:** Yes.

**FRY:** I'll just call for the question.

**LEONARD:** Discussion of the motion to adopt?

**DOUGLAS:** Let me understand your motion. Your motion is to adopt the policy of the Staff? In other words, to not approve the ....

**FRITZ:** Well, to find; that this Commission finds that the reasons do not justify exceptions.

**DOUGLAS:** I would like to counter that, for several reasons. Now, the main thing is that you're saying that there are other places to have this. Is that correct?

FRY: No. We're not getting to that yet.

LEONARD: No, this is the question of the reasons; are there reasons to justify....

DOUGLAS: Changing from agriculture to MUA?

LEONARD: Yes.

DOUGLAS: Okay. In that I oppose it, and the reason for that is several. First of all, the letter dated June 19, 1991 from Alder Creek Lumber, and I state the second paragraph down there. It says... *"Paragraph 4 (f): It is extremely unlikely the property could ever be used for agricultural or residential purposes, and therefore it would fall under Land Irrevocably Committed Exception"* This is just an indication, as I understand.

Now, the other reasons for it are that it is surrounded by MUA-20 with possibly one exception. If the others are MUA-20, it is in an area that like that it has been filled by one form or another and consequently, in my estimation, would not be Exclusive Farm Use land.

LEONARD: Further discussion of the motion?

YOON: We're not dealing with MUA -INAUDIBLE DUE TO NOISE INTERFERENCE - we're dealing with exception to Goal 3.

LEONARD: That's correct. Do the reasons the applicant has submitted persuade the Commission that an exception to Goal 3 should be taken? Should we allow a non-resource use of this particular site for this use?

YOON: I'm inclined to support the motion. One of the reasons, besides what's been stated before, is that the alternative sites analysis, just because its not available because someone else is developing a moorage and marina, is not a reason that they don't have a place to live. That whole rationale bothered me during the discussion when they would list other alternative sites that were going to be used as moorages, or marinas were in the development process, and therefore was not available to the applicant.

FRY: I might argue that Commissioner Douglas may have actually come up with reasons that I might buy. Unfortunately, the applicant, and at least I'd double check

the application, they didn't raise it in the application. In the applications, that there is a public need for this therefore that's the reason for the change. And, because of that, I would have to support the motion. Although I have to give Commissioner Douglas those are the kind of reasons I would vote for.

**DOUGLAS:** These are facts here. They're not just....

**LEONARD:** I'm persuaded the application and the other evidence submitted about the need for the recreational use persuades me that there is sufficient reason to allow the proposed use on this site, to justify a reasons exception for Goal 3.

**AL-SOFI:** Well, I'm not persuaded that this particular type of recreational use should have a priority over some of the other uses that are already there without having to make a Goal Exception.

**ATWILL:** I agree.

**YOON:** Call for the question.

**LEONARD:** All those in favor of the motion to adopt the Staff Draft language and deny the reasons for the exceptions say aye. Oppose the motion, nay. Five/three. Okay. (The Minutes show five in favor; three opposed).

The next criteria is the Alternative Sites Analysis for Goal 3, Alternative Goal 3 Lands Analysis.

**FRITZ:** Mr. Chairman.

**LEONARD:** Commissioner Fritz.

**FRITZ:** I would move that this Commission find that alternative sites do exist in rural exception areas or inside the UGB.

**AL-SOFI:** Second.

**LEONARD:** Discussion of this motion?

**INGLE:** Well, just for the record, I think that's one of the major points that I have a lot of trouble with. On the one hand I don't think that the applicant has firmly convinced me that there has been a rigorous process to either cast doubt on

this site or that site as being a viable, reasonable alternative. On the other hand, I think the applicant also states very aptly that the county takes exception to the alternative sites that they believe should be considered. Its incumbent upon the county to show without a shadow of doubt the reasons why. I don't know if I'm making...its a point that was made earlier in the various rounds of steps that one has to go through, through the alternative site analysis. And in particular I would reference page 15 in our green notebook, which clearly states the various steps that one needs to go through. I think the applicant has indeed indicated the study area; I think the second step, that they've assessed which sites, alternative sites, would be reasonable to accommodate the proposed use; they've also evaluated those alternative sites on a very broad review on a variety of number of factors, both economic and market-driven. In step 4, they indicate that ...*"If a party to the proceedings believes that a specific site within the study area is an alternative site, that party must describe why this specific site can more reasonably accommodate the proposed use."* I'm not certain the county has done an adequate job of addressing that particular point. Nor do I believe that perhaps the applicant has either. I'm kind of mixed opinion, but I guess the only reason I bring this up, this page 15, was that a point that was made earlier about the various steps and who has the burden of proof, and I think in this situation they share the responsibilities. And, I'm not firmly convinced that both sides have adequately addressed that particular issue.

AL-SOFI: May I just say...

LEONARD: Commissioner Al-Sofi.

AL-SOFI: Thank you. That I believe that the applicant himself, and I can probably find it for you, but specifically stated that some of the alternative sites are, and the owners of those sites, are actively in the process of seeking to develop those sites for the exact same purposes that we're looking for. Therefore the applicants themselves have proven that there are alternative sites which can be developed for this purpose.

YOON: That was the point that I was trying to make.

I mean, if you go through this particular book you can, there's letters from people who own the property saying



that its not for sale, and we have put in sanitation steps, and everything, and we're ready to develop it. So, that proves to me that there is an alternative site; however it wasn't available for them to buy. You know, its not something that we have to deal with. That's

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**LEONARD:** I'm more troubled with the alternative site analysis for Goal 3 than some of these other issues and criteria that have been raised similar to Commissioner Ingle. And, looking at the Administrative Rules and Goal Exception language, I'll read it here, under .660-04-020(1)(2)(C)...*"This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use."* I think our standard there is to whether those areas that were identified in the study area that don't require a Goal 3 Exception, which is broadly all of the water front in the urban area and all of the MUA in Multnomah County on the west side of the channel. And I'm not fully persuaded that those areas can't accommodate at least this level of development. There are issues raised by a number of the specific sites, but I....

#### **MIXED VOICES.**

**LEONARD:** In all of the criteria in our review, this is the one that I'm least persuaded of. This test of "reasonably meet the use" and an alternative site that doesn't require Goal 3 Exception.

**DOUGLAS:** I think if we hit into the alternative sites, let's say one was proposed, we'd have fish and wildlife and all the environmentalists down here, since all the analysis on these showed those were potentially more for habitat than this present site. Wetlands also is another review. Believe me, if you get into that you....

**LEONARD:** The standard of the Goal Exception is not find which sites is the best or the least impact but only to find whether these alternative sites can reasonably accommodate the use without a Goal Exception.

**FRITZ:** What I find is that it really doesn't even have to be one site. It can be a combination of three, five different sites that could absorb the same number of boats.

**LEONARD:** As I stated earlier, I'm persuaded that there is a need for marina/moorage facilities, at least as large as what is proposed here. And certainly more than that based on the evidence in the record. And, I'm also not persuaded that at least this 170-boat capacity can't be reasonably met at some combination of the alternative sites. So, I'd be persuaded to vote for the motion to deny the alternatives. Have we got a motion here?

**INGLE:** Yes.

**FRITZ:** The motion is CHANGE OF TAPE.

**LEONARD:** Commissioner Ingle?

**INGLE:** No. I voted aye.

**LEONARD:** Okay. Seven to one on that motion. (Minutes show motion passed).

Where is our criteria list?

Compatibility with Adjacent Uses.

**MIXED VOICES.**

**FRITZ:** Well, I'll stick it out there.

**YOON:** Is this very similar to the one we just, I mean, ...

**AL-SOFI:** Mark is able, willing to answer these.

**LEONARD:** Mark, are you alert enough to answer procedures?

**HESS:** I don't know. The alternative Goal 3 Lands is asking you to compare this EFU site with other EFU sites; that you could conceivably convert from EFU to MUA for purposes of developing a marina. So, a little different twist.

**YOON:** So, its only EFU sites?

**HESS:** Pardon me.

**YOON:** Only EFU sites?

FRITZ: That's right.

HESS: Well, EFU is the only Goal 3 Lands that we have, so Goal 3 and EFU lands are one and the same in our county.

LEONARD: Okay. The applicant didn't suggest that there were alternative EFU sites that should be considered. I don't recall any evidence that presented argument in favor of this.

FRITZ: Mr. Chairman, I would move that this Commission find that consequences resulting from use at this proposed site are not significantly more adverse than would typically result from this same proposal being located in another EFU or Goal 3 site. That's my motion.

LEONARD: Discussion of the motion?

AL-SOFI: Well, I would like to state that in this particular place we have that double-loading phenomena, which may have greater impact and we have to talk about that with scenic impact and residential and --STATIC --- and so I think it may have more impact than...there would be other places on this area in this channel that have less impact.

LEONARD: EFU sites that may have less...

AL-SOFI: Less impact INAUDIBLE.

LEONARD: Less impact to all criteria or to agricultural lands? I think there's ...

INGLE: I don't think so.

LEONARD: I think the agricultural lands analysis asks us to look at the agricultural lands impact.

INAUDIBLE.

LEONARD: I'm not persuaded that this is really significantly impacting agriculture practices.

FRITZ: Or any more than it would in any other area.

LEONARD: Similar use of the Sauvies Island Dike in other EFU areas.

**YOON:** Right. Any other site would have the same problems. So, I'd vote for it.

**LEONARD:** Vote for the motion? Further discussion of the motion? All those in favor? Opposed to the motion? Al-Sofi opposed.

Now we get to Compatibility with Adjacent Uses. You've been doing a great job.

**FRITZ:** Thanks.

Mr. Chairman, I would move that the Commission find that the proposed use is not compatible with adjacent uses.

**YOON:** I'll second the motion, to get it open for discussion.

**LEONARD:** Discussion of the motion?

**DOUGLAS:** Might I ask Commissioner Fritz, what about compatible land?

**FRITZ:** Well, this whole proposal, you know, although we do have marina and boat moorages on the west bank, basically the size and density of this proposal would have a significant impact on the use, you know, on the island itself. It makes me conclude that it is not compatible with the current use on the island.

**YOON:** It also sets up the first double-loading too. Which is most significant.

**AL-SOFI:** I think its not compatible with the residential character across the way, I mean more than in a residential urban area because you could just put up row after row of houses and garages. Its somewhat similar in that respect.

**LEONARD:** So, your argument is that this proposed use on the east bank of the channel is not compatible with the residential, houseboat/moorage uses in the MUA on the west bank of the channel.

**YOON:** That's not why I would vote against it.

**AL-SOFI:** That's not appropriate \_\_\_\_\_

**YOON:** The reason I would vote against it, it would be double-loading on the channel for the first time.

**FRITZ:** I also think the east side of the channel has an agricultural character. I disagree with...

**YOON:** There are houseboats on the east side already but they don't have houseboats across from them.

**INGLE:** Houseboats, sailboats,...

**LEONARD:** They're houseboats and MIXED VOICES.

**YOON:** A mile and a half north of the bridge.

**DOUGLAS:** And also, you have a dock area. And if that dock area across from another area on the west bank. At Virginia Lake...

**LEONARD:** The county boat ramp?

**DOUGLAS:** No, no, no. There is some across from there but its very little there. But I'm thinking down further where the dock is from Virginia Lake.

**YOON:** Yes, but that's a little bit different than running 130 spots double-loading against the same size on the other side. That's what I think. I think its not compatible. That's where I come from.

**ATWILL:** I think there's a compatibility problem also with the smaller crafts, which are adjacent uses in the channel.

**YOON:** I would agree with that too.

**INGLE:** Actually, I would assume its a split decision. I think that it an argument can be made that its probably not compatible with the dominant use on Sauvie Island, whatever that might be and Commissioner Fritz might want to elaborate on that. I would agree that it is compatible with the existing uses in the channel. And just leave it at that. And, so, in my opinion I think it is a mixed decision.

**DOUGLAS:** Well, since the west bank has marinas as well as boathouses, you know, houseboats. I think the compatibility is already built in there. The compatibility on the island side itself is compatible with the sawmill, its compatible with the fill on the dump site there; its compatible with the pellet mill; the gas plant; and such as that. And, I question whether farming itself is compatible with that.

**YOON:** I think you make a good point. I don't think boats are compatible with those at all.

**DOUGLAS:** Well, farming itself is not compatible with that so you're saying its not Exclusive Farm Use. So, what I'm saying is this is as compatible as I think we can get.

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**LEONARD:** Further discussion? Call for the question on the motion. All those in favor of the motion? Opposed to the motion? Okay. Seven to one on that criteria. (Motion passed).

Now we get to the Goal Exception for Goal 14, Urbanization.

**HESS:** Chairman Leonard, I just wanted to remind you that the Goal 14 Exception, you need to find the reasons, the alternative sites, and so on, the same way for the Goal Exception.

**LEONARD:** I think we, because of the nature of the Goal 14 request, we have a different alternative sites standard to.....

**HESS:** That was the big difference but the other reasons and so forth, that were offered for the Goal 3, also apply to the Goal 14, according to the record.

**LEONARD:** The reasons portions of this meeting recreational needs would be presumably similar to the Goal 3 reasons.

**YOON:** I agree. As a matter of fact, I agree with your statement, basically, that I'm not persuaded that it couldn't be broken up into several spots and done within the Urban Growth Boundary. Which is one of the things that we talked about in Alternative Sites.

**LEONARD:** That's the Alternative Sites question.

**YOON:** Right.

**LEONARD:** The first question is the reasons; are there sufficient reasons to justify a Goal 14 Exception for this use?

**YOON:** Right. So, its kind of a passive....

Yes, right.

**AL-SOFI:** INAUDIBLE.

FRITZ: So we have to be persuaded too then.

FRY: So, how are we going to do this? Are we going to go back through this? Because I think that market demand is clearly not a reason to justify putting an urban use outside the Urban Growth Boundary.

INGLE: What is the question before us?

INAUDIBLE.

MIXED VOICES.

LEONARD: Is the Commission persuaded that there is evidence in the record, that there are reasons to grant a Goal 14 Exception for this use at this site? Has the applicant persuaded us of that?

MIXED VOICES. INAUDIBLE.

LEONARD: Well, not according to DLCD.

HESS: If I could add to that; you have already found earlier this evening that this is urban. You know, you determined that this use or this proposal is urban and so then you just go through that same exercise you just went through with Goal 3. The reasons, the alternative sites, the alternative Goal 3 sites, and the compatibility with adjacent uses.

MIXED VOICES.

LEONARD: Staff didn't write up the criteria for this stuff. I agree with Mark; we need to address separately.

FRITZ: Good Lord. You mean go back through these \_\_\_\_\_ ?

INGLE: So, like on the first one, the reasons justify the exception? We were not persuaded that reasons were given to justify the exception \_\_\_\_\_.

FRY: That could be a motion.

LEONARD: Is that a motion?

YOON: State that in a motion. And, I'm not persuaded that the reasons justify the exception to Goal 14.

FRITZ: Second.

LEONARD: Okay. Discussion of the motion?

AL-SOFI: Do we want to adopt the findings of the Draft Decision as well, or not?

MIXED VOICES.

FRITZ: I haven't gotten into this but I'm not convinced that market demand equates \_\_\_\_\_ but I'm not going to argue that for half an hour.

LEONARD: No.

YOON: And for the reasons stated INTERFERENCE identify this as an urban activity.

LEONARD: The application, in reviewing what the the applicant has submitted, essentially argued the reasons and criteria for establishing an Urban Growth Boundary rather than a Goal Exception. And, therefore I don't find argument in the record to support the reasons for a Goal 14 Exception. I would

YOON: I would like to add that to the motion if the person who seconded that would accept that.

FRITZ: I'd second that, yes.

LEONARD: Further discussion of the motion? All those in favor of the motion? Opposed? Douglas. (Douglas opposed).

HESS: Did that just affirm your finding on earlier Goal 3 reasons not being adequate as per the Draft Decision?

LEONARD: No. \_\_\_\_\_ in finding that the applicant did not persuade that there were reasons to grant a Goal 14 Exception. That the application hadn't specifically addressed those criteria that the application had addressed: Urban Growth Boundary, Location Criteria,  
\_\_\_\_\_

HESS: Thank you.

LEONARD: Approval criteria would be alternative sites inside the Urban Growth Boundary to accommodate the proposed marina use.



**FRITZ:** Mr. Chairman, I would move that the Commission find that there are alternative sites within the Urban Growth Boundary.

**AL-SOFI:** I'll second it.

**FRITZ:** And, under the discussion, just simply, it may not be practical. I mean, from somebody's opinion, but placing this marina at River Place, you know, meets these needs.  
**MIXED VOICES.**

**LEONARD:** In light of discussion on that issue, I, in looking at the alternative site analysis that did review some undeveloped waterfront sites in the urban area and looking at the additional information that was submitted to the City of Portland about their land use regulations that provide for waterfront marina development, I'm persuaded that there are at least reasonable alternative sites in the Urban Growth Boundary, that don't require Goal 14 Exceptions.

**DOUGLAS:** That was apparently outside the study area though. As I understand it.

**LEONARD:** No. There was alternative sites viewed in the application on the Columbia River/Hayden Island area and east along Marine Drive that are inside the Urban Growth Boundary that wouldn't require an exception to Goal 14.

**AL-SOFI:** I don't believe we're bound by the study area.

**MIXED VOICES.**

**LEONARD:** But, we do have to stick with the record.

**MIXED VOICES.**

**FRITZ:** I think the alternative sites study area should include the Willamette into the City of Portland.

**YOON:** I would have to disagree. I think the applicant has made a very clear statement why he decided there could be segmentation \_\_\_\_\_ where the Willamette River serves a particular type of use; the Columbia River serves another boater-type use; I would agree with Chairman Leonard that there probably are alternative sites on the Columbia River, as identified by subsequent testimony by the City of Portland that would be reasonable alternative sites to accommodate boaters who want to go to the Columbia.

But I don't think River Place, I don't the OMSI site would accommodate the Columbia River users. Just for the record too, that I've been chewing on for some time and I made some contact with the Port of Vancouver to find out what their land development plans are; I think maybe its oversight on the part of the county; maybe its oversight on part of the applicant; maybe I just don't clearly understand it; however, there's that whole side of the river over there that can be used to accommodate the type of uses that we're currently reviewing, and yet we pay really minor lip service to that fact. And, unfortunately, I haven't flown over the area and I haven't walked it and I don't know, but, its a vast stretch of land that clearly could accommodate some kind of marina development. I know for a fact the Port of Vancouver is considering something along that line. Maybe not necessarily like this application.

LEONARD: Well, that raises an interesting question whether Oregon's land use laws and exceptions to Oregon land use laws should consider out of state sites as within the realm of reasonable alternatives to a Goal Exception.

YOON: Well, I think we'd have some real conflict. The other thing is if you're registered in Oregon and you have a boat over in Vancouver do you pay taxes on the boat that's registered in Vancouver?

LEONARD: I'm not persuaded we should ask the applicant to look out of state for a reasonable Goal 14 site.

YOON: That's not what I'm suggesting. I was just indicating this.

FRY: Just two points. One is, that on that issue we're Multnomah County; our jurisdiction is within the county boundaries and it doesn't see like we're high enough up to talk about any outside of the county's borders. Second is that, I want it in the record that I think the definition of study area is flawed. Absolutely. I think that it is flawed. I just, my own personal opinion, I do not think you can make the case that the Columbia River has a different type of boat than the Willamette River. In fact, ...

YOON: Have you ever tried sailing on the Willamette?

FRY: I don't want to get into ....

LEONARD: We've got a discussion of the motion, and my recollection of the motion is that it did not include a notion that we

expand the study area to include the Willamette River. I think the motion explicitly says MIXED VOICES. INAUDIBLE.

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...within the alternative sites within the Urban Growth Boundary that the applicant submitted in their alternative sites analysis.

DOUGLAS: Well now, that is a reasonable alternative you're talking about. Something that can, reasonably can do....

LEONARD: I think the motion said that we're not persuaded those sites are unreasonable.

Call for the question. All those in favor of the motion? Opposed?

DOUGLAS: I'm going to abstain from this one because I don't know for sure whether its reasonable or not.

LEONARD: Okay.

Under Goal 14, Exception Criteria, we don't have a Goal 3 lands analysis question to address.

HESS: Excuse me. I wanted to just clarify, the Draft Decision had findings about expanding the study area. You don't want those included in the decision? Is that correct?

LEONARD: Well, this issue of the appropriateness of the study area was raised. I think it would be prudent to adopt findings on whether we think that should be expanded to include the Willamette River.

FRITZ: Yes, the last sentences of that second full paragraph on page 23 should be deleted.

HESS: That's what I heard but I just wanted to clarify that was your intent.

FRITZ: The Planning Commission is persuaded that the alternative sites study should include Portland sites on the Willamette River. There was not a majority support for that.

FRY: Well, there was no vote on that.

HESS: You have heard conflicting argument on both side of that and that's why I'm asking you to...

LEONARD: I suggest we should address that specific ....

FRITZ: Well, I'll move that that sentence from the second full paragraph on page 23 be deleted from the Draft Decision.

LEONARD: Is there a second to that? Okay. Discussion of the motion to delete reference to the Willamette River from the study area, the appropriate study area. Discussion of the motion? Call for the question. All those in favor of the motion. Opposed. We have Fry, Al-Sofi, and Atwill.

MIXED VOICES. INAUDIBLE.

LEONARD: The motion was to not include the Willamette River within the urban study area; to limit the study area for the needs analysis to the Columbia River.

FRITZ: To delete the reference to the Willamette River.

LEONARD: All right.

FRY: The voting wasn't clear. Could we do a good vote?

LEONARD: Well, the motion fails.

FRITZ: I will then move, Mr. Chairman, that we adopt the language in the Draft Decision ...

MIXED CONVERSATION. INAUDIBLE.

YOON: I ask for a re-statement of the motion so that we...

MIXED CONVERSATION.

FRITZ: The motion was....

LEONARD: Commissioner Fritz' motion was to delete the lower Willamette River Management Plan Area...

FRITZ: No, no, no. Its actually in the second full paragraph on page 23, and the language reads: "The Planning Commission is persuaded that the alternative sites study area should include Portland sites on the Willamette River upstream of the St. Johns Bridge." My motion was to delete that language from the Draft Decision.

YOON: And, I seconded that.

LEONARD: So, yes on that motion was to eliminate the Willamette River from the alternative sites study area.

FRY: So, just in terms of discussion of voting....

LEONARD: Procedurally I think we need to have a motion for reconsideration of the motion.

YOON: I make a motion for reconsideration of the motion.

FRITZ: Second.

LEONARD: Okay. All those in favor of reconsideration? Yoon?

YOON: Yes, I made the motion.

LEONARD: Fritz?

FRITZ: Yes. I seconded.

MIXED VOICES VOTING.

LEONARD: The motion is back before us. All those in favor of Commissioner Fritz' motion to delete reference to the Willamette River from the study area say aye.

VOTE

MIXED VOICES AND COMMENTS. INAUDIBLE FOR TRANSCRIPTION.

LEONARD: Did we get...

FRY: I think the motion is too confusing. I think it can be said more simply in a discussion.

LEONARD: We just voted in favor of the motion. We approved the motion. Five-three to eliminate the area upstream from the St. Johns Bridge from the study area.

YOON: Oh, were you opposed also?

MIXED VOICE.

DOUGLAS: As I understand it, this would eliminate the Willamette River from the study.

LEONARD: Upstream from the St. Johns Bridge.

It would narrow the burden of finding alternative sites in the Urban Growth Boundary.

INGLE: So, how did you vote?

DOUGLAS: I voted to keep it down. To eliminate that above the St. Johns Bridge.

LEONARD: That's not the way you voted

MIXED VOICES.

DOUGLAS: And I voted yes. What I wanted was to eliminate that....

LEONARD: Lets clarify; those in favor of the motion to eliminate Willamette River from the study upstream from the St. Johns Bridge. Votes in favor of that motion were Douglas, Ingle, Leonard, Fritz and Yoon. Opposed were Fry, Al-Sofi, and Atwill.

INGLE: Do we have to do anything more with Goal 14?

HESS: That's sufficient direction for me.

You're accepting the applicant's study area?

INGLE: That's confusing the motion but there was a specific question about that from Staff. That's what brought about the motion.

LEONARD: I think we're through the Goal Exception criteria.

We have Compatibility With Adjacent Uses for Goal 14.

MIXED VOICES.

LEONARD: Wait a minute. We didn't specifically adopt findings on compatibility with the marina with adjacent uses from a Goal 14 Goal Exception standpoint. Does that look or feel any different from compatibility criteria under Goal 3 Exception? Mark, do you see compatibility with adjacent uses, questions and issues that are different for Goal 14 than for Goal 3?

HESS: I guess you have to determine if the urban character of this use renders it compatible or incompatible.

LEONARD: Okay.

INGLE: If we've established that this particular marina is urban we can't....

DOUGLAS: That's your opinion.

MIXED VOICES.

LEONARD: This Commission made that determination by a split decision earlier this evening.

MIXED VOICES.

LEONARD: I'll entertain a motion regarding the compatibility of this use with adjacent uses under Goal 14, under the Exception criteria for Goal 14. Under the exception criteria for Goal 14.

FRITZ No, no, no. What?

LEONARD: We're trying to adopt a finding about the compatibility of adjacent uses.

ATWILL: Adjacent to what?

LEONARD: This proposed use at this site.

INAUDIBLE VOICE.

MIXED VOICES.

HESS: Its really not much different than what you've just done on the Goal 3. The application and other evidence in the record is arguing the compatibility for Goals 3 and 14 together.

LEONARD: I think its different.

MIXED VOICES:

FRY: .....with other adjacent uses or will, it doesn't say if the uses are committed or anything. Its just says the uses exist. INAUDIBLE....or could they render...

LEONARD: Peter, could you \_\_\_\_\_ up your lights.

**FRY:** The way I read this standard is that the proposed uses are compatible with other adjacent uses or will be rendered through measures designed to reduce effort's impact. It doesn't say whether those uses are permitted or just exist. And the question is, is it compatible with what exists? Or can this be mitigated to be compatible with what exists. And, we've found once it can.

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**YOON:** And so you're saying that, defacto, we are saying about the food mill and the mill basically are agricultural. Cause that's how we voted the first time. Because we said the marina was not compatible.

#### **MIXED VOICES.**

**FRY:** Right. But it doesn't, it just says .."with other adjacent uses". It doesn't say "with other similar uses" or "with other permitted uses" or "with other agricultural uses" but ....

**YOON:** But what \_\_\_\_\_ Goal 14, urban \_\_\_\_\_.

**FRY:** Would the exception to the ....

**INGLE:** What is the question before us?

**LEONARD:** The reasons Goal Exception requirements for, these are Goal Exceptions for reasons in general under criteria "D" that states the proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts the exception shall describe how the proposed use will be rendered compatible with the adjacent land uses.

**YOON:** Assuming that the basic nature is rural \_\_\_\_\_, I make a motion that it is not compatible with adjacent uses. That's the only way I can put it. Its getting a little complicated here.

**LEONARD:** Okay.

**ATWILL:** Second.

**DOUGLAS:** Has the motion by Yoon been seconded?

**LEONARD:** Yes.



DOUGLAS: Okay. Then I'll just put in my two-bits worth first. That's all its amounted to tonight, so we'll let it go at that.

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The adjacent uses there are saw mill, pellet mill, gas plant, and a dump. I don't know how you can call it agriculture there, but in my estimation agriculture is more outlawed there than it is for the marina.

YOON: Well, I guess I take the tack on this because I made the motion, but I have a difficult time looking at marina being compatible with a mill.

LEONARD: I should read the rest of this language. That would help clarify. "The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with the surrounding natural resources and resource management or production practices. Compatible is not intended as an absolute term meaning no interference or adverse impacts on any type of adjacent uses." So, I think its focusing us on compatibility with the natural resources themselves or resource management practices.

MIXED VOICES.

LEONARD: The motion is that the proposed use is incompatible; the Commission is persuaded that the proposed use is incompatible with the surrounding uses.

INAUDIBLE.

LEONARD: Who made the motion

YOON: I did.

AL-SOFI: I have a question. I hate to be nit picking, but is there a difference between "not compatible" and "incompatible"? I think that there is and I thought the initial motion was that its not compatible as opposed to incompatible, which is what you said.

LEONARD: The Administrative Rule criteria says the proposed uses are compatible with other adjacent uses. And the motion was "the Commission finds that the proposed use is not compatible, which I think is consistent with the criteria language.

INAUDIBLE.

**FRITZ:** Mr. Chairman, I do recognize the motion that's before us but is that the question that we should be asking and answering? In order to get us past Goal 14 Exception?

**LEONARD:** Its the Administrative Rule approval criteria for a Goal Exception.

**FRITZ:** All right. So, we deal with this one up or down and we're done with Goal 14?

**LEONARD:** Yes.

Call for the question. All those in favor of the motion? Opposed? (Ingle and Douglas opposed).

**YOON:** So now do we make a motion that STATIC.for Goal 14?

**FRY:** For Goal 1.

**YOON:** For Goal 14.

**LEONARD:** No, that completes the Statewide Goal criteria. We're now to the county comp plan policies compatibility.

**FRITZ:** Mr. Chairman, I'm very reluctant to go through this point by point. Can I try it? One motion?

**LEONARD:** Yes.

**FRITZ:** I'll just give it a whirl. Mr. Chairman, I move that the Commission adopt the Draft Decision as it relates to whether county policies are satisfied, and as it relates to policy No. 2, Policy No. 9, Policy No. 10, Nos. 13, 14, 15, 16, Policy No. 26, 31, 33, 37, 38, and 39.

**LEONARD:** Do we have a second?

**INGLE:** Nobody's going to second it.

**YOON:** I just need to understand the motion.

**MIXED VOICES.**

**YOON:** Are you denying the Comprehensive Plan Revision? That's all I need to ask before I second it, in doing this.

**FRY:** No, the motion....

**YOON:** The Draft denies it based upon all, you know, not meeting it.

**LEONARD:** Right. The motion was to adopt the findings related to all of those county plan policies.

**AL-SOFI:** I have a question.

**LEONARD:** Commissioner Al-Sofi.

**AL-SOFI:** I'm not entirely convinced that Staff has adequately addressed these. For example, No. 2, especially, it just says it recommends denial. But it doesn't give any, I don't find any reasoning on page 25 that specifically addresses off-site effects, so, I have a problem just adopting everything \_\_\_\_\_ when we don't have any underlying reason for that particular policy.

**HESS:** Could I comment on your reading of the Draft Decision.

**LEONARD:** Yes.

**HESS:** It was not the intent to only identify those policies that Staff believed were not satisfied. So, as you go through this list some are "yes", some are "no".

**AL-SOFI:** But I don't find anything that truly addresses them.

**HESS:** So, by the reference to the application then, the applicant's findings would stand. Unless modified or reversed by the findings in this decision draft.

**AL-SOFI:** INAUDIBLE.

**MIXED VOICES.**

**HESS:** The reference to the application is in the introductory section, Revised Application, pages 49 to 78, identifying specific county plan policies.

**LEONARD:** Application on page \_\_\_\_

**HESS:** Its on page 25.

**AL-SOFI:** And, there's a general, you find that in the general comp \_\_\_\_\_ as opposed to specific?

HESS: That's correct.

LEONARD: The application on page 50, the application ...

AL-SOFI: I would rather have something specific to follow.

LEONARD: Okay. You have a motion. Any discussion on the motion? Further discussion? Call for the question on the motion to adopt findings relating to, draft findings relating to Policies 2,...

FRITZ: Do you want to name them all again?

LEONARD: No.

FRITZ: Thank you. My motion is in the record.

INGLE: Two through 39.

LEONARD: County's Comprehensive Plan Policies as listed in my motion.

YOON: So, does that in fact deny the Comprehensive Plan Revision?

FRITZ: Not yet.

INGLE: We're getting there.

Call for the question.

LEONARD: All those in favor of the motion? Opposed? Al-Sofi, Leonard, and Douglas vote nay. Motion carries to adopt that language.

FRY: We've got three more to go.

FRITZ: On this?

FRY: On just this issue

LEONARD: The question, issue No. 4, the Plan Revision will not destabilize land use pattern in the vicinity. Yes or No.

FRITZ: Mr. Chairman, I would move that the Planning Commission find that the Plan Revision will destabilize the land use pattern in the vicinity.

AL-SOFI: Second that, based on the...

FRITZ: Based on the, yes, based on the ...

LEONARD: The Draft Language.

Discussion of the motion? I'm not persuaded that the decision, the proposed use of the site would destabilize agricultural practices in the area.

INAUDIBLE VOICE.

LEONARD: The rest in land use pattern?

INGLE: So it would set a precedent for further moorage development.

LEONARD: I think the Administrative Rule language on Goal Exceptions specifically precludes a Goal Exception, a particular Goal Exception, from being used as a precedent.

AL-SOFI: May I ask to re-state that?

LEONARD: Yes.

AL-SOFI: The criteria is not to prove that it will destabilize the land use pattern. Criteria that the applicant says that it will not destabilize the land use pattern.

LEONARD: Right. I'll restate my reaction to this. The applicant has persuaded me that this proposed use would not destabilize land use in the area. Further discussion on the motion?

YOON: What does that mean? INAUDIBLE.

LEONARD: That it wouldn't, I'm not, I'm persuaded that this would not become a precedent for further EFU zone changes and plan amendments and it would precipitate further change in the land use in the area.

YOON: INAUDIBLE.

LEONARD: That that would destabilize land use....the motion is to adopt language that says that we're convinced that it would destabilize land use in the area.

AL-SOFI: The motion is, I thought he said the revision would...

**FRITZ:** The plan revision will destabilize the land use. I have to say that the Chair has convinced me against my motion. No, I'm going the other way on that.

**LEONARD:** Further discussion of the motion? All those in favor of the motion? All those opposed to the motion? So that motion fails.

We have an opposite motion.

**FRITZ:** Two in favor. Everyone else was opposed. No, I voted no.

**LEONARD:** Al-Sofi and Fry were in favor of the motion.

**FRITZ:** Do we have enough to make that affirmative?

**LEONARD:** Yes.

**FRITZ:** Mr. Chairman, I would move that the Commission find that the plan revision will not destabilize the land use pattern in the vicinity.

**LEONARD:** Discussion of the motion?

**INGLE:** I'll vote for that, based on what you two said.

**LEONARD:** Okay. Call for the question. Those in favor of the motion? Opposed? Okay. Did you get the vote? Finding the reverse that the proposed action does not destabilize land use in the area. Carried. Al-Sofi and Fry opposed. The other six in favor.

**YOON:** Mr. Chairman, I'll make a motion that the plan revision will not be in conflict with existing or planned uses on adjacent land.

**MIXED VOICES.**

**LEONARD:** We find that they do or do not conflict? Your motion is ...

**YOON:** Shall not conflict.

**FRITZ:** Shall not conflict.

**AL-SOFI:** Shall not sounds like....

**MIXED VOICES.**

LEONARD: That's the criteria.

HESS: The Draft Decision doesn't show you any proposed findings for those two criteria. So you need to, you have spoken to that issue; or spoken to those issues in earlier decisions that you've made so far.

AL-SOFI: \_\_\_\_\_ has a mandatory kind of thing.

FRITZ: All right. Well, its not likely to.

YOON: Let me say why I...

LEONARD: Did we get a second?

YOON: ...which is consistent with the way I voted previously, why I made this motion, because we were dealing before with the land itself and how it was being \_\_\_\_\_ now we're dealing with the land and whether their next door neighbor can continue to run the mill, continue to farm, etc. That's what this is saying basically. As far as I'm concerned I think they can continue to do that. That's why I made the motion.

INAUDIBLE.

YOON: It doesn't deal with compatibility.

ATWILL: I disagree, I think its closer to compatibility...

LEONARD: Can we have a second.

DOUGLAS: I'll second.

LEONARD: Second, Douglas.

Discussion of the motion.

ATWILL: I disagree. I think is closer to compatibility than to stabilize the land use patterns. This standard. So, I would say to be consistent with what we voted before that we'd have to say that....

FRITZ: But, it doesn't say that.

ATWILL: It says "conflict".

FRITZ: What are you arguing? You're saying it will not?

INGLE: Yes.

FRITZ: You've found that it won't <sup>z</sup> conflict? You're saying that it will.

YOON: I made a motion that it will not conflict. Because it, you know, this is the reverse of how \_\_\_\_\_.

#### MIXED VOICES.

LEONARD: This is in relation to MCC 11.05.290, which has three criteria: 1) not destabilize land use patterns; 2) not conflict with existing or planned uses on adjacent lands; 3). Two is what Commissioner Yoon is \_\_\_\_\_.

INGLE: Well, I feel comfortable with \_\_\_\_\_.

LEONARD: This use will not conflict with existing or planned uses on adjacent lands?

INGLE: Right.

AL-SOFI: Well, we're still not \_\_\_\_\_ MIXED VOICES. IMPOSSIBLE TO TRANSCRIBE.

ATWILL: I understand but I have a little problem with that.

LEONARD: The draft language on page 36. Says "will not conflict".

HESS: If I could point a couple things out to you, if I may. My reading of the record is that there has not been findings presented by the applicant on these two, No. 2 and No. 3, Item "C" on page 36, but, however, you have made some decisions regarding compatibility under the Goal Exception. So, to the extent that you can distinguish between the word "compatibility" versus "not conflict" you may want to simply reference your earlier decisions on those other.

YOON: Well, no. I mean, I'll say the same thing again, that I find there is a distinction between "compatibility" and "not conflict"; a considerable difference. I mean, English language, those words are not similar at all.

LEONARD: I agree with your analysis. The record shows that adjacent uses are land fill, pellet mill, saw mill, log storage, houseboat moorage. Its not a question of compatibility. Its a question of conflict.



INAUDIBLE.

AL-SOFI: I would also like to say will we use the word "will" rather than "shall"? Shall has a mandatory connotation.

YOON: Okay. I'll change my motion to \_\_\_\_\_

FRITZ: To a finding that....I can use will or shall.

LEONARD: Code language uses "will".

YOON: Well, if the code uses "will" we should use "will".

LEONARD: Commissioner Fry.

FRY: This also goes out beyond when they say "on adjacent lands", are we talking about lands across the water from this site? That we're accepting that as adjacent? And second, that we're accepting all property contiguous to the site? Even if the property is across the road? INAUDIBLE. Because that does include, it looks like farm land INAUDIBLE.

LEONARD: That's my understanding about what we're looking at.

YOON: I'll clarify my motion. I don't think having a moorage here is going to stop someone from running the mill, running the food processing, farming.

AL-SOFI: INAUDIBLE.

YOON: Well, I don't consider stuff across the water as adjacent. And, I've been consistent through this.

FRY: We could make a motion on that. You're the only one that doesn't assume the houseboats are \_\_\_\_\_. Or, at least I thought there was some consensus.

YOON: Well, that was what I was interpreting my motion to basically, essentially, \_\_\_\_\_. That land directly adjacent to this particular piece of property.

LEONARD: Okay. Abutting parcels.

YOON: Exactly.

AL-SOFI: Of land as opposed to usage on the water.

**YOON:** Right. Exactly.

**LEONARD:** Okay. That clarifies the motion. With that clarification in mind I'll call for the question. All those in favor of the motion? Opposed. Okay, motion carries.

**YOON:** No. Atwill and Fry.

**LEONARD:** Okay. The third leg of that criteria is the uses allowed by the proposed change will and third, that necessary public services are or will be available to serve the allowed uses.

**YOON:** Well, lets get it on to a motion so we can get this thing moving. I'm not persuaded that the proposed revision has demonstrated that the necessary public services are or will be available.

**LEONARD:** Motion is, the Commission is not persuaded....

**YOON:** That the necessary public services are or will be available under this revision.

**LEONARD:** Second, Atwill?

**ATWILL:** Yes.

**LEONARD:** Okay. Discussion of the motion.

**DOUGLAS:** Will you clarify that again? Read me the motion again please.

**YOON:** The Commission finds that the proposed revision does not demonstrate that necessary public services are or will be available.

**LEONARD:** This is similar to the question we addressed under the Statewide Goal 11.

**MIXED VOICES.**

**LEONARD:** Some of the Commissioners in the discussion of that failed motion of Goal 11 expressed a concern we do reach some findings on Goal 11. Lets do it here. Call for the question on the motion. The motion is that the Commission finds that it is not demonstrated that the necessary public services are or will be available to serve the allowed uses. As I stated earlier, the motion which failed, I'm persuaded

by the evidence in the record that the necessary public services are available or will be available to serve the proposed use.

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DOUGLAS: I agree with that.

YOON: INAUDIBLE DUE TO NOISE.

LEONARD: Further discussion of the motion. Call for the question. All those in favor? Opposed? We're at four/four, again. Opposed to the motion.

YOON: Fritz, Douglas.

LEONARD: Douglas, Ingle, Leonard. Fritz was opposed to the motion. So we don't have a finding on that criteria. To get off the impasse, it's my understanding that we need to make findings to respond to the issues raised in the urban process.

AL-SOFI: INAUDIBLE

FRY: Well, at this point there's only been a failure to persuade us that the services are not, failed to be persuaded they're not available, so we need to make a motion...

LEONARD: To get off this impasse I suggest a motion that evidence in the record has failed to persuade the Commission that there are adequate services to satisfy that approval criteria.

HESS: Are there specific services that are at issue? Or that you...

LEONARD: Well, we're still dealing with them as a lump.

FRY: We could still \_\_\_\_\_ discussion....

LEONARD: We could address the services one by one or we could merely find...

FRITZ: Or we could unanimously agree that there is not a majority who is persuaded.

LEONARD: That was my suggested language.

MIXED VOICES.

FRY: That is exactly what that means, that the burden of proof wasn't met. That they could prove to us...

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LEONARD: That's adopting findings that respond to that.

FRY: We're not obligated to \_\_\_\_\_.

LEONARD: What I'm suggesting is....

FRITZ: Let me make that motion \_\_\_\_\_ second on it. I move that the Commission finds that a majority of the Commission is not persuaded that the proposed revision demonstrates that necessary public services are or will be available.

AL-SOFI: I'll second that.

INGLE: \_\_\_\_\_ the reality is that there isn't five votes.

MIXED VOICES.

LEONARD: Discussion of the motion? Those in favor of the motion? Entertain similar motion back to the Goal 11 question.

HESS: Was that unanimous?

LEONARD: Yes.

HESS: Goal 11 was a similar issue; public facilities. And you had reached a tie on that Goal and so there was no majority either way.

YOON: So you're basically saying it was agreed by the Commission that a majority of the Commission was not persuaded.

LEONARD: The Commission finds that the majority was not persuaded.

YOON: The Commission finds that the majority was not persuaded that Goal 11 has been met.

FRITZ: Is that your motion?

YOON: Yes.

FRITZ: Second.

LEONARD: Discussion of the motion? All those in favor? Opposed? Motion carries unanimously.

We have findings on Goal 11.

HESS: So, that...

INGLE: So that's all the issues on the Comprehensive Plan?

HESS: That's correct.

FRY: Now we have to adopt...

INGLE: Can we make ...

LEONARD: Yes. Entertain a motion on the overall request to amend the Comprehensive Plan from EFU to MUA.

INGLE: You're on a roll, ....

FRITZ: Move that the Commission deny the Comprehensive Plan Revision from agricultural to multiple use agricultural.

LEONARD: Based on the adopted...

FRITZ: Based on the findings, conclusions, comments, in the Draft Decision.

LEONARD: Discussion? Second?

AL-SOFI: I'll second.

LEONARD: Al-Sofi. Discussion of the motion. Call for the question. All those in favor of the motion? Opposed? (Douglas opposed). (Seven in favor).

FRITZ: We've got to keep moving, don't we.

FRY: Can we make this a lot simpler by, can I move that we deny the zone change and the community service use and the Willamette River Greenway permit because the proposed use is not allowed in the Exclusive Farm Use zone?

HESS: We don't recommend that you use that as your only basis for a denial simply because you are a recommending body on the Plan Revision part of it, so you are presuming that the recommendation will be followed at the next step; and then should it not be you would not have findings

supporting the subsequent denials, if that is in fact your decision.

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LEONARD: ...suggested draft language specifically addresses multiple criteria for zone change, community service, and Willamette River Greenway.

YOON: INAUDIBLE. ...burden of proof will be on the applicant?

LEONARD: Yes.

FRITZ: We must be persuaded.

YOON: So, you would like us to go through four....

LEONARD: Well, I think we could adopt all of the conclusions and findings in the Staff Report relating to these three requests.

HESS: You can do it that way or you can identify only those you have issue with, or whatever. Or, one by one, whichever.

Again, the criteria are on your check sheet; the zone change, there is four of them, and the *Request is in the Public Interest*. Second one is the *Public Need* test, and which is combined with an alternative sites kind of analysis; number three is *Comply with Comprehensive Plan Policies*; and number four is a discussion about a proof of change in the neighborhood or a mistake in the planning or zoning. Those are the four zone change criteria.

YOON: I was going to approach this a different way. Basically, I have a definition of EFU and MUA as is stated in the book, EFU and MUA. As stated in the book. Based upon that I'm not persuaded that a clear and compelling rationale has been made to change the zoning designation from EFU to MUA. EFU speaks to scenic, forest, and open spaces, as well as agricultural uses. EFU also speaks to maintenance of water and land resources. The applicant argument has \_\_\_\_\_ economic opportunity marginal; aptitude of the land is full use agricultural. Economic review is not the responsibility of this body and EFU carries a broader definition than demonstrated high efficiency agricultural grazing land. Its not been demonstrated to me through knowledgeable or agronomious testimony that this land does not have quality agricultural potential. Further, it has not been demonstrated that air, water, and land quality will be maintained or improved. That's kind of where I am.

And, based upon that, I'll make a motion to adopt the findings ....

# MIXED VOICES

YOON: No. I'm just stating my position because I think that's too complicated. Now, what they want us to do is go through these first four points and I'm ready to through, I'm just stating my position. I can go through these four points and them come to the thing about the zone change...

LEONARD: I'll entertain a motion relating to the zone change.

YOON: Okay. I make a motion that we deny the zone change request based upon the findings and recommendations....

FRITZ: Found in the Draft Decision.

YOON: Well, ....

LEONARD: I suggest that you, your motion, if you're going to state to deny the zone change request that you also adopt some set of findings and fact to support that decision.

YOON: Well, I'm not going to read it again because I've got it all written down. What I just stated is the reason I would deny the zone change request based upon the findings in the Draft Decision by Staff as well as \_\_\_\_\_.

LEONARD: What you just stated?

YOON: Exactly.

LEONARD: Do we have a second? Seconded by Fritz. Do we have discussion on the motion?

I guess, just commenting on this, I'm not persuaded that the agricultural use that's been alleged for this site is in fact what's primarily what's happening on the site. The dike, with the related regulations relating to the use of the dike severely restricts the agricultural activity, and any grazing that might occur on the dike is only incidental to the primary use for that piece of land as a dike. And, I'm not persuaded that this is in fact prime agricultural land, as defined in our zoning code.

**YOON:** Well, if I may, I'd like to read what EFU states: *"The purposes of the Exclusive Farm Use District are to preserve and maintain agricultural lands for farm use consistent with existing and future needs for agricultural products, forests and open spaces; to conserve and protect scenic resources, to maintain and improve the quality of the air, water and land resources of the County and to establish criteria and standards for farm uses related and supportive uses which are deemed appropriate."* Based upon that, I'm not persuaded to change the zoning.

**FRY:** What he's saying is that there's three issues, not just agricultural.

**LEONARD:** Point taken.

**FRY:** Which was my original point, by the way, and I wish to heck I had that because that was my first point regarding all these other Comprehensive Plan Policies; and why I have consistently voted against them all the way through, because there's just no way I can be persuaded that EFU to MUA is appropriate.

**DOUGLAS:** Well, I disagree with that, by this court decree number 250675 of the Circuit Court, the State of Oregon for Multnomah County, dated July 1959. And, again, it says here that its extremely unlikely that this property could ever be used for agriculture or residential purposes. Now, the court decided that and to me that's an indication. The other indication is to me that this is a dike that was built there and cannot be tilled or anything like that, so consequently its uses are very, very restricted. So, how can you claim its agricultural land?

**FRY:** The point that Mr. Yoon made is that agriculture is only one of three; that the other two are to maintain and improve the quality of air, water and land resources; and to conserve and protect scenic resources. So, the, and then in fact, so there are two other things that are completely unrelated to agriculture that apply to the EFU zone. Okay? And then, even in the agricultural part of this they have forest and open space, so agriculture is very watered down in the EFU zone.

**YOON:** The other thing is the court case that Commissioner Douglas mentioned was before the Comprehensive Land Use Plan.



**DOUGLAS:** Its still a very good indication of what that land is. Very definitely. And, to change to a MUA, to me does not change the quality of the water, air, such as that. I see no indication of any change.

**AL-SOFI:** It would change the scenic aspect and the open spaces aspect.

**YOON:** Well, its got to change the water if you've got a bunch of boats there.

**DOUGLAS:** Well, if you've got log rafts there that's going to change it.

**LEONARD:** Further discussion of the motion? Call for the question. All those in favor of Commissioner Yoon's motion to deny the zone change request for the stated reasons? Opposed? Douglas, Ingle, Leonard. Anyone else opposed?

**HESS:** So, you're up to the CS use now? Is that correct?

**MIXED VOICES:** Yes.

**DOUGLAS:** Why do we have to, if this is killed right here from now, why ...

**LEONARD:** Lets respond to all of the requests and adopt findings relating to all of the requests, and move this forward. Do we have a motion on the CS?

**FRITZ:** INAUDIBLE. Mr. Commission, I move that the Commission adopt the findings and conclusions in the Draft Decision and deny the community service use for a marina.

**LEONARD:** Discussion? Yes, Commissioner Atwill seconds. Discussion of the motion? All those in favor of the motion? Opposed? (Minutes show Douglas, Ingle, and Leonard opposed).

**AL-SOFI:** Well, may I just make, sorry, the problem in taking a blanket statement like that, we've created a conflict between some of our earlier findings. \_\_\_\_\_ important to, and I'd like to address it, we have voted public services are not adequate. One of the findings of this community service request is that public services would adequately serve, and I think that's in conflict with one of our earlier decisions; and I think we shouldn't be in conflict.

LEONARD: Okay. I think, no, I think we can \_\_\_\_\_ be in conflict. The motion was to deny the request and adopt these proposed draft findings.

AL-SOFI: Which is that we agreed that because public services would adequately serve the proposed development which I think is not what we said earlier. And I don't want to be in conflict with my earlier findings \_\_\_\_\_.

LEONARD: Are you voting no?

AL-SOFI: Well, I just want to call your attention that if anyone wants to reconsider at least that one issue.

HESS: She's talking about the Plan .... the findings she's referring to are on page 40.

AL-SOFI: Its just that its improper for us to be in conflict with our earlier specific findings and that by doing the blanket we may not have adequately \_\_\_\_\_criteria. INAUDIBLE.

YOON: Well, you're right.

LEONARD: Do we have a motion to reconsider the last motion?

YOON: I make a motion to reconsider the \_\_\_\_\_.

FRY: I'll second it.

LEONARD: Discussion of the motion to reconsider? Or should I say, any further discussion to reconsider the motion?

AL-SOFI: I would like us to just sit here and wait until we can \_\_\_\_\_ this particular one from maybe a prior....

LEONARD: A motion can be made to adopt...

YOON: After we do this.

LEONARD: We've got a question of re-consideration of the motion that we consider alternate findings on specific motions...

FRY: Call for the question.

LEONARD: All those in favor of the motion to reconsider? (Minutes show this was unanimously carried).

FRITZ: Okay. Move that we adopt the findings, INAUDIBLE, as it relates to community service ....

90'

LEONARD: Please take them one at a time, or...

MIXED. INAUDIBLE.

FRITZ: I'd like a little guidance.

AL-SOFI: Those are the two that I think have...

YOON: Well, yes, even before we go through that particular...I've been reading this first paragraph and we have to make a vote on it on the assumption that \_\_\_\_\_ has been approved.

INGLE: Can't we make a motion that...

LEONARD: No. No, we need to, we are asked to respond to the criteria for approval, which include all of the list of factors.

YOON: Well we can make a motion to deny the community service use request based on the fact that we have not approved....

LEONARD: No, I think Commissioner Al-Sofi's point, if I can restate it, the draft findings concluded that there are adequate public services to support the proposed use,...

MIXED VOICES.

FRY: Which one?

LEONARD: The Community services.

FRITZ: That's the only one that's inconsistent?

FRY: Right.

LEONARD: In the earlier decisions the Commission failed to find that there were adequate public services. Our findings state that.

FRY: Well, can we adopt the...can I make a motion or a suggestion that we adopt the Staff Report and then amend it? Can, we can do that can't we?

MIXED VOICES.

**ATWILL:** Or we're just going to adopt it with the exception of Staff's finding on ....

**LEONARD:** Commissioner Fritz.

**FRITZ:** In regards to the community service use request, I move that the Commission adopt the language and conclusions in the Draft Decision with the exception of the conclusion dealing with required public services. And, propose that that language, that conclusion language, read "the Commission agrees that existing public services would not adequately serve the proposed development.

**ATWILL:** Second.

**LEONARD:** Okay. Discussion of the motion.

**FRY:** Okay, but I'd like to add a conclusion.

**YOON:** I suggest that we accept the motion with the understanding that the Commission did not agree that there was adequate public services. The majority of the Commission did not agree that there were adequate public services.

**LEONARD:** I think that's what Commissioner Fritz' motion stated.

**FRY:** I'd like to add an amendment. I want to make an amendment that the conclusion the proposed marina is generally consistent with the character of Multnomah Channel it is approved, so that Staff, I want to make it clear, Staff said that this proposed marina is consistent with the character of the area and I would amend your motion to add the language that finds the proposed use is not consistent with the area. Multnomah Channel. That's a motion to amend the motion.

**MIXED VOICES.**

**FRY:** I'm just trying to keep \_\_\_\_\_. One motion is intact. The second one, I think, without a second.

**ATWILL:** Second.

**FRY:** Now the second one has a second. Okay, so my motion to amend the original motion to add the issue of character of the area \_\_\_\_ to it.

YOON: I would second that.

FRY: Its been seconded.

LEONARD: Peter, your motion is to amend the earlier motion to find the opposite conclusion under "consistent with the character of the area"?

FRY: Right.

LEONARD: The proposed marina use is generally inconsistent with the character of Multnomah Channel.

ATWILL: We can make it several sentences if its too much for one.

MIXED VOICES.

LEONARD: But its coherent. Discussion of Commissioner Fry's motion. All those in favor of Commissioner Fry's motion to amend? Opposed? (Leonard, Ingle, and Douglas opposed).

Back to the primary motion.

MIXED VOICES.

HESS: That was on the amendment.

LEONARD: Now we're back to the primary motion. All those in favor of the motion as amended? Opposed? (Transcriber hears two no votes).

FRITZ: Mr. Chairman, can I take this head on then?

LEONARD: I move that the Commission deny the community service use for a marina.

ATWILL: Second.

LEONARD: Based on the....

FRITZ: Yes, based on our findings and the language of the Draft Decision as amended.

LEONARD: The earlier motion adopted findings relating to the community service request.

FRITZ: We reconsidered the whole things.

**HESS:** The last motion simply adopted the findings. This motion is a motion to deny the community service use. Correct?

**LEONARD:** Yes.

**FRITZ:** For the record, my previous motion which was reconsidered, adopted both the findings in the Draft Decision and denied the community service use. That was reconsidered so now we're back.

**LEONARD:** Call for the question. Those in favor of the motion to deny the community service request based on the previously adopted findings? Opposed?

**MIXED VOICES:** Five - three.

**FRITZ:** One more question.

**LEONARD:** No, we have Willamette River Greenway.

**FRITZ:** Oh God.

**LEONARD:** Discussion of the Willamette River Greenway Permit request, and criteria for approval or deny.

**MIXED VOICES.**

**ATWILL:** I think we may be able to short circuit this decision based on the last criteria, which is that the applicable policies of the Comprehensive Plan are satisfied. We've already established that some of them aren't so, on that criteria alone, we could...

**AL-SOFI:** But we weren't going to do that in case we're overturned on that issue.

**MIXED VOICES.**

**LEONARD:** Take a couple of minutes to read through the Staff suggested criteria points and the draft language.

**FRY:** Can I ask Staff a question?

**LEONARD:** Certainly.

**FRY:** Mark.

HESS: Yes.

FRY: I'm assuming this is a water dependent use. Is that what this thing is classified as by the state? The marina?

HESS: What agency of the state? State parks?

FRY: Who I'm getting at to the greenway trail, I just wanted to, is there going to be a requirement if this were to be permitted? That a greenway trail would be constructed along the waterfront, or would they consider water a co-dependent use with the greenway trail then be put basically on the road?

HESS: The earlier Staff Report, which had recommended on November 4th, an approval of the greenway permit portion with conditions, suggested that either you impose a trail along the top of the dike or you impose a trail along Gillihan Loop Road; I mean, a bicycle shoulder-lane is actually what the Transportation Division ....

FRY: Right. I've got the conditions, I'm saying that my understanding is that its a water dependent use; the trail goes around the outside of the property...

HESS: Our Code does not speak to that, make that distinction that you're referring to. That's the Portland Code that you're referring to.

FRY: So, essentially there's no requirement for a greenway trail under the Multnomah County Code?

HESS: That's right. There is no explicit requirement for that. There are the, Item No. B., or Item No. 2, ... "reasonable public access to and along the river shall be provided by appropriate legal means to the greatest possible degree." And, with emphasis on urban and urbanizable areas.

FRY: Now, lets, okay, so if we were to say deny this, would we want to stay silent on the issue of the greenway trail if somehow this were overturned at a higher level? I mean, how did that all work with the county as opposed to the city?

HESS: My experience has been that there is not a greenway trail implementation program at the county level; in the rural parks.

FRY: Is it very likely that they've forgotten us?

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HESS: That's a fair assumption, I believe.

LEONARD: Code has 19 criteria that relates to the Willamette River Greenway request that are stated in this draft staff report. As I read this, the draft staff report has comments relating to those comments; it does not have conclusions and suggested findings related to them.

HESS: It actually has conclusions within the comments sections for most...

YOON: Except for those where there's nothing to comment.

MIXED VOICES.

LEONARD: Has everyone had a chance to read the criteria?

YOON: Yes. Now, wouldn't it be acceptable to say that we move to deny the Willamette River Greenway Permit based on the conclusions stated in Section 5.D., 1 through 19 of the Draft Decision?

AL-SOFI: It would except I think there are some conflicting \_\_\_\_\_ again here as earlier. INAUDIBLE.

MIXED VOICES.

FRY: Well, the only thing I found, which I already expressed, was my concern INAUDIBLE.

MIXED VOICES.

YOON: There's a different set of criteria INAUDIBLE.

No, I made that motion.

LEONARD: Did we have a second?

AL-SOFI: What was it?

FRITZ: Second.

YOON: I made the motion to deny the Willamette River Greenway Permit request based upon the findings and conclusions in Section 5.D, 1 through 19 of the Draft Decision.



LEONARD: Do you want to phrase that motion to deny the request and adopt the Draft Findings and Conclusions?

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YOON: Right.

I can't believe there's anymore left.

LEONARD: Who seconded that?

FRITZ: I did.

LEONARD: Fritz seconded. Discussion of the motion?

DOUGLAS: I don't understand, but then again, with the others going down I don't think approve the Willamette River Greenway.

YOON: I'm denying it.

DOUGLAS: Yes. INAUDIBLE.

LEONARD: Yes. And adopting all of these conclusions as the findings, and I'll repeat, just for consistency, I'm not persuaded to vote for this motion. and all of the findings and conclusions related to it. With that I'll call for the question. All those in favor of the motion? Opposed? (Douglas, Ingle, and Leonard opposed).

FRITZ: Mr. Chairman, there is one thing in the last two pages of the Draft Decision, in Conclusions, and Conclusion No. 3 is something that I think ought to be, we dealt with that, and it ought to be deleted. These are general conclusions. I don't know, but....

MIXED VOICES.

LEONARD: They're not, I think we've addressed each of the four requests separately already and adopted findings and conclusions related to those requests.

FRITZ: But these are six different general conclusions on two pages, and conclusion No. 3 is not consistent at all with the  
\_\_\_\_\_.

YOON: We didn't adopt these did we?

LEONARD: These have not been adopted by any previous motions.

MIXED VOICES.

**PEMBLE:** You're referring to what pages, 48 and 49 on the Draft Decision?

**MIXED VOICES:** YES.

**PEMBLE:** We will modify that page as you have incrementally adopted changes throughout the process. Now, just to kind of throw salt in the wound and set the record straight, we initiated our discussion a couple of hours ago concerning this application and in that early presentation by Staff there was some concern on the part of the Planning Commission about having a Draft Decision before them. I want to make two points concerning that: 1) given the time of the early responses, the 10 day period followed by the subsequent 4 day period, we in fact did not complete the draft of the decision until this afternoon. So there was not time for distribution. Secondly, within your own rules, Planning Commission Rules, explicitly it states that the Planning Staff may prepare a recommended decision for the Planning Commission consideration. **CHANGE OF TAPE.** Seeing these types of applications, Planning Staff will continue to prepare draft statements for your consideration.

**YOON:** Well, I'm comfortable with that. I would have been uncomfortable with that if there would have still been open discussion.

**LEONARD:** Argument from the applicant.  
No, we have a closing statement. Planning Commission has recommended denial of the four requests for Plan Amendment with Goal Exceptions; a zone change, community service/conditional use; and Willamette River Greenway Permit. This recommendation will be forwarded to the Board of County Commissioners at their next available hearing on Planning matters. Any appeal from our decision must be filed at the Land Development Offices no later than 4:30 p.m., 21 days from this date.

**PEMBLE:** We will confirm the reporting time given the Christmas Board meeting schedule. At this point in time we're not sure they are meeting on the 24th, which would be the reporting day.

**LEONARD:** That concludes the agenda for this evening. Meeting is adjourned.

# **ALDER CREEK MARINA**

## ***REASONS FOR APPROVAL***

Submitted to

Multnomah County Board of County Commissioners

Gladys McCoy, Chairperson

Pauline Anderson, Commissioner, Dist. #1

Gary Hansen, Commissioner, Dist. #2

Rick Bauman, Commissioner, Dist. #3

Sharron Kelley, Commissioner, Dist. #4

On Behalf Of

Ken and Pattye Larson

JANUARY 17, 1992

*Submitted by*

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Summer Sharpe  
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The Penthouse  
10 N.W. Tenth Avenue  
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Telephone: 225-0192

## **REASONS TO APPROVE THE ALDER CREEK MARINA**

### **1. The Alder Creek site is the best site for a marina.**

- All other Multnomah Channel sites are constrained by more sensitive wetlands and significant habitat conditions.
- Alder Creek site is less environmentally significant than other areas downstream of the Sauvie Island Bridge pursuant to County's map of significant wetlands.
- Alder Creek site is located in the most developed part of Multnomah Channel.
- All other Portland Metropolitan sites are either developed, committed to development, or possess constraints precluding a marina.
- Multnomah County Sheriff's Office states that ". . . this location is appropriate for such an operation and is one of the last locations where such an enterprise can be undertaken."

### **2. Will not cause safety or congestion problems in Multnomah Channel and will enhance river safety.**

- Oregon State Marine Board states that the ". . . proposal as designed will not significantly affect safety or congestion on the Multnomah Channel . . . ." (emphasis added)
- Multnomah County Sheriff's Office states that construction of the marina will mandate a "no wake" speed at this location in Multnomah Channel, enhancing safety and decreasing wake damage.
- Boathouse slip will be provided to Multnomah County Sheriff's River Patrol enhancing safety and enforcement.

### **3. Will not adversely affect agricultural activities on Sauvie Island.**

- Alder Creek site is at the edge of Sauvie Island adjacent to non-agricultural uses (Alder Creek Lumber Company, the pellet mill, the ESCO foundry fill site, and the Cracker Barrel Grocery Store).
- Alder Creek site has limited agricultural value, nor has it been used for agricultural purposes; site is

composed of dike fill materials and ESCO foundry waste materials.

**4. Will provide boating and waterfront access for the physically handicapped and elderly.**

- Handicapped accessible dock will be provided for boating, viewing and fishing opportunities.

**5. Will not cause adverse traffic congestion for Sauvie Island.**

- Access to Alder Creek site does not require traversing the Island because of the site's location near the bridge.
- County Planning Staff and the Oregon Department of Transportation state that the marina would not create adverse traffic problems.

**6. Will be developed in an environmentally sensitive manner.**

- Maintains existing natural shoreline.
- Will not require dredging in Multnomah Channel.
- Preserves existing wetlands.
- Preserves functional value of the wildlife corridor.
- 95% of the site will remain as open space.
- Decrease in water surface area coverage from historic conditions.
- Marina will not be visible from the Island side of the dike.
- Parking lot designed for parallel parking with landscaping to mitigate potential headlights affecting properties on mainland side of Multnomah Channel.
- Shoreline erosion will be reduced.

**7. Will maintain existing land use pattern on Sauvie Island and will not establish a precedent for future requests.**

- Because the Alder Creek Marina is uniquely located on Sauvie Island (at the bridge in an area with non-farm development and in a developed area of the Multnomah Channel) it will not destabilize land use patterns on Sauvie Island.

- Will not establish a precedent because approval will be tied to the specific site, citing location and other unique attributes of the site and its location on Sauvie Island and the Multnomah Channel.

**8. All necessary public services will be provided to the site without negative impact.**

- Sauvie Island Volunteer Fire Department (R.F.P.D. #30) states that emergency fire services will be provided to the marina.
- Northwest Natural Gas, U.S. West Communications, and Portland General Electric state their ability to serve the site.
- Sewer and water will be privately provided on-site.
- Boathouse slip will be provided for Multnomah County Sheriff's Patrol for river safety and enforcement.

**9. Will be compatible with the character of the surrounding area.**

- Immediate vicinity of the Alder Creek Marina on Sauvie Island consists of a number of non-agricultural uses (Alder Creek Lumber Company, the Pellet Mill, the ESCO foundry fill site, Cracker Barrel Grocery Store).
- Alder Creek Marina is similar in nature to the moorage and marina development on the west side of the Multnomah Channel.
- Average encroachment riverward from Ordinary Low Water (OLW) for Alder Creek Marina is similar to existing moorages on the west side of the Multnomah Channel.
- Alder Creek Marina does not encroach into the navigational channel of the Multnomah Channel.

**10. Will enhance recreational opportunities.**

- Provides an opportunity for a County park on the Multnomah Channel.
- Provides public access to the Island edge and to the Multnomah Channel.
- Offers boating, fishing, birdwatching, biking, water taxiing, tour boat landing, and walking recreational opportunities.

GARVEY, SCHUBERT & BARER

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PLEASE REPLY TO PORTLAND OFFICE

January 17, 1992

Gladys McCoy, Chairperson  
Pauline Anderson, Commissioner, Dist. #1  
Gary Hansen, Commissioner, Dist. #2  
Rick Bauman, Commissioner, Dist. #3  
Sharron Kelley, Commissioner, Dist. #4  
c/o Multnomah County Division of Planning & Development  
2115 S.E. Morrison Street  
Portland, Oregon 97214

Re: Alder Creek Marina

Dear Chairperson McCoy and Commissioners:

On January 28, 1992, your Board will consider whether to approve the Alder Creek Marina. It is our legal opinion, that based on the substantial evidence in the whole record, your Board should approve the Alder Creek Marina and adopt findings determining compliance with the applicable legal criteria. Should your Board choose to approve the Alder Creek Marina, we would be pleased to draft the appropriate legal findings for your review and adoption.

A favorable decision by your Board approving the Alder Creek Marina is legally defensible before the Land Use Board of Appeals (LUBA).

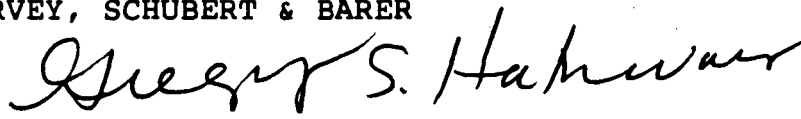
Because of the lengthy record in this case, and in an effort to assist the Board in its review of the Alder Creek proposal, we have highlighted the preceding 10 reasons why your Board should approve the Alder Creek Marina. Please be advised that each of these reasons is supported by substantial evidence in the record before you.

The Larsons respectfully request the Board's consideration of these reasons for approval.

Very truly yours,

GARVEY, SCHUBERT & BARER

By

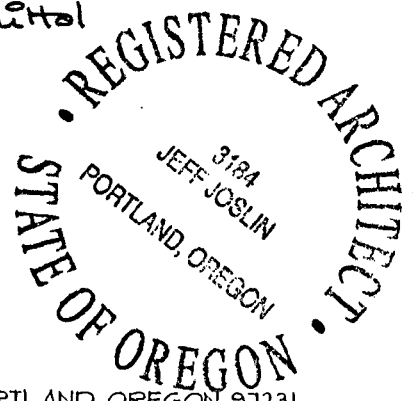
  
Gregory S. Hathaway



RECEIVED  
JAN 17 1991

Multnomah County  
Zoning Division

2/4/92 Submitted



14700 NW GILLIHAN ROAD PORTLAND OREGON 97231

Multnomah County Planning Commission  
2115 S.E. Morrison Street  
Portland, OR 97214

January 27, 1992

Commissioners:

My name is Jeff Joslin. I'm an architect and urban designer. I live at 14700 NW Gillihan Road. I'm here as a landowner with just over 120 acres of farmland on Sauvie Island nearly adjacent to the proposed marina site.

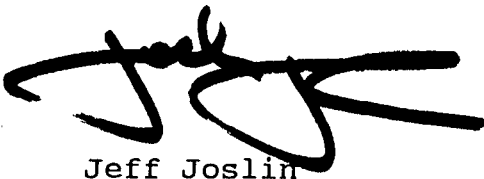
I'd first like to reiterate that, in contradiction to the applicants repeated contention that their site is not agriculturally useful, that this land was in agricultural use for all its known history until recently. The only reason it is not currently in agricultural use is because the previous owner terminated grazing leases for the property, though the land continues to be in farm deferral.

Agricultural land on Sauvie Island is precious and threatened. The inflated cost of farmland to buy or lease, combined with increasing taxes and land being taken out of farm use, has already driven farmers off the Island to other areas. The EFU zoning is the only protection that allows farmers to continue to commit to this area. Removing land from agricultural use and further allowing it to be developed commercially and proprietorially will not only raise property values and taxes, but will also unquestionably open the door to future development. This would be an ominous sign to current and future farmers. Such a decision would jeopardize the agricultural viability of nearby land such as my own.

Despite the applicants shameless contention that such a project would not set a precedent, their frequent use of precedents shows clearly that even they know better. Mis-use of precedent has done enough damage to this end of the Island. It was the forced presence of the lumber mill that paved the way for the feed plant, the gas transfer station, and over thirty acres of dump. These don't belong in this agricultural and residential location, and neither does boat warehousing. Such a project would also further erode an area that should be protected, as mandated by the LCDC, as the buffer zone between the Urban Growth Boundary and EFU lands that this end of the Island already lacks.

My property would be potentially infinitely more valuable if projects such as the proposed marina were allowed. Such land has already been targeted for development by developers who believe the commitment to EFU zoned land to be weakening. But Portland and Sauvie Islands richest use of these lands is as agricultural and wildlife resources. Existing zoning, the law, LCDC's Goals, and the residents and visitors of Sauvie Island all mandate that these legacies be maintained. I hope you continue to find in opposition to this destructive proposal, and in favor of an agricultural future for Sauvie Island.

Thank You For Your Attention;

A handwritten signature in black ink, appearing to read 'Jeff Joslin', with a stylized, sweeping flourish at the end.

14700 NW Gillihan Road  
Portland, Oregon 97231

# 1000 FRIENDS OF OREGON

January 24, 1992

Multnomah County Board of Commissioners  
Room 606, County Courthouse  
1021 SW Fourth Avenue  
Portland, OR 97204

Re: Proposed Alder Creek Marina; PR 6-91, ZC 6-91, CS 6-91, WRG 7-91

1000 Friends of Oregon requests the Board of Commissioners to uphold the Planning Commission's denial of the application for the Alder Creek Marina on the Sauvie Island side of Multnomah Channel. We submitted comments to the Planning Commission, which are part of the record. Also, the Planning Commission decision explains extensively the many grounds on which this application should be denied. Therefore, we will comment on only two of the several issues before you; specifically, Statewide Land Use Goals 3 and 14. We note, however, that the same evidence which supports denying the application on these grounds also supports denying the application under many of the other standards which you must apply.

## Goal 3

Sauvie Island is the most significant farm area in the county. The entire island, with two exceptions for pre-existing uses, is zoned for Exclusive Farm Use (EFU) to provide a sanctuary for commercial agriculture and to protect these operations from incompatible uses and activities. The proposed application would set a poor precedent and destabilize the farming economy of the island.

Because the proposed site is currently zoned EFU, the applicant must provide reasons justifying why Goal 3, the farm land protection goal, should not apply. OAR 660-04-020, 022. Among others, the applicant must demonstrate the following criteria are met:

- The use requires a location on resource land;
- Areas which do not require an exception cannot reasonably accommodate the use;
- Areas within the urban growth boundary (UGB) cannot reasonably accommodate the use;
- The proposed use is compatible with adjacent uses.

- The proposed site is the only one within the market area at which the resource depended upon can reasonably be obtained.

The applicant has not met its burden of proof for any of these criteria.

First, the applicant has not shown that there is a need for this marina at this location. The applicant argues there is a need for additional moorage to accommodate boats over 21 feet in length, relying primarily on a projection of demand for moorage based on historical growth rates. However, the Land Use Board of Appeals (LUBA) and the Court of Appeals have held many times that market demand is not an adequate demonstration of need under Goals 2 and 3. E.g., Still v. Marion County, 42 Or App 115 (1979); Weyerhaeuser v. Lane County, 7 Or LUBA 42 (1982).

The applicant also argues that by providing this marina, it is meeting a public need under Goal 8 for a recreational boating facility. This reasoning is flawed. The applicant has still not shown, as it must, that the proposed site "is the only one within the market area" at which this need can be met. OAR 660-04-022(1)(b). Further, boating is not the only recreational opportunity recognized by Goal 8. The applicant ignores the other Goal 8 values which this site already serves, including canoeing, kayaking, wildlife viewing, etc.... (See, e.g., testimony of State Parks and Recreation Department.)

Second, the applicant has not demonstrated that existing exception areas or areas within the UGB cannot reasonably accommodate the proposed use. The Planning Commission decision, in fact, describes numerous alternative locations, both within the Channel and in the county, which are suitable for the proposed development.

The applicant, in its appeal to the Board, criticizes this portion of the decision because it "does not indicate why these sites can more reasonably accommodate the proposed marina." However, the applicant forgets that the burden is on it to map these alternative sites and justify why they cannot reasonably accommodate the proposed use. The applicant has not carried its burden of proof.

Third, the applicant has not shown that the proposed marina is compatible with other adjacent uses. The Planning Commission's decision describes how the proposed marina will extend much farther into the Channel than existing moorage on the opposite side of the Channel and downstream, and thus will not be compatible with similar nearby developments. In addition, the application includes a parking lot for 100 spaces on EFU land.

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In its appeal to this Board, the applicant must address how the parking lot and consequent traffic, as well as the marina, will be compatible with adjacent EFU land. However, the applicant simply states that "the primary activity of the proposed use is water oriented on the Channel," and avoids discussing the impact of the parking lot altogether. Thus, the applicant has not carried its burden of proving that the proposed use is compatible with other adjacent uses.

For these reasons, as well as the others contained in the Planning Commission decision, we urge you to find that the applicant has not shown that reasons exist to justify an exception to Goal 3.

#### **Goal 14**

Goal 14, the Urbanization Goal, generally requires that urban uses occur within urban growth boundaries unless the applicant demonstrates reasons to justify an exception. Here, an exception to Goal 14 is required because this particular marina development is clearly urban in nature, based on the size and intensity of the use, its proximity to and dependence on the Portland urban area, and the permanent and constant use of the site which would result.

The standards for applying an exception to Goal 14 are the same as those for Goal 3, listed above and in the Planning Commission's decision. OAR 660-04-020, 022. Again, however, the applicant has failed to meet these standards.

The applicant has failed to show why areas which do not require a new exception, or areas inside the UGB, cannot reasonably accommodate the proposed use. As stated above, the Planning Commission described many sites, both in exception areas and within the UGB, which are suitable for the proposed use and do not require an exception. In attempting to show how it has met Goal 14, the applicant again erroneously faults the Planning Commission for not demonstrating why these alternative sites could more reasonably accommodate the proposed marina. However, the burden is on the applicant to make this showing, and it has failed to do so.

As with its attempt to justify an exception to Goal 3, the applicant relies in part on an alleged market demand for recreational moorage to justify why an exception to Goal 14 is appropriate. Similarly, however, market demand is not an adequate basis for demonstrating public need. Still, 42 Or App 115; Weyerhaeuser, 7 Or LUBA 42.

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Moreover, even if a public need could be shown, the applicant has not met the requirement of OAR 660-04-022 (1)(b) of showing that the proposed site is "the only one" within the market area which can meet this need.

For these reasons, we urge the Board to find that the applicant has failed to justify an exception to Goal 14 for the proposed marina.

Thank you for consideration of our comments.

Sincerely,



Mary Kyle McCurdy  
Staff Attorney

/sauvie.bc



# MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS  
ROOM 606, COUNTY COURTHOUSE  
1021 S.W. FOURTH AVENUE  
PORTLAND, OREGON 97204

GLADYS McCOY • CHAIR • 248-3308  
PAULINE ANDERSON • DISTRICT 1 • 248-5220  
GARY HANSEN • DISTRICT 2 • 248-5219  
RICK BAUMAN • DISTRICT 3 • 248-5217  
SHARRON KELLEY • DISTRICT 4 • 248-5213  
CLERK'S OFFICE • 248-3277

## AGENDA

### MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS FOR THE WEEK OF

FEBRUARY 3 - 7, 1992

Tuesday, February 4, 1992 - 8:30 AM - Executive Session. . .Page 2

Tuesday, February 4, 1992 - 9:30 AM - Planning Hearing . . .Page 2

PLEASE NOTE: NO TUESDAY AGENDA REVIEW SCHEDULED  
AFFECTED STAFF TO ATTEND THURSDAY BOARD MEETING

Tuesday, February 4, 1992 - 1:30 PM - Board Briefings. . . .Page 2

Thursday, February 6, 1992 - 9:30 AM - Regular Meeting . . .Page 3

Thursday Meetings of the Multnomah County Board of Commissioners are recorded and can be seen at the following times:

Thursday, 10:00 PM, Channel 11 for East and West side subscribers

Friday, 6:00 PM, Channel 22 for Paragon Cable (Multnomah East) subscribers

Saturday 12:00 PM, Channel 21 for East Portland and East County subscribers



Tuesday, February 4, 1992 - 8:30 AM

Multnomah County Courthouse, Room 602

EXECUTIVE SESSION

- E-1 The Multnomah County Board of Commissioners Will Meet in Executive Session to Discuss Real Property Transactions Pursuant to ORS 192.660(1)(e)
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Tuesday, February 4, 1992 - 9:30 AM

Multnomah County Courthouse, Room 602

PLANNING ITEM

- P-1 PR 6-91; ZC 6-91; CS 6-91 and WRG 7-92 PUBLIC HEARING, ON THE RECORD, TESTIMONY LIMITED TO 30 MINUTES PER SIDE in the Matter of Review of the December 2, 1991 Planning Commission Decision DENYING Requests for a Comprehensive Plan Revision, Zone Change Request, Community Service Use for a Marina and a Willamette River Greenway Permit, to Allow the Development of a 170-Space Boat Marina in the Multnomah Channel, for Property Located at 14460 NW GILLIHAN ROAD. (RESET FROM JANUARY 28, 1992)
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Tuesday, February 4, 1992 - 1:30 PM

Multnomah County Courthouse, Room 602

BOARD BRIEFINGS

- B-1 Presentation and Discussion of Recommendations of the 1991 Multnomah County Salary Commission. Presented by Keith Crawford, Rian Brown, Brenda Carpenter, Judith Clark and Leslie Jasper. 1:30 PM TIME CERTAIN. 45 MINUTES REQUESTED.
- B-2 Presentation of Committee Report on City/County Consolidation. Presented by Merlin Reynolds and Members of the Governance Committee. 2:15 PM TIME CERTAIN. 60 MINUTES REQUESTED.
- B-3 Bi-Monthly Status Report Concerning the Donald E. Long Detention Facility. Presented by Harold Ogburn. 3:15 PM TIME CERTAIN. 30 MINUTES REQUESTED.
- B-4 Discussion on the Youth Empowerment and Employment Project. Presented by Commissioner Gary Hansen. 3:45 PM TIME CERTAIN. 15 MINUTES REQUESTED.
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Thursday, February 6, 1992 - 9:30 AM

Multnomah County Courthouse, Room 602

REGULAR MEETING

CONSENT CALENDAR

JUSTICE SERVICES

SHERIFF'S OFFICE

- C-1 Ratification of an Intergovernmental Agreement Between the Oregon Public Utility Commission and Multnomah County, Providing Revenue for the Sheriff's Office Motor Carrier Safety Unit to Enforce Commercial Motor Vehicle Safety Rules and Regulations, for the Period October 1, 1991 to September 30, 1992

DEPARTMENT OF HEALTH

- C-2 Ratification of an Intergovernmental Agreement Between the City of Portland and Multnomah County, Amending the Contract Term from February 1, 1991 through December 31, 1991, and Providing County Reimbursement for the Cost of an .8 FTE Equivalent Community Health Nurse Working at Iris Court
- C-3 Ratification of an Intergovernmental Agreement Between the State Children's Services Division and Multnomah County, Providing a Community Health Nurse to Participate as a Member of the PROJECT TEAM Program for the Period January 2, 1992 through September 30, 1992

NON-DEPARTMENTAL

- C-4 In the Matter of the Appointment of Katherine Cheney to the CITIZEN INVOLVEMENT COMMITTEE, Term to Expire February 1, 1994
- C-5 In the Matter of the Reappointment of D'Norgia Price to the MERIT SYSTEM CIVIL SERVICE COUNCIL, Term to Expire June 4, 1997

REGULAR AGENDA

NON-DEPARTMENTAL

- R-1 RESOLUTION AND ORDER in the Matter of Adjusting Salaries for the County Chair and County Commissioners Based on Salary Adjustment Recommendations of the 1992 Salary Commission 9:30 AM TIME CERTAIN. 45 MINUTES REQUESTED.
- R-2 Budget Modification NOND #25 Requesting Authorization to Move Budgets to Implement Reorganization Pursuant to Ordinance No. 708 Adopted December 12, 1991, Wherein the Department of Human Services was Abolished and the Health Department and Department of Social Services were Created

- R-3     RESOLUTION in the Matter of the Adoption of the 1991-92 Supplemental Budget for Multnomah County, Oregon, for the Fiscal Year July 1, 1991 to June 30, 1992, and Making the Appropriations Thereunder, Pursuant to ORS 294.435
  
- R-4     RESOLUTION in the Matter of Creating a Task Force on Ethics Guidelines for County Officials/Employees
  
- R-5     First Reading and Possible Adoption of an ORDINANCE Relating to the Regulation of Solid Waste Haulers in Portions of Unincorporated Multnomah County in Order to Provide the Opportunity to Recycle to be Administered by the City of Portland, and Declaring an Emergency and Repealing Ordinance No. 541
  
- R-6     ORDER Authorizing an Agreement with the City of Portland Relating to the Allocation and Payment to the County of a Portion of Franchise Fees Collected by the City which are Attributable to Solid Waste Collection in Certain Unincorporated Areas of the County
  
- R-7     First Reading of a Proposed ORDINANCE Amending Ordinance No. 646 (Firearms) by Expanding the List of Firearms in the Definition of "Assault Weapon", Clarifying Certain Language Pertaining to Excluded Firearms and Deleting Certain Provisions Concerning the Firearms Safety and Education Course (CONTINUED FROM JANUARY 23 AND 30, 1992)

DEPARTMENT OF SOCIAL SERVICES

- R-8     Budget Modification DSS #61 Requesting Authorization to Add \$5,000 of Bequeathed Funds to Aging Services Division to Increase Pass Through and Create an Emergency Assistance Fund for Low Income Seniors in Crisis
  
- R-9     Ratification of an Intergovernmental Agreement Between Multnomah County and Mt. Hood Community College, Providing Community Development Block Grant Funds for Completion of the Gresham Literacy Coalition Project to Benefit Low and Moderate Income Gresham Residents, for the Period February 1, 1992 through January 31, 1993

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-10    RESOLUTION in the Matter of the Proposed Consolidations of County and City of Gresham Road Organizations and Fleet Management [Requesting Approval of the Concept Proposal, Directing Staff to Continue Working on the Proposal and Setting a Joint Public Hearing for Tuesday, February 11, 1992 at Gresham City Hall]
  
- R-11    ORDER in the Matter of the Sale of County Real Property at East Burnside Street and 47th Avenue, Portland, Oregon to the City of Portland
  
- R-12    In the Matter of a Status Report Affecting Cancellation or Continuance of the Land Sale Contract 15428 Between Multnomah County, Oregon and Stephen M. Olson