



Oregon  
Theodore R. Kubongoski, Governor

Department of Land Conservation and Development  
635 Capitol Street, Suite 150  
Salem, OR 97301-2540  
(503) 373-0050  
Fax (503) 378-5518  
www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

2/17/2010

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Multnomah County Plan Amendment  
DLCD File Number 002-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, March 02, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

\*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Adam Barber, Multnomah County  
Jon Jinings, DLCD Community Services Specialist  
Gary Fish, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

# Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person  electronic  mailed

DATE  
STAMP

**DEPT OF**  
**FEB 10 2010**  
**LAND CONSERVATION  
AND DEVELOPMENT**

For Office Use Only

Jurisdiction: **Multnomah County**

Local file number: **T4-08-001**

Date of Adoption: **2/4/2010**

Date Mailed: **2/9/10**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 2/19/09

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

**Approval of the requested the requested 'Physically Developed' and 'Irrevocably Committed' exceptions to Statewide Planning Goals 11 and 14, and Comprehensive Plan Map amendment of the Multnomah County Sauvie Island/Multnomah Channel Rural Area Plan Map to note the approved Exceptions to Statewide Planning Goals 11 and 14 to increase the number of floating homes at Rocky Pointe Marina.**

Does the Adoption differ from proposal? Please select one YES

**The Multnomah Board of County Commissioners approved the requested 'Physically Developed' and 'Irrevocably Committed' exceptions to Statewide Planning Goals 11 and 14, and denied the Special Plan Area zone change request to expand the Rocky Pointe Marina.**

Plan Map Changed from: **N/A**

to: **to note the approved Exceptions to**

**Statewide Planning Goals 11 and 14 to increase the number of floating homes at Rocky Pointe Marina**

Zone Map Changed from: **Not applicable**

to: **Not applicable**

Location: **23586 NW St. Helens Road**

Acres Involved: **16.22 ac**

Specify Density: Previous: **40 houseboats**

New: **Possibility of 23 new houseboats**

**for a potential 63 total pending Conditional Use Permit, Willamette River Greenway and Flood Plain Development permit review.**

Applicable statewide planning goals:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
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Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No



DLCD file No. \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

**State of Oregon Department of State Lands, Department of Land Conservation and Development, U.S. Army Corp of Engineers, Oregon Department of Fish and Wildlife, State of Oregon Department of Environmental Quality, Oregon Department of Transportation, Scappoose School District, Oregon Department of Water Resources District 18, Multnomah County Sheriff's Office, Scappoose Fire District #31, METRO, Oregon Parks and Recreation, Oregon State Marine Board.**

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Local Contact: **Joanna Valencia**

Phone: **(503) 988-3043** Extension: **29637**

Address: **1600 SE 190<sup>th</sup> Ave**

Fax Number: **503-988-3389**

City: **Portland, OR**

Zip: **97202**

E-mail Address: **joanna.valencia@co.multnomah.or.us**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light green paper if available.
3. Send this Form 2 and **One (1) Complete Paper Copy and One (1) Electronic Digital CD** (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615 ).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845 ).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615 ).
10. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. 1153**

Amending the Sauvie Island/Multnomah Channel Rural Area Plan Map to Note Exceptions to State Land Use Goals

**The Multnomah County Board of Commissioners Finds:**

- a. On April 6, 2009, the Multnomah County Planning Commission conducted a public hearing as provided for in Multnomah County Code § 37.0530, with respect to requests for exceptions to Statewide Planning Goals 11 and 14 to increase the number of floating homes at Rocky Pointe Marina and for a Special Plan Area zone change to exceed the residential density limit of one floating home per fifty feet of waterfront in the Rocky Pointe Marina (File # T4-08-001). This meeting was continued and concluded on May 4, 2009.
- b. By Resolution T4-08-001 attached as **Exhibit A** and adopted on October 19, 2009, the Planning Commission recommended approval of the requested exceptions to Statewide Planning Goals 11 and 14 and denial of the Special Plan Area zone change based on the findings in the T4-08-001 Staff Report. The property is described and depicted on the Vicinity Map in the Staff Report.
- c. On January 21, 2010, the Multnomah County Board of Commissioners took testimony and on January 28, 2010, conducted a public hearing as provided for in Multnomah County Code § 37.0530, with respect to requests for exceptions to Statewide Planning goals 11 and 14 to increase the number of floating homes at Rocky Pointe Marina and for a Special Plan Area zone change to exceed the residential density limit of one floating home per fifty feet of waterfront in the Rocky Pointe Marina.
- d. On January 28, 2010, the Multnomah County Board of Commissioners adopted an Order Approving the Application for Exceptions to Statewide Planning Goals 11 and 14 and Denying the Special Plan Area Zone Change Request at Rocky Pointe Marina, attached as **Exhibit C** (File # T4-08-001).
- e. The Comprehensive Plan Map designation of the property was last amended in Ordinance 887 as part of the Sauvie Island/Multnomah Channel Rural Area Plan that was adopted in October of 1997.

**Multnomah County Ordains as follows:**

**Section 1.** Based upon the findings in the T4-08-001 Staff Report, which is incorporated herein by reference, the Multnomah County Sauvie Island/Multnomah Channel Rural Area Plan Map (Map) adopted by Ordinance 887 is amended to note the Exceptions to statewide planning goals to increase the number of floating homes at Rocky Pointe Marina as shown on the Map attached as **Exhibit B**. This approval is contingent upon Rocky Pointe Marina meeting the conditions of the approvals set out in the T4-08-001 Staff Report.

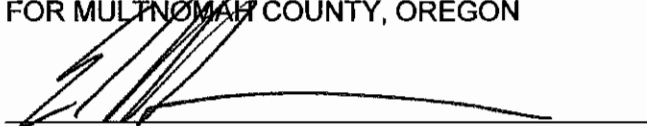


**Section 2.** This comprehensive plan amendment of the Sauvie Island/Multnomah Channel Rural Area Plan Map to note exceptions to Statewide Land Use Goals 11 and 14 is effective when the Order Approving the Application for Exceptions to Statewide Planning Goals 11 and 14 and Denying the Special Plan Area Zone Change Request at Rocky Pointe Marina, **Exhibit C**, is final, but not earlier than March 6, 2010.

FIRST READING: January 28, 2010

SECOND READING AND ADOPTION: February 4, 2010

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON



Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By Sandra Duffy  
Sandra N. Duffy, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Department of Community Services

BEFORE THE PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. T4-08-001**

Recommend to the Board of County Commissioners approval of a request for exception to Statewide Planning Goals 11 and 14 to increase the number of floating homes at the Rocky Pointe Marina,

Recommend to the Board of County Commissioners denial of a Special Plan Area zone change request to exceed the residential density limit of one floating home per fifty feet of waterfront in the Rocky Pointe Marina.

**The Planning Commission Finds:**

a. The Planning Commission is authorized by Multnomah County Code, MCC 37.0540(D) and by ORS 215.110 to recommend to the Board of County Commissioners actions that amend the Multnomah County Comprehensive Plan. The requests described below qualify as a Type IV quasi-judicial land use review, which must be heard by the County's Planning Commission who then forward a recommendation to the Board of County Commissioners (MCC 37.0530(D)).

b. The County's Multiple Use Agriculture-20 zoning district limits residential development to no more than one dwelling per parcel (Multnomah County Code, MCC 34.2820(C)).

c. This standard aligns with state wide planning Goal 14 (Urbanization) and Goal 11 (Public Facilities and Services) designed to prevent urbanization of rural lands outside of a City's Urban Growth Boundary.

d. Owners of the Rocky Pointe Marina (23586 NW Saint Helens Road) have requested exceptions to statewide planning Goals 14 and 11 to add 36 additional floating homes to the existing marina in which 40 floating homes are currently allowed. A Special Plan Area zone change has also been requested by the owners to expand the Rocky Pointe Marina beyond the one floating dwelling per fifty feet of waterfront frontage residential density limitation captured in the County's Conditional Use regulations (MCC 34.6755).

e. The Planning Commission is recommending the Board of County Commissioners approve the request for exceptions to Statewide Planning Goals 11 and 14 to increase the number of floating homes at the Rocky Pointe Marina. Justification for Goal Exception approval is outlined in the staff report labeled Exhibit A.

f. The Planning Commission recommends that the Board of County Commissioners deny the Special Plan Area Zone Change request. The Planning Commission finds the Special Plan Area regulations should not be used to consider a request to exceed the one dwelling per 50 feet of waterfront density threshold and that the applicant had not demonstrated the Special Plan Area guidelines were met.



g. Notice of the Planning Commission hearing was published in the 'Oregonian' newspaper and on the County's Land Use Program web site. The Planning Commission held a public hearing on April 6<sup>th</sup>, 2009 where all interested persons were given an opportunity to appear and be heard. This initial hearing was continued and concluded on May 4<sup>th</sup>, 2009.

Findings for the Goal Exception approval and Special Plan Area Zone Change denial are contained in the staff report labeled Exhibit A.

**The Planning Commission Resolves:**

That this resolution, supported by the findings in the staff report (attached as Exhibit A), and in association with the plans delineating the requested exception areas in Exhibit B, are hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 19 day of October, 2009.

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

  
John Ingle, Chair





## EXHIBIT C

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

### ORDER NO. 2010-015

Approving Application for Exceptions to Statewide Planning Goals and Denying Special Plan Area Zone Change Request at Rocky Point Marina, Case No. T4-08-001

#### The Multnomah County Board of Commissioners Finds:

- a. On October 19, 2009, with respect to T4-08-001, the Planning Commission recommended approval of the requested exceptions to Statewide Planning Goals 11 and 14 and denial of the Special Plan Area zone change at Rocky Pointe Marina.
- b. On January 21 and 28, 2010, the Multnomah County Board of Commissioners noticed and held public hearings regarding the T4-08-001 application and Planning Commission's recommendations.

#### The Multnomah County Board of Commissioners Orders:

1. The Board approves the T4-08-001 requested exceptions to Statewide Planning Goals 11 and 14 contingent upon Rocky Pointe Marina meeting the conditions of the approvals set out in the T4-08-001 Staff Report.
2. The T4-08-001 Special Plan Area zone change request to exceed the residential density limit in the county code of one floating home per fifty feet of waterfront property is denied.
3. The findings and conclusions contained in the T4-08-001 Staff Report are affirmed and adopted by reference.

ADOPTED this 28th day of January 2010.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Ted Wheeler, Chair

Dated: January 28, 2010

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By Sandra N. Duffy  
Sandra N. Duffy, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Department of Community Services

BEFORE THE PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. T4-08-001**

Recommend to the Board of County Commissioners approval of a request for exception to Statewide Planning Goals 11 and 14 to increase the number of floating homes at the Rocky Pointe Marina.

Recommend to the Board of County Commissioners denial of a Special Plan Area zone change request to exceed the residential density limit of one floating home per fifty feet of waterfront in the Rocky Pointe Marina.

**The Planning Commission Finds:**

a. The Planning Commission is authorized by Multnomah County Code, MCC 37.0540(D) and by ORS 215.110 to recommend to the Board of County Commissioners actions that amend the Multnomah County Comprehensive Plan. The requests described below qualify as a Type IV quasi-judicial land use review, which must be heard by the County's Planning Commission who then forward a recommendation to the Board of County Commissioners (MCC 37.0530(D)).

b. The County's Multiple Use Agriculture-20 zoning district limits residential development to no more than one dwelling per parcel (Multnomah County Code, MCC 34.2820(C)).

c. This standard aligns with state wide planning Goal 14 (Urbanization) and Goal 11 (Public Facilities and Services) designed to prevent urbanization of rural lands outside of a City's Urban Growth Boundary.

d. Owners of the Rocky Pointe Marina (23586 NW Saint Helens Road) have requested exceptions to statewide planning Goals 14 and 11 to add 36 additional floating homes to the existing marina in which 40 floating homes are currently allowed. A Special Plan Area zone change has also been requested by the owners to expand the Rocky Pointe Marina beyond the one floating dwelling per fifty feet of waterfront frontage residential density limitation captured in the County's Conditional Use regulations (MCC 34.6755).

e. The Planning Commission is recommending the Board of County Commissioners approve the request for exceptions to Statewide Planning Goals 11 and 14 to increase the number of floating homes at the Rocky Pointe Marina. Justification for Goal Exception approval is outlined in the staff report labeled Exhibit A.

f. The Planning Commission recommends that the Board of County Commissioners deny the Special Plan Area Zone Change request. The Planning Commission finds the Special Plan Area regulations should not be used to consider a request to exceed the one dwelling per 50 feet of waterfront density threshold and that the applicant had not demonstrated the Special Plan Area guidelines were met.



g. Notice of the Planning Commission hearing was published in the 'Oregonian' newspaper and on the County's Land Use Program web site. The Planning Commission held a public hearing on April 6<sup>th</sup>, 2009 where all interested persons were given an opportunity to appear and be heard. This initial hearing was continued and concluded on May 4<sup>th</sup>, 2009.

Findings for the Goal Exception approval and Special Plan Area Zone Change denial are contained in the staff report labeled Exhibit A.

**The Planning Commission Resolves:**

That this resolution, supported by the findings in the staff report (attached as Exhibit A), and in association with the plans delineating the requested exception areas in Exhibit B, are hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 19 day of October, 2009.

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

  
John Ingle, Chair



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

## Notice of Board of County Commissioners Decision

Attached please find notice of the Board of County Commissioners' decision in the matter of **T4-08-001**. Also attached is the Board Ordinance and Order. The Board signed and adopted the Ordinance on February 4, 2010, approving the amendment of the Multnomah County Sauvie Island/Multnomah Channel Rural Area Plan Map adopted by Ordinance 887 to note the Exceptions to the statewide planning goals 11 and 14 to increase the number of floating homes at Rocky Pointe Marina. Exhibits and the project file are available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. For further information on this case, contact Joanna Valencia, Staff Planner at 503-988-3043, ext. 29637 or via email at [joanna.valencia@co.multnomah.or.us](mailto:joanna.valencia@co.multnomah.or.us).

This notice is being mailed to those persons entitled to receive notice under MCC 37.0660(D).

The Board of County Commissioners' Decision is the County's final decision and may be appealed to the State of Oregon Land Use Board of Appeals (LUBA) within 21 days of the date the decision is signed by the Chair by any person or organization that appeared and testified at the hearing, or by those who submitted written testimony into the record. **Appeal instructions and forms are available from the Land Use Board of Appeals at 550 Capitol Street NE, Suite 235, Salem, OR 97301; 503-373-1265 (<http://luba.state.or.us/>).**

For further information call the Multnomah County Land Use Planning Division at 503-988-3043.

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# NOTICE OF DECISION

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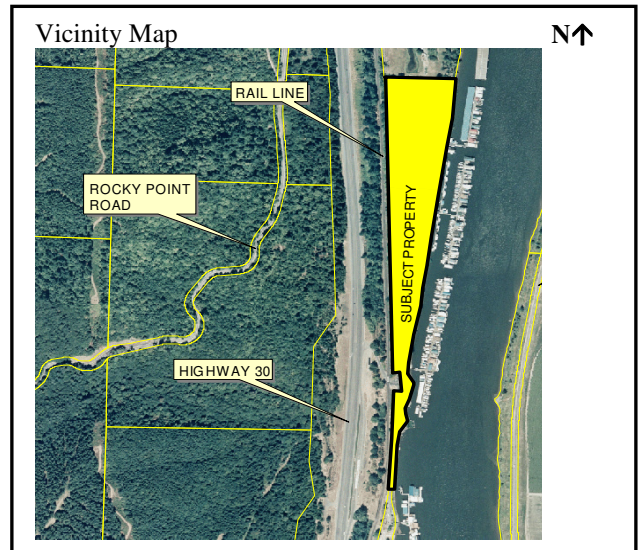
This notice concerns a Board of County Commissioners on the land use case(s) cited and described below.

**Case File:** T4-08-001

**Applicant:** Peter Finley Fry, AICP, Ph.D.  
2153 SW Main #105  
Portland, OR 97205

**Owner:** (Upland Area)  
Stanley & Jeniece Tonneson  
23586 NW St. Helens SP U7  
Portland, OR 97231

(In-Water Area)  
State of Oregon



**Location:** Rocky Pointe Marina is a 16.22-acre parcel at 23586 NW St. Helens Road adjacent to the Multnomah Channel, 1.2-miles south of the Multnomah County/Columbia County line. The property is accessed on the west side by Lower Rocky Point Road which terminates at Highway 30.

The 16.22-acre parcel includes the following two tax lots:  
Township 3 North, Range 2 West, Section 36A – Tax Lot 400 (Account # R982360300)  
Township 3 North, Range 2 West, Section 36D – Tax Lot 100 (Account# R982360080)

**Base Zone:** Multiple Use Agriculture-20

**Overlays:** 100-year floodplain, the Willamette River Greenway and wetlands designated on the National Wetlands Inventory

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**Decision:** Board approval of the requested exceptions to Statewide Planning Goals 11 and 14, and denial of the Special Plan Area zone change request to expand the Rocky Pointe Marina. This approval also amends the Multnomah County Sauvie Island/Multnomah Channel Rural Area Plan Map adopted by Ordinance 887 to note the Exceptions to the statewide planning goals 11 and 14.

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**Opportunity to Review the Record:** A copy of the Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. For further information on this case, contact Joanna Valencia, Staff Planner at 503-988-3043, ext. 29637 or via email at [joanna.valencia@co.multnomah.or.us](mailto:joanna.valencia@co.multnomah.or.us).

**Opportunity to Appeal:** The Board of County Commissioners' Decision is the County's final decision and may be appealed to the State of Oregon Land Use Board of Appeals (LUBA) within 21 days of the date the decision is signed by the Chair by any person or organization that appeared and testified at the hearing, or by those who submitted written testimony into the record. **Appeal instructions and forms are available from the Land Use Board of Appeals at 550 Capitol Street NE, Suite 235, Salem, OR 97301; 503-373-1265 (<http://luba.state.or.us/>).** This decision cannot be appealed to the Land Use Board of Appeals until all local appeals are exhausted. This decision is final at the close of the appeal period, unless appealed.

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

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



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

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## Staff Report

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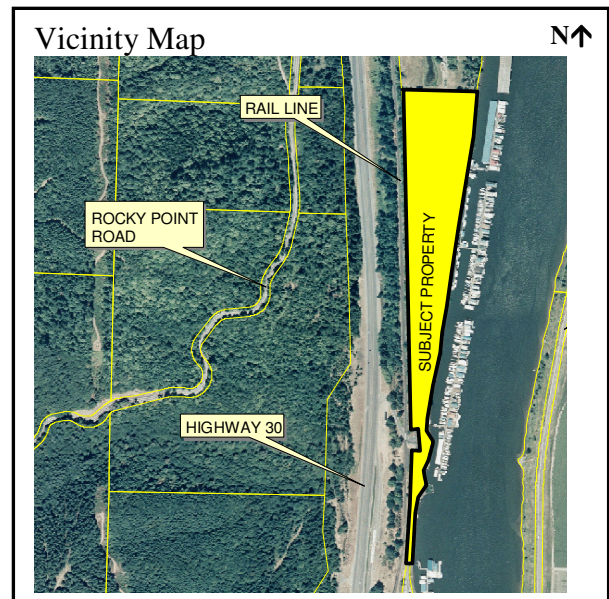
**Application for exceptions to statewide planning Goals 14 (Urbanization) and 11 (Public Facilities and Services) to expand the Rocky Pointe Marina and to establish a Special Plan Area zoning district.**

**Case File:** T4-08-001

Scheduled for Public Hearing in front of the  
Multnomah County Planning Commission

Planning Commission Hearing Date, Time, & Place:

**Monday, April 6<sup>th</sup>, 2009 at 6:30 PM** or soon  
thereafter, at the Multnomah County Building,  
Room 100 (501 SE Hawthorne Blvd., Portland, OR)



**Location:** Rocky Pointe Marina is a 16.22-acre parcel at 23586 NW St. Helens Road adjacent to the Multnomah Channel, 1.2-miles south of the Multnomah County/Columbia County line. The property is accessed on the west side by Lower Rocky Point Road which terminates at Highway 30.

The 16.22-acre parcel includes the following two tax lots:

Township 3 North, Range 2 West, Section 36A – Tax Lot 400 (Account # R982360300)  
Township 3 North, Range 2 West. Section 36D – Tax Lot 100 (Account# R982360080)

**Applicant:** Peter Finley Fry, AICP, Ph.D.  
2153 SW Main #105  
Portland, OR 97205

**Owners: (Upland Area)**  
Stanley & Jeniece Tonneson  
23586 NW St. Helens SP U7  
Portland, OR 97231

**(In-Water Area)**  
State of Oregon

**Summary:** The request is for ‘Physically Developed’ and ‘Committed’ exceptions to Statewide Planning Goals 14 (Urbanization) and 11 (Public Facilities and Services) and for the establishment of a Special Plan Area subdistrict to allow an alternative to the one houseboat per 50-foot of waterfront frontage carrying capacity limitation of the county’s Conditional Use provisions.

This exception envisions the following major alterations to the existing operation: 36 new floating homes, relocation of 30 existing boat slips within the operation, removal of 16 existing boat slips, dry dock repair improvements, 65 new auto parking spaces, expansion of the existing boatyard and construction of approximately 520 linear feet of new dock on the upstream (south) side of the marina. After the proposed improvements are completed, the marina will serve 76 floating dwellings, 150 boat slips, seven (7) boat houses and 231 auto parking spaces.

The site specific development must also be reviewed and approved through pending county land use reviews in the event the goal exception request is approved. These reviews include Conditional Use/Community Service Use, Design Review, Willamette River Greenway, Flood Hazard and Grading and Erosion Control Permits.

The public hearing on this exception request will be considered by the Multnomah County Planning Commission who will either forward a recommendation of approval to the Board of County Commissioners or will deny the request. Staff will present the Planning Commission’s recommendation of approval to the Board of Commissioners at a separate public hearing in the event the Planning Commission recommends approval. If approved, the Board’s decision must then be affirmed by the State of Oregon Department of Land Conservation and Development.

**Formatting Note:** *The double underlined and strikethrough language in yellow within the Staff report below has been amended after the final May 4<sup>th</sup> Planning Commission hearing. These changes were primarily in response to requests for clarification by the Planning Commission. A few additional changes were made to correct inaccurate references.*

**Zoning & Applicable Approval Criteria:** **Base Zone:** Multiple Use Agriculture-20 (MUA-20)  
**Zoning Overlays:** Willamette River Greenway, Flood Hazard & National Wetlands Inventory Wetlands

**Applicable Standards, Policies and Goals:**

- Multnomah County Code (MCC) 37.0705 (Type IV Quasi-Judicial Plan and



Zone Change Approval Criteria))

- Oregon Revised Statutes 197.732 – Goal Exceptions; Criteria; Rules; Review
  - Oregon Administrative Rule 660-014-0030 (Rural Lands Irrevocably Committed to Urban Levels of Development); OAR 660-004-0025 (Exception Requirements for Land Physically Developed to Other Uses) & OAR 660-004-0028 (Exception Requirements for Land Irrevocably Committed to Other Uses)
  - Oregon Statewide Planning Goal 14 (Urbanization) & Goal 11 (Public Facilities and Services
  - Multnomah County’s Comprehensive Framework Plan Policy 6 (Urban Land Area), & Policy 10 (Multiple Use Agriculture Land Area)
  - Multnomah County’s Sauvie Island/Multnomah Channel Rural Area Plan Policies 13 (SPA Procedures), 14 (SPA Density) & 15 (SPA Development Criteria)
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## **Recommended Planning Commission Decision:**

Staff recommends the Planning Commission forward a recommendation of **approval** to the Board of County Commissioners for the Exception request to Statewide Planning Goal 14 and Goal 11, for all proposed areas other than the westerly boatyard expansion and areas of existing commercial development not required to support the residential uses. Expansion of the boatyard does not require an exception because the use is not residential (Goal 14) nor is it dependant upon sewer service (Goal 11). The scope of the commercial activities does not exceed that allowed in the Oregon Administrative Rule and therefore a goal exception is not necessary to continue with these uses.

Staff recommends the Planning Commission **deny** the request to establish a Special Plan Area because, as outlined in this report, the applicant has failed to establish that the project conforms to the approval criteria outlined in Policy 15 of the County's Sauvie Island/Multnomah Channel Rural Area Plan, nor have they shown that there is a public need, which is required in order for a zone change to be approved (MCC 37.0705(B)(2)). If the Planning Commission accepts the staff recommendation, the applicant would potentially be able to expand the houseboat moorage at a density of not more than 1 unit for every 50 feet of frontage provided they obtain the required land use permits. This would allow up to 23 new floating homes.

## **Recommended Conditions of Approval to Forward to the Board of County Commissioners**

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

1. The property owner(s) must receive county land use permit approval prior to construction of the proposed development (Multnomah County Code, MCC 34.2815). Permits applicable to this proposal include, but are not limited to, Community Service Conditional Use Permit, Willamette River Greenway Permit, Design Review Permit, Flood Hazard Permit and a Grading and Erosion Control Permit.
2. The Irrevocably Committed exception areas to Goal 11 in Exhibit 1 and to Goal 14 in Exhibit 2 shall be amended to exclude the proposed boat yard expansion area west of the existing boat yard (Oregon Administrative Rule, OAR 660-004-0028(2)(a),(b)) & OAR 660-014-0030(4)). The Physically Developed exception to Goal 11 and Goal 14 areas in Exhibit 3 shall be amended to exclude all areas of commercial development not required to support the residential uses such as the boatyard, boatyard office, boat haul out pier, boat wash down pad and building, boatyard restroom, fuel dock, marine sewer pump out station, and four public restroom/laundry facilities (OAR 660-004-0025(1) & OAR 660-014-0030(4)).
3. ~~A minimum setback of 50 feet shall be maintained between the southernmost extent of the in-water development (including moored structures and boats at the Rocky Pointe Marina) and the northernmost extent of Happy Rock Moorage to the south (MCC 37.0705(A)(3)(b)).~~
4. 3. A traffic impact study shall be conducted by a traffic engineer retained by the property owner(s) to determine if any traffic mitigation is required, including re-constructing the railroad crossing (Exhibit 33). This study shall be provided to the county prior to re-initiation of the associated Type III land use review currently pending (MCC 37.0705(A)(3)(c)).



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## **Findings of Fact**

(Formatting Note: Staff provides findings referenced herein as necessary to address applicable county and state requirements. Headings for each finding are numbered. County and state requirements are referenced using a **bold** font. Planning staff comments and analysis may follow applicant comments. Where this occurs, the notation “**Staff**” precedes staff comments and the notation “*Applicant*” precedes the applicant’s comments).

### **1.0 PROPOSAL SUMMARY**

*Applicant: The existing Rocky Pointe Marina site was founded in the late 1920’s/early 1930’s.<sup>1</sup> The original floating home and office/fuel building are still in the same use today. Rocky Pointe has been a moorage, boat repair and fueling station since that time. Rocky Pointe is now one of Oregon’s largest marinas and floating home communities, providing over 200 temporary and permanent spaces with existing amenities that include showers, washers/dryers, portable pump-outs and public on the water sewage disposal. The marina has an existing boat yard that provides full service professional repairs, refits, and upgrades in fiberglass, wood, and metal. The marina also includes a Marina Store, public fueling station, and on-shore parking. In 2006, Rocky Pointe Marina became the first certified “Clean Marina” by the Oregon State Marine Board (Exhibit 1).*

*The application seeks approval of a “physically developed” and “irrevocably committed” exception to Goals 11 and 14, in order to allow for additional development within the existing facility and for the expansion of the marina to the south. The project proposed to install a new 520 foot +/- dock on the upstream side of the existing marina between the existing marina and the adjacent marina upstream and expansion of the boat yard. The overall concept is to locate boat slips on the bank side and house boats on the stream side (see map). This accomplishes several goals; reduces the impact of shade on the areas close to shore; protects the boats from wake; protects the boats from vandalism; gives the house boats access to sun and views; and presents to the public a neighborhood. Improvements within the “physically developed” exception area will consist of (northern/downstream):*

- *21 new houseboats to replace boat slips for a total of 61 houseboats*
- *Marina is allowed up to 150 boat slips, with 30 to be relocated to the new dock*
- *Floating home repair building (dry dock)*
- *Add ~~73~~ (the applicant has since reduced to 65) new parking spaces to the already existing 166 parking spaces*

*Improvements within the “irrevocably committed” exception area consist of (northern/downstream):*

- *Expansion of an acre boat yard up to two and a half acres.*

*Improvements within the “irrevocably committed” exception area consist of (southern/upstream):*

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<sup>1</sup> Applicant’s Source: Aerial photographs from the Oregon Map Library.

- *Extending dock to accommodate additional houseboats and boats*
- *15 new houseboats*
- *Relocate 30 existing boat slips to the bank side to a new dock*

*As stated, improvements include extending the existing up stream dock an additional 520 feet +/- to accommodate 15 floating homes on the outside of the existing dock with 10 new boat slips on the bank side of the dock along with the displaced outside boat slips of 20 from the existing dock to 30 slips on the bank side. The addition of 520 additional feet of dock using modern materials and techniques will not adversely impact the environment, and will provide safer conditions for users and a more functional facility.*

*The new marina area will consist of floating docks extended from a new/safer five foot ramp replacing the existing four foot main ramp and utility services. The existing four foot ramp will be used as a single emergency only gangway for emergency access to shore, and 40 steel pilings up to 20 inches in diameter will be placed to secure the dock extension. The existing upriver docks and new dock will be increased from 5 feet to 8 feet wide (6 feet of wood decking and 2 feet of grating for utility access) to provide greater safety.*

*The results will be 76 houseboats (40 existing and 36 new), 150 boat slips (134 front in slips and 16 side slips); 7 boat houses, and ~~239~~ 231<sup>2</sup> parking spaces (166 existing and ~~73~~ 65 new). The proposed work includes restoration and native re-vegetation designed to improve the existing natural resources. A maintenance plan will provide methods and guideline to protect the resource and landscaped areas. An interpretive trail is proposed for construction along the bank and lake...*

**(Staff:** An inaccurate reference to a 1993 goal exception approved on this site was removed. Staff found no evidence of a Goal Exception approved on this site in 1993).

*...Rocky Pointe was originally approved by Multnomah County in 1993 as a conditional use. The marina was approved for 40 houseboats, 150 boat slips, seven boathouse spaces, and 166 parking spaces.*

*In 1997, Multnomah County adopted a streamlined land use review known as Policy 10 that legalized existing moorages. Rocky Pointe was inventoried, but not forced to participate, as it was a legally established moorage under a 1993 conditional use approval. Since 1993, improvements have been made to the moorage including state mandated improvements and safety and environmental quality systems.*

*Statewide Planning Goal 11: Goal 11 and related rule limits urban levels of services outside urban growth boundaries and unincorporated communities. An urban level of service includes the extension or establishment of a sewer system outside an urban growth boundary or unincorporated community boundary. A “sewer system” is defined as a system that serves more than one lot or parcel (OAR 660-011-0060(1)(f)). A “Physically Developed” and “Irrevocably Committed” exception to Goal 11, as outlined OAR 660-004-0025 and OAR 660-004-0028, is being proposed for the marina.*

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<sup>2</sup> The applicant amended the proposal to involve the double underlined numbers after the narrative was prepared. Because the applicant did not update the narrative to reflect this change, staff has noted the change.



*Statewide Planning Goal 14: Although the channel itself was not included in this original exception to Goal 4, the moorages and the facilities supporting the houseboats (located on both sides of the channel) were part of this exception. The Multnomah County code considers houseboats and floating homes as single family dwellings. State rules specifies that the county shall not allow more than one dwelling to be placed on a lot or parcel in the MUA-20 zone (OAR 660-004-0040(7)(f)).*

*A “Physically Developed” exception to Goal 14 is being taken for the existing developed areas of the marina, and an “Irrevocably Committed” exception to Goal 14 is being taken for the undeveloped portion of the marina proposed for expansion (See Exhibit One showing boundaries of exceptions). The criteria for these exceptions are outlined in OAR 660-014-0030.*

**Staff:** A marina was first constructed on this site prior to the establishment of zoning regulations in the mid 1950’s, was expanded in the 1960’s and again in the 1990’s. The scope of the operation was most recently reviewed by Multnomah County in 1993 and permitted through a public Community Service/Conditional Use review process (Permits CS 1-93, HV 1-93, WRG 1-93 and CU 7-93). The 1993 permit authorized up to 40 houseboats (i.e. floating dwellings), 150 boat slips, seven (7) boathouse spaces and 166 automobile parking spaces.

The applicant is requesting a ‘Physically Developed’ and ‘Committed’ exception to both statewide planning Goals 14 (Urbanization) and 11 (Public Facilities and Services) in order to expand the moorage to the south and allow additional residential infill within the existing operation. All 40 existing floating homes are located within the area delineated by the applicant as part of the Physically Developed exception request (Exhibit 3). An exception to Goal 14 is necessary to expand the moorage because the proposal involves establishing more than one single family dwelling on a parcel. Goal 14, and its implementing Oregon Administrative Rules (OARs), limit rural development outside of an Urban Growth Boundary to one dwelling per parcel.

*“Goal 14, Single-Family Dwellings in Exception Areas. Notwithstanding the other provisions of this goal, the commission may by rule provide that this goal does not prohibit the development and use of one single-family dwelling on a lot or parcel that: (a) Was lawfully created; (b) Lies outside an acknowledged urban growth boundary or unincorporated community boundary; (c) Is within an area for which an exception to Statewide Planning Goal 3 or 4 has been acknowledged; and (d) Is planned and zoned primarily for residential use.”*

*“OAR 660-004-0040(7)(f) - Except as provided in subsection (e) of this section, a local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in a rural residential area. Where a medical hardship creates a need for a second household to reside temporarily on a lot or parcel where one dwelling already exists, a local government may authorize the temporary placement of a manufactured dwelling or recreational vehicle.”*

OAR 660-004-0040 became effective on October 4, 2000, and included this provision limiting one dwelling to a lot or parcel under 660-004-00040(7)(f). Staff was informed by Department of Land Conservation and Development staff on August 29<sup>th</sup>, 2006 that the Goal 14 residential development limitation applies to moorage development and that the channel itself is considered a separate parcel (Exhibit 49). This interpretation prohibits the expansion of houseboat moorages without an exception to Goal 14. An exception to Goal 11 is also necessary because the expansion requires sewer service to cross from one parcel (upland parcel)

into another (channel parcel) which is prohibited by Goal 11 on lands outside an Urban Growth Boundary.

The proposal involves 520-feet of new dock, establishment of an emergency gangway ramp, 36 new floating homes (76 homes resulting) and 65 new auto parking spaces (231 parking spaces resulting). Dry dock repair improvements and expansion of the existing boatyard is also proposed along with establishing a 25-foot by 40-foot floating community meeting room within the in water expansion area. Thirty (30) boat slips will be relocated within the marina. Sixteen (16) boat slips will be removed.

The applicant is requesting the Planning Commission confirm the proposed residential density is appropriate through the Special Plan Area (SPA) master planning provisions as an alternative to the Conditional Use limitation of one houseboat per 50 feet of waterfront frontage (MCC 34.6755). The proposal exceeds this 1:50 residential cap by 13 dwellings when measuring the parcel's waterfront frontage. The result of proposal would equal 1 dwelling per 41.4 feet of frontage, 1:41).

Site specific development will be reviewed by the county through separate applications for Conditional Use/Community Service Use, Design Review, Willamette River Greenway, Flood Hazard and Grading and Erosion Control Permits. The applicant has submitted applications for these permits, and they are on hold pending a decision on the goal exception and SPA request.

## 2.0 PROPERTY DESCRIPTION



**Staff:** Rocky Pointe Marina is a 16.22-acre parcel at 23586 NW St. Helens Road between Happy Rock Moorage to the south and McCuddy's Big Oak Marina to the north. The property is at river mile 14 of Multnomah Channel which is a side channel of the Willamette River created as the Willamette splits around Sauvie Island. The property is located 1.2-miles south of the Multnomah County/Columbia County border in the Sauvie Island/Multnomah Channel Rural Plan Area (Exhibits 5, 6, 7, 8, 9 & 10). Land to the west across Highway 30 begins to rise in elevation forming the Tualatin Mountains which are more commonly referred to as the West Hills. Properties west of the site tend to be larger, forested, steep and zoned for Commercial Forest Use. The terrain is nearly level where large tracts of farmland are found across the channel to the east on Sauvie Island.

The subject property is accessed on the west side by Lower Rocky Point Road which terminates

at Highway 30. The Wildwood Golf course is located roughly ½ mile to the southwest. A heavy rail line managed by the Oregon Department of Transportation borders the western side of the site with the channel flowing at an angle along the east side of property, forming a wedge shaped parcel. The property is zoned Multiple Use Agriculture-20 with zoning overlays for the 100-year floodplain, the Willamette River Greenway and for wetlands designated on the National Wetlands Inventory.

The northern end of the property is approximately 500 feet wide and the southern end forms the narrowest point of the property, roughly 16 feet wide (Exhibit 9). A paved, 12-foot wide private access, referred to as Old Lower Rocky Point Road extends from Lower Rocky Point Road, south to Happy Rock Moorage from Highway 30.

Approximately 95% of the nearly level property is within the mapped 100-year floodplain according to Federal Emergency Management Agency Flood Insurance Rate Maps. A wetland area covers approximately 25% - 30% of the property, located along the western and northern half of the property according to National Wetland Inventory maps<sup>3</sup>. Site vegetation primarily consists of cottonwoods along the riverbank, forested land west of the wetland complex, areas of wetland vegetation adjacent to the wetland and residential grasses.

Upland site improvements include an internal driveway system, auto and trailer parking/storage, boat repair yard, boat yard restroom, water well and well house, fuel/propane tanks, sewer treatment system, sewer evaporation pond, boat ramp, recycling/garbage stations, fencing, and miscellaneous incidental marina operational buildings for storage and office work. Current in-water improvements including three gangway ramps, three main docks with one smaller transient dock paralleling the bank, pilings, slips for floating homes, floating garages and boats. The docks extend across roughly 2,450-feet of the site's ~3,150-feet of channel frontage (Exhibit 4, 11, 12, 13 & 77).

### 3.0 INITIATION OF ACTION (MCC 37.0550)

**Except as provided in MCC 37.0760, 33.7785, 34.7785, 35.7785, and 36.7785, Type I - IV applications may only be initiated by written consent of the owner of record or contract purchaser, or by a government agency that has the power of eminent domain. PC (legislative) actions may only be initiated by the Board, Planning Commission, or Planning Director.**

**Staff:** Stanley H. Tonneson and Jeniece J. Tonneson are listed as the property owners in county tax assessment records. Both have provided written authorization on the General Application Form for Peter Fry to act as their representative for this project and for Multnomah County to process this request (Exhibit 51). Mr. and Mrs. Tonneson lease the in-water development area from the Division of State Lands (DSL). This includes the proposed expansion area south of the existing moorage. On December 16, 2005, Tami Hubert with DSL stated that they do not object to the proposal (Exhibit 45). A Removal/Fill Permit was issued by DSL February 18<sup>th</sup>, 2009 to place up to 43 pilings and remove 6 pilings, within the proposed expansion area (Exhibit 42). Staff finds the necessary authorization has been provided to initiate this Type IV action.

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<sup>3</sup> On-site wetlands are mapped on the National Wetland Inventory as PEMC (Palustrine Emergent Seasonally Flooded) and PSSC (Palustrine Scrub Shrub Seasonally Flooded).

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

(1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or (2) It is necessary to protect public safety; or (3) It is for work related to and within a valid easement over, on or under an affected property.

**Staff:** An anonymous complaint filed in 2005 alleged boats were being used for living quarters (exceeding the 40 floating homes permitted by the county), that portions of the access road and parking lot were paved without permits, the boat yard was expanded and several large buildings were erected without permits (complaint #UR-05-008). County code compliance staff confirmed the following compliance issues on the property after investigating the complaint:

### ***SPECIFIC VIOLATIONS***

#### ***Policy 10 Process***

**A.** *A Willamette River Greenway Permit was not obtained to reconcile the Policy 10 Process for Rocky Pointe Marina.*

#### ***Boatyard Repair area improvements outside of Conditional Use Permit 7-93 (CU 7-93) Authorization***

- B.** *The expansion of the boatyard repair area: CU 7-93 Condition of Approval # 5 approved boatyard repair area of 10,000 square feet. There is currently +/- 40,000 square feet utilized for the boatyard repair area. The November 2005 site inspection verified the extended area used for boatyard repair. Measurements taken from 2004 aerial photographs of the marina property indicate the boatyard repair area now covers approximately 40,000 square feet.*
- C.** *The construction of the cement block explosion resistant building, the placement of a small shed near the north marina northern most property line, the placement of a manufactured home structure and the placement of cloth covered metal frame hangar/boat repair structures in the boat repair yard area, and large rectangular metal storage containers located on the marina properties - none of these structures are included in CU 7-93 Condition of Approval #5.*

#### ***Re-configured Marina outside of CU 7-93 Authorization***

**D.** *The construction of additional bathroom/shower facilities on the marina floats occurred*

*without prior land use review and approval. These additional structures were not approved through CU 7-93.*

- E.** *The addition of the fuel dock, pilings, and sewage pump-out station to the middle marina occurred without prior land use review and approval. These improvements were not approved through CU 7-93.*
- F.** *The addition of a restroom for the office building of the marina occurred without prior land use review and approval. This improvement was not approved through CU 7-93.*

***Flood Hazard Regulation Violation (MCC 29.600-29.611)***

- G.** *The construction and/or placement of structures in the regulatory floodplain occurred without prior land use review and approval. This is a violation of MCC 29.603(A) – Permits.*

***Grading and Erosion Control Violation (MCC 29.333(C))***

- H.** *The paving of the marina properties from the Rocky Pointe Road entrance north through the boatyard repair area occurred without prior land use review and approval. This is a violation of MCC 29.333(C).*

***Increased Number of dwellings above the 40 approved in CU 7-93***

- I.** *Barge houses moored at the marina are included in the number of houseboats approved for the marina in the 1993 permits (40). Mr. Richard Tonneson advised the Code Compliance Specialist during the November site inspection there are several barge houses at the marina used as dwellings. Any barge houses at the marina in addition to the 40 houseboats approved exceeds the permit authorization and is a violation of the 1993 permits issued for the marina reconfiguration (Condition of Approval #1 and #5 of CU 7-93.)*

***Increased number of boat slips above the 150 approved in CU 7-93***

- J.** *The number of boat slips (+/-165) at the marina is in excess of the 150 approved in the 1993 marina reconfiguration land use permits. This is a violation of the Condition of Approval #1 and #5 of CU 7-93.*

The land owner has signed a Voluntary Compliance Agreement committing him to resolving these compliance issues. This includes obtaining appropriate land use and building permits for non-compliant development. The owner is also proposing to eliminate all live aboard boats at the operation. Unpermitted work will be reviewed through the following pending permits: Conditional Use/Community Service Use, Willamette River Greenway, Design Review, Variance, Grading and Erosion Control and Flood Development Permit. All necessary permits have been applied for. Therefore, this exception request is a sequencing of permits towards compliance as allowed under MCC 37.0560(A)(1).

**5.0 LOT OF RECORD (MCC 36.0005(L)(12))**

**Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 34.7785. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.**

(\* \* \*)

**Staff:** The applicant applied for county approval in 2008 to consolidate six parcels into one Lot of Record. This request was approved on August 25<sup>th</sup>, 2008 with permit T1-08-031. A deed consolidating the parcels was recorded with Multnomah County Records October 3<sup>rd</sup>, 2008 which finalized the action (deed instrument number 2008-139724). Staff finds the subject property is a Lot of Record. Although the state owned channel is considered a separate parcel by DLCDD for purposes of Goal 14 density calculations, it is not a discrete parcel subject to the county Lot of Record provisions above.

**6.0 ADMINISTRATIVE PROCESS – TYPE IV QUASI-JUDICIAL ACTION (MCC 37.0705)**

**6.1 MCC 37.0705(A) Quasi-judicial Plan review Revision. The burden of proof is upon the person initiating a quasi-judicial plan revision. That burden shall be to persuade that the following standards are met:**

**6.1.1 MCC 37.0705(A)(1) The plan revision is consistent with the standards of ORS 197.732 if a goal exception is required, including any OAR’s adopted pursuant to these statutes;**

~~ORS 197.732 Goal exceptions; criteria; rules; review.~~

~~(1) — As used in this section:~~

~~(a) — “Compatible” is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.~~

~~(b) — “Exception” means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:~~

~~(A) — Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;~~

~~(B) — Does not comply with some or all goal requirements applicable to the subject properties or situations; and~~

~~(C) — Complies with standards under subsection (2) of this section.~~

*Applicant: The applicant has applied for two state wide land use planning goal exceptions through Multnomah County.*

**Staff:** The applicant is requesting exceptions to Goals 11 and 14. The exceptions will allow urban levels of residential development outside an Urban Growth Boundary, contrary to Comprehensive Framework Plan Policy 6 for Urban Land Area, and Policy 10 which calls for rural scale development on Multiple Use Agriculture designated lands. Exceptions are limited



to the subject property.

Oregon Revised Statutes (ORS) 197.732 outlines the options for an exception to any statewide planning goal. The three options are commonly referred to as a “physically developed”, “irrevocably committed” and, a “Reasons” exception. The applicant is requesting a physically developed and irrevocably committed exception to both goals pursuant to the procedures of ORS 197.732(1)(a) and (b). The Reasons criteria of ORS 197.732(1)(c) are not applicable to this request. The implementing Oregon Administrative Rules (OARs) provide specific approval criteria which are addressed below.

### **Goal 11 Exception Requirements for Land Physically Developed to Other Uses (OAR 660-004-0025)**

**6.1.2 ORS 197.732(1) A local government may adopt an exception to a goal if:**

**6.1.2.1 ORS 197.732(1)(a) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;**

**Staff:** This standard, amongst other applicable criteria, is reflected verbatim within the administrative rule OAR 660-004-0025 applying to all physically developed exception requests to Goal 11. This physically developed analysis is provided below.

**6.1.2.1.1 OAR 660-004-0025(1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.**

*Applicant: Rocky Pointe Marina has its own on site waste disposal facility that is permitted with the Oregon Department of Environmental Quality (DEQ) for both a level 1 treatment and level 1 collection for domestic waste water utilizing an activated sludge process. As required under permit in accordance with OAR, Chapter 340, Division 49, a certified supervisor manages the systems and reports to DEQ monthly. This disposal system services the floating homeowners, public restrooms, and public boat dump stations, which are all non-terrestrial. The boat repair facility is the only upland facility hooked up to the sewer. The existing DEQ permit allows for up to 6,500 gallons of effluent per day. Current levels are about 5000 gallons per day. Application is being filed with DEQ to increase volume to meet needs of additional homes proposed.*

**Staff:** The 16.22 acre property is long, wedge shaped and quite narrow towards the southern end. The north end is roughly 500-feet wide tapering down to about 16 feet at the south end. The applicant’s site plan in Exhibit 3 outlines the areas proposed for the Physically Developed Goal 11 exception. It includes all existing houseboats on the channel that are connected to a sewer and water system and upland areas that have been improved with sewer and water related infrastructure. The undeveloped portions of the property, such as the ~5-acre wetland located on the west side of the property and nearby wooded areas, are not included in the Goal 11 physically developed area. In addition, the proposed expansion area is not included in the Goal 11 physically developed exception area. Although a paved access road to Happy Rock Moorage runs along the upland portion of the expansion area, sewer and water lines do not.

The applicant has prepared detailed site plans labeling the types of existing sewer and water related development on the property (Exhibits 4, 16 & 77), including: restrooms, sewer receiving vaults, marine sewer pump, sewer lines, sewage lagoon, the 10,000 gallons per day (gpd) sewer plant, sedimentation vaults, evaporation pond, water well house, water storage and treatment area, fire department connections (FDC), primary electrical transformers and water lines. These improvements are of an urban scale and run the length of the requested upland and in-water exception area and serve residential densities comparable to an urban residential subdivision. The applicant included two small open areas on either side of Lower Rocky Point Road within the Goal 11 Physically Developed exception request tenants of the marina use for recreational purposes including dog running, horseshoes, volleyball and picnics.

In order to approve an exception, the County must determine that the land that is developed with these improvements is unavailable to all other uses that could potentially be approved in the MUA-20 zone (i.e. uses allowed by the applicable goal). In general, the types of uses that could potentially be allowed by the zone include farm uses, forest practices, conservation areas, a single family dwelling, large fills, and structures/buildings used to either support certain businesses and community service uses. These uses cannot be established where sewer and water infrastructure is in place within the areas delineated for the Goal 11 physically developed exception without displacing or interrupting those services. Therefore, a physically developed exception is justified in these areas.

Houseboat and houseboat moorages are a potentially permitted use within the MUA-20 district; however, to put that use in place today would require the establishment or extension of a sewer service, necessitating an exception to Goal 11. Therefore, it is inappropriate for the County to consider houseboats as a potentially allowed use for the purpose of this analysis.

**6.1.2.1.2 OAR 660-004-0025(2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.**

*Applicant: The sewer system on the uplands at Rocky Pointe Marina consists of 3 large underground collecting vaults (approximately 500 gallons each). One each located near each of the 3 ramps. These vaults are connected by underground pipes to the final two underground vaults prior to entering the sewage plant. The plant itself consists of tanks with a capacity of 10,000 gallons. When complete, the liquid is discharged into an evaporation pond approximately 100 feet in diameter. The plant and pond are enclosed by a 6 foot cyclone fence. The fence area is buffered by landscaping – over 100 laurel shrubs.*

**Staff:** Goal 11 does not allow sewer systems to be established or extended outside an Urban Growth Boundary. This prevents premature urbanization of rural lands. The applicant's narrative and the prior finding describe the extent and location of the physical development associated with the sewer and water conveyance, collection and treatment. The exception is limited to these areas, which have been mapped by the applicant. The prior finding lists the

types of uses that can be potentially allowed in the MUA-20 district consistent with Goal 11. None of them have been used to justify the exception. When determining whether or not the land is physically developed, Staff considered the development patterns on this site using the submitted application materials, site photos in the code compliance record, aerial photos, site plans and a site visit.

**Exception Requirements for Land Irrevocably Committed to Other Uses Relating to the Goal 11 Exception Request (OAR 660-004-0028)**

**6.1.2.2 ORS 197.732(1)(b) The land subject to the exception is irrevocably committed as described by Land Conservation and Development Commission rule to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable;**

(\* \* \*)

**Staff:** Whether or not land subject to the exception is irrevocably committed to uses not allowed by the applicable goal is determined through review of each of the Goal 11 irrevocably committed standards in OAR 660-004-0028 and OAR 660-014-0030. The necessary irrevocably committed findings required by sub (b) are provided below.

**or....(ORS 197.732(1))...**

**(c) The following standards are met:**

**(A) Reasons justify why the state policy embodied in the applicable goals should not apply;**

**(B) Areas that do not require a new exception cannot reasonably accommodate the use;**

**(C) 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 areas requiring a goal exception other than the proposed site; and**

**(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.**

**Staff:** The standards of sub (c) above apply only to a “reasons” goal exception request which has not been requested. These standards are not applicable.

**6.1.2.2.1 OAR 660-004-0028(1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable.**

**(a) “committed exception” is taken in accordance with ORS 197.732(1) (b), Goal 2 Part II (b), and with the provisions of this rule;**

**(b) For the purposes of this rule, an “exception area” is that area of land for which a “committed exception is taken;**

**(c) An “applicable goal,” as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.**

*Applicant: (a) The applicant has applied for a committed exception, (b) The applicant has applied for a committed exception for the developed areas, (c) The applicant has presented factual findings to each relevant goal to establish compatibility or no adverse impact related to the goal’s purpose.*

**Staff:** The applicant has applied for an irrevocably committed exception to Goal 11 for two portions of the property. The first is an area west of the boat yard at the north end of the property and the second is the proposed in-water expansion area at the south end of the property (Exhibit 1). The findings below address the applicable statutes and establish that the areas identified by the applicant qualify for a committed exception.

The applicant is requesting the exception to Goal 11 to allow the extension of public facilities outside of the urban growth boundary (UGB). Goal 11, “Planning” Section (A)(2) confirms public facilities and services (such as sewer and water) should be provided at levels appropriate for rural use only and should not support urban uses. More central to this request, OAR 660-011-0060(4) allows establishment and/or extension of a sewer system outside a UGB only in order to mitigate a public health hazard which is not relevant in this case. Accordingly, an exception to Goal 11 is required in order to extend the sewer system on this property.

**6.1.2.2.2 OAR 660-004-0028(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:**

**(a) The characteristics of the exception area;**

*Applicant: Rocky Pointe Marina occupies a long narrow strip of waterfront land 3,150 ft long by approximately 16 feet wide at the southern end and increasing in width to just over 400 feet at the northern end with a total of 16.22 acres of which approximately 10 acres along the water are fully developed with road, parking, boatyard and support facilities. The remaining land is a lake, wetlands, natural areas, and landscaping that lay between the marina road and the railroad. The land itself is primarily basalt rock.*

**Staff:** Rather than describing the characteristics of the two committed exception areas, the applicant provided a general description of the Rocky Pointe Marina property. Two distinct portions of the property are proposed in conjunction with the Goal 11 irrevocably committed exception (Exhibit 1). The most prominent area, and the area most central to this application, is the proposed in-water expansion site south of the existing moorage. Within this DSL lease area the applicant intends to construct new residential houseboat slips, boat slips and a gangway ramp. A 25-foot by 40-foot floating community meeting room may also be placed in this area. The lease area is currently undeveloped and adds roughly 550-feet of channel frontage to the moorage. It extends into the channel approximately 200-feet. Upland areas adjacent to the in-water expansion area are not a part of the Goal 11 exception request.

The second portion of the property identified as part of the Goal 11 irrevocably committed exception is a wedge shaped area to the west of the boat yard restroom (Exhibit 1). This area



appears in recent aerial photos to be roughly half wetland area with the remaining area covered in grasses, shrubs and a few trees (Exhibits 11 & 17). The applicant provides a delineation of the narrow wetland in this area in Exhibit 17, which unfortunately does not also show the footprint of the proposed boat repair expansion area. This plan does note 1.2-acres of wetland impact with 1.81 acres of wetland mitigation although it is unclear from the plans exactly where mitigation is proposed. The applicant's Exhibit 17 shows where fill is proposed to create the boatyard expansion. Although no volume of fill is noted, cross sections suggest fill depth would reach roughly 10-feet deep towards the middle of the proposed fill pad.

The applicant is in the process of applying for a joint U.S. Army Corps of Engineers /Department of State Lands permit to fill the wetland portion of this exception area. The applicant has explained that this area must be included in the Goal 11 irrevocably committed exception request in the event the existing boat yard needed to be expanded in the future. Expansion of the boat yard could only occur to the west within the identified exception area because the yard abuts the northern property line, is hampered by the channel to the east and existing development to the south.

Staff does not agree that this area must be included in the exception request. Current code would allow extension of existing water and sewer lines to this portion of the property without the need for a goal exception because the sewer/water lines would not cross a parcel boundary and because the utilities in this area would not serve an additional dwelling. Further, a boat yard is not dependant upon sewer service.

**(b) The characteristics of the adjacent lands;**

**(c) The relationship between the exception area and the lands adjacent to it; and**

*Applicant: On the water side, Rocky Pointe Marina leases 10.76 acres of submerged land from the DSL. On the backside of the property, the rocky terrain is sloped upward to the railroad tracks and continued upward slope to Hwy 30. The ground is primarily basalt rock...Rocky Pointe Marina's moorages are a water dependant use. The railroad and State Hwy 30 separate the property from forest and farmlands. On either end (upstream and downstream) are similar commercial marinas.*

**Staff:** The in-water expansion area is a small undeveloped area approximately 550-feet long between two intensely developed moorages. Multnomah Channel forms the eastern boarder of the expansion area. Lower Rocky Point Road, a rail line and the Highway 30 corridor are found west of the expansion area.

The Policy 10 inventory conducted in 1997 by Multnomah County identified 27 floating dwellings associated with Happy Rock Moorage to the south. To the north, Hearing's Officer decision T3-01-005 permitted 14 floating dwellings associated with the McCuddy's operation. Measurements taken from recent aerial photos show approximately 1,300 lineal feet of waterfront currently dedicated to McCuddy's Marina's in-water development to the north, 2,500 lineal feet developed by Rocky Pointe and approximately 750-feet of frontage developed at Happy Rock to the south. Rocky Pointe is clearly the largest marina in the area with 40 floating dwellings and 2,500 feet of developed frontage. County tax assessment records list 1.93 acres associated with Happy Rock Moorage to the south and 13.98 acres associated with McCuddy's Marina to the north.

Policy 10 records confirm Happy Rock Moorage to the south is served by an on-site, DEQ approved urban style sewer system. Permit T3-01-005, in conjunction with Policy 10 records verify McCuddy's is served by a DEQ approved sewer system located at the Cassleman's Cove Marina to the north of McCuddy's and an on-site well which provides public water. The public drinking water source at the Happy Rock Moorage does not appear to come from a well. Under 'Water Source and Permits' within the Policy 10 inventory records, it states "Each structure is responsible for their own on-board filtration system." The county's building permit file for Happy Rock contains an Oregon Water Resources Department Land Use Information Form describing the water use as 27 diversion points benefiting household uses with Multnomah Channel listed as the source of the proposed water use. Rocky Pointe Marina contains a DEQ approved sewer system only serving the site and a well. The applicant has applied for a water right from the Department of Water Resources to serve the proposed expansion.

The in-water expansion area is committed to urban development patterns considering the large, urban scale houseboat moorages that border it to the north and south and the degree to which existing urban sewer and water systems exist on surrounding properties.

The boat yard expansion area in Exhibit 1 at the north end of the property is surrounded by the Rocky Pointe boat yard to the east, McCuddy's Marina to the north, and natural area/wetland areas to the immediate west and south within the subject property. These natural areas form the western half of the subject property north of the access road entry point. West of the subject property the land use changes dramatically with the rail line and Highway 30 corridor. Unlike the in-water expansion area to serve dwellings, the applicant has not made the case that the boat yard expansion area is dependant upon water and sewer infrastructure. Expansion of the boat yard can be considered through the existing Community Service Use permit process. The inclusion in the Amendment to the goal exception for the proposed boat yard expansion area is not justified. Amendment of the goal exception plan in Exhibit 1 to remove the boat yard expansion area has been made a recommended condition of approval.

**(d) The other relevant factors set forth in OAR 660-004-0028(6).**

*Applicant: The primary residential activity is on the waterway; a navigable waterway under the jurisdiction of the federal government. The use crosses the DSL jurisdiction with gangways and boat ramps. The residential use of terrestrial zoned land is limited to parking, boat yard, walking, loading, mail, and waste services.*

**Staff:** Relevant factors of OAR 660-004-0028(6) are addressed below.

**6.1.2.2.3 OAR 660-004-0028(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1) (b), in Goal 2, Part II (b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:**

**(a) Farm use as defined in ORS 215.203;**

*Applicant: The exception area is basalt rock, wet, steeply sloped, or developed.*

**Staff:** The applicant envisions expanding the boat yard at the north end of the property at some future date to accommodate a larger repair area. Expansion can only occur to the west because the current boat yard is bordered to the east by Multnomah Channel, to the north by a property line and to the south with parking. The applicant is in the process of applying for a permit to fill wetlands within the expansion area from the Department of State Lands/Army Corps of Engineers. The applicant has not demonstrated that the expansion of a boat repair yard is dependant on future sewer/water use. Therefore, there is no justification for an exception to Goal 11 in this area. No further analysis of the proposed boat yard will be provided. The following findings will focus on the proposed in-water expansion area.

Although the applicant is not requesting an exception to Goals 3 (Agricultural Lands) or 4 (Forest Land), it is still impracticable for the owner to farm the in-water exception area. The owner leases the in-water area from the state and an aquiculture based commercial farm use would not be practical amongst two adjacent commercial marina operations. An in-water forest land operation is not feasible under any circumstances. It is not reasonable to find that establishing a non-marina use would be appropriate considering the scale of the existing marina development in the vicinity of the exception area. Other than development in conjunction with an existing marina development, Staff finds establishing a different use allowed by Goal 11 is impractical within the Goal 11 irrevocably committed in-water exception area.

**(b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and**

*Applicant: No logging or commercial forestry is practical. Land is either wet, basalt rock, or steeply sloped.*

**Staff:** The in-water exception area can not be used to propagate or harvest commercial timber.

**(c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).**

*Applicant: No commercial forest operation is proposed or practical.*

**Staff:** Staff concurs with the applicant for the reasons outlined in the previous finding.

**6.1.2.2.4 OAR 660-004-0028(4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.**

*Applicant: The applicant presents factual findings to each criterion that assert the area devoted for houseboat and sewer development is irrevocably committed to urban use.*

**Staff:** Please see section (6) below for the applicant's response to each applicable factor and staff's associated findings.

**6.1.2.2.5 OAR 660-004-0028(5) Findings of fact and a statement of reasons that land subject**

**to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.**

*Applicant: All land asserted is developed. The exception requests include both land that is physically developed and land irrevocably committed to urban development. The area of expansion is into an area that is currently vacant. The vacant area had a dock, house, and piers. The house was removed many years ago, the dock removed several years ago, and the piers remain. The piers will be replaced as a result of this project.*

**Staff:** Although the in-water exception area contains six old pilings that will be removed, these pilings do not render this area physically developed.

**6.1.2.2.6 OAR 660-004-0028(6) Findings of fact for a committed exception shall address the following factors:**

**6.1.2.2.6(a) (a) Existing adjacent uses;**

*Applicant: Rocky Pointe Marina is a long narrow waterfront facility. The backside slopes upward and borders the railroad tracks and further up the hill is Hwy 30. At either end of the property are similar marinas, Happy Rock Moorage at the south, and Big Oak Marina on the north.*

**Staff:** Adjacent lands have already been described in detail. The Goal 11 irrevocably committed exception area is located adjacent to existing marina uses served by sewer. The northern irrevocably committed to Goal 11 boat yard expansion area is not justified as previously stated. The proposed in-water residential expansion area is nearly identical in configuration and density to existing nearby in-water development to the north and south. The existence of sewer systems to support the nearby development justifies an exception for this area.

**6.1.2.2.6(b) (b) Existing public facilities and services (water and sewer lines, etc.);**

*Applicant: All services and utilities exist on the site. Rocky Pointe Marina provides its own DEQ certified sewage collection and processing system and has its own water well, treatment and storage facility.*

**Staff:** Water from an on-site well, fire department fire fighting connections, electrical transformers and private sewer service currently serves both upland and in-water development. The infrastructure currently extends the majority of the property's length. The applicant's engineer has estimated the existing septic load treated by the existing 40 floating homes, and other marina associated uses is approximately 5,000 gallons per day (gpd). The current DEQ permit allows treatment up to 6,500 gpd and according to DEQ, the on-site Davco wastewater treatment plant was designed to handle up to 10,000 gpd. Stuart L Cato, PE, CWRE has confirmed that "based on the existing flows and treatment levels it is our opinion that the proposed addition of 36 more floating homes will not overload the package (sewage) treatment plant with a permitted average monthly flow of 6,500 GPD."

The applicant has received support from local police and fire districts (Exhibits 40 and 41).

The applicant has applied for a water right from the Department of Water Resources to use the existing well to serve the additional floating homes. Given the exception area is mapped as suitable for houseboats within the Sauvie Island Rural Area Plan Policy 26, the capability of service responders was considered when that policy decision was made. Given this information, it is reasonable to conclude that the private sewer system can serve the expansion area.

**6.1.2.2.6 (c) Parcel size and ownership patterns of the exception area and adjacent lands:**

*Applicant: There were 7 parcels of land owned by Stan Tonneson LLC and leased to Rocky Pointe Marina Portland LLC. These lots have been consolidated into one lot of record.*

<i>Previous Tax Lots</i>		<i>Consolidated Tax Lots</i>		<i>Proposed Lot of Record</i>	
<i>Existing Lots of Record</i>					
<i>TL400</i>	<i>8.5 acres</i>	<i>TL400</i>	<i>8.73 acres</i>	<i>1 lot</i>	<i>16.22 acres</i>
<i>TL100</i>	<i>8.17</i>	<i>TL100</i>	<i>7.49</i>		
<i>TL200</i>	<i>.33</i>				
<i>TL300</i>	<i>.39</i>				
<i>TL400</i>	<i>.12</i>				
<i>TL500</i>	<i>.20</i>				
<i>TL600</i>	<i>.09</i>				
<i>Total</i>	<i>17.8 acres</i>		<i>16.22 acres</i>		<i>16.22 acres</i>

*The land to the west is the railroad and then State Hwy 30. To the south is Happy Rock Marina owned by Ginger Curtis and to the north is Big Oak Marina owned by the McCuddy family.*

**Staff:** The seven properties referenced by the applicant have been consolidated into one parcel under common ownership as previously described. The in-water exception area is located within the channel east of this 16.22 acre parcel. Adjacent marinas to the south and north are owned by two different parties and lands to the west and east are owned by the State of Oregon. Ownership patterns within the exception area are identical to in-water areas to the north and south with the lands owned by the Sate of Oregon and leased to the adjacent private property owner(s).

**(A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goal were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in them selves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors makes unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and non-resource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining these parcels;**

*Applicant: The current configuration of Rocky Pointe Marina was permitted by Multnomah*

*County in 1993 as a Community Service Conditional use. The existing roads and services date back to the 1940's and were upgraded at that time. These include a paved driveway the entire length of the property.*

*Underground water lines, sewer lines, telephone lines, on site waste water processing and on site water well, treatment and storage to all 3 access ramps to the marina docks and to the boat repair facility at the north end. An Portland General Electric overhead power line and easement runs the length of the property for the benefit of Columbia Public Utility District.*

*The parcels of land to the south; TL 400, TL500 and TL600, were acquired in 2002 and added to Rocky Pointe Marina property. There is an existing road on this land that is continuous with the Rocky Pointe driveway. This driveway leads to the marina to the south, Happy Rock Marina, for which they have a permanent easement over Rocky Pointe's property. The proposed expansion will be serviced and accessed by a new five foot gangway ramp. In 2006, Statewide Planning Goal 14 administrative rule came into effect and limited permanent single-family structures to one per tax parcel outside of an Urban Growth Boundary.*

**Staff:** The applicant has explained how the current development patterns on the site were established over time. The parcel is not considered resource land. An exception to the resource goals were taken by the County when the property was first zoned Multiple Use Agriculture-20 on October 6<sup>th</sup>, 1977 (i.e. an exception zone). The reason the exception areas are unsuitable for resource uses is a function of the proximity and nature of existing commercial marina development along the channel.

Houseboat communities along the channel have existed for over a hundred years. Once little more than floating shacks, houseboat moorages today offer all the amenities of traditional homes. The establishment of moorage communities in this area predates the establishment of statewide planning goals and zoning regulations in Multnomah County. The longevity and intensity of moorage communities have had great influence on the channel's landscape. Moorage sites are limited in the county, and demand for moorage space is high according to the owner.

Interestingly, the Rocky Pointe site was originally used as a ferry landing serving Sauvie Island and contained a school, post office, store and sawmill. The site was quarried for construction rock between the 1920's and 1930's with the first beginnings of the marina seen in the 1940s. Major expansions to the operation occurred in the 1970s and 1990s.

**(B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the lands actual uses. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.**

*Applicant: Rocky Pointe Marina was 7 lots of record that has been consolidated into a single lot of record.*



**Staff:** These factors were considered. The request involves one 16.22 acre developed parcel with no contiguous parcel under the same ownership. The applicant is not arguing small parcel size as justification for the exception.

**6.1.2.2.6(d) (d) Neighborhood and regional characteristics;**

*Applicant: Rocky Pointe Marina is located on the Multnomah Channel about seven miles downstream of the Willamette River and about three miles south of the small but growing community of Scappoose. The Channel has become the “other” boating facility area providing an alternative option to Hayden Island at Jantzen Beach. Multnomah Channel has over 200 floating homes and boat moorage for about 2,000 boats along its 21 mile length from Linnton to St Helens.*

**Staff:** The proposed expansion is in keeping with the most dominant form of development in the neighborhood. Marina development along the west bank of Multnomah Channel extends 5,000 feet downstream and 1,000 feet upstream of the expansion area. The expansion will result in one continuous line of in-water marina/moorage development over one mile long formed by the Happy Rock Moorage on the upstream side, Rocky Pointe in the middle and the McCuddy’s Marina on the downstream side. The expansion area will conform to and not destabilize the existing land use pattern in the neighborhood.

**6.1.2.2.6(e) (e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;**

*Applicant: Rocky Pointe Marina is a long narrow strip of waterfront land that is bound by Multnomah Channel and on the other side by the railroad tracks and then State Hwy 30 beyond the railroad. There is a power line easement for high voltage lines down the center of the property. There is a continuous roadway and parking from one end to the other. There are mitigated wetlands.*

**Staff:** Staff concurs with the applicant. This exception area is surrounded by both natural and man-made features separating the exception areas from adjacent resource lands. Although not mentioned by the applicant specifically, a small but steep rock outcrop separates the in-water expansion area and access road from lands to the west. Although these features impede practical resource use of the these areas by limiting access, the greatest constraints come from the low lying flood prone land, and presence of an access road, wetland areas, hydric soils, rock exposure and general proximity to these features which simply make commercial resource (farm and forest) use of the land impractical.

**6.1.2.2.6(f) (f) Physical development according to OAR 660-004-0025; and**

*Applicant: Rocky Pointe Marina is physically developed with roads, underground utilities, commercial buildings and related facilities to the extent that farming and forestry are not practical if not impossible considering the terrain, soil, size and location.*

**Staff:** OAR 660-004-0025(2) describes physical development as including amenities such as

structures, roads, sewer and water facilities and utility facilities. The in-water Goal 11 committed exception area does not contain physical development as defined above with the exception to six old, abandoned piers proposed to be removed to facilitate expansion.

**6.1.2.2.6(g) (g) Other relevant factors.**

*Applicant: The primary residential activity is on the waterway; a navigable waterway under the jurisdiction of the federal government. The residential use crosses the State jurisdictions with gangways and boat ramps. The residential use of terrestrial zoned land is limited to parking, boat yard, walking, loading, mail, and waste services.*

**Staff:** All relevant factors have been considered. Staff agrees with the applicant that the residential activities primarily occur on the waterway.

**6.1.2.2.7 OAR 660-004-0028(7) The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.**

*Applicant: The applicant has provided an aerial photograph.*

**Staff:** The applicant has labeled all existing development and delineated the exception area on site plans and aerial photos to support the exception request (Exhibits 1 – 4, 16, 17, 32 & 77). These photos show adjacent marina development closest to the exception area to the north and south. Staff's aerial photos in Exhibits 6, 11, 12 & 13 provide a larger view of the area showing more of the adjacent development patterns which, in conjunction with the plans submitted by the applicant, are sufficient evidence to justify the exception for the in-water area.

**6.1.2.2.8 OAR 660-004-0028(8) The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exceptions:**

**(a) Those adopted or amended as required by a Continuance Order dated after the effective date of section 7 of this rule; and**

*Applicant: A continuance order is not in effect.*

**Staff:** Staff concurs – not applicable.

**(b) Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.**

*Applicant: Multnomah County's Comprehensive Plan specifically allows and supports houseboats in this area as a conditional use. The plan was acknowledged by the State....(In Conclusion)...The sewer system exists and has been permitted by DEQ. The sewer system performs important ecological and public health functions. Individual systems are not practical or desirable.*

**Staff:** This provision justifies the need for the maps and aerial photos which have been provided.

In conclusion, the applicant has submitted the necessary evidence to demonstrate the in-water Goal 11 exception area in Exhibit 1 qualifies for a committed exception; and, is irrevocably committed to uses not allowed by the applicable goal because existing adjacent urban scale houseboat moorages, water and sewer infrastructure, and physical development constraints (related to topography, transportation corridors and water bodies) commit the land to similar uses. The applicant has not justified the proposed upland boat yard expansion area because the boatyard expansion is not dependant on sewer and water utilities. Expansion of the boatyard can be considered under current county code.

### 6.1.2.3

## **GOAL 14 PHYSICALLY DEVELOPED & IRREVOCABLY COMMITTED EXCEPTION FINDINGS (OAR 660-014-0030)**

### 6.1.2.3.1

#### **Rural Lands Irrevocably Committed to Urban Levels of Development (OAR 660-014-0030)**

**OAR 660-014-0030(1)** A conclusion, supported by reasons and facts, that rural land is irrevocably committed to urban levels of development can satisfy the Goal 2 exceptions standards (e.g., that it is not appropriate to apply Goal's 14 requirement prohibiting the establishment of urban uses on rural land). If a conclusion that land is irrevocably committed to urban levels of development is supported, the 4 factors in Goal 2 and OAR 660-004-0020(2) need not be addressed.

*Applicant: Rocky Pointe Marina has been on a developed site since the late 1930's. The original shop/office/fuel dock and caretaker home are still on site and in use. There has been boat repair and fueling on site since the 1950's. Aerial photographs confirm the marina existence in 1938. The current marina was permitted by Multnomah County in 1993 as a Community Service Conditional Use. The area is 16.22 acres. The approval allowed for 40 floating home, 150 boat slips, 7 boatsheds and 166 auto parking spaces. Zoning for the property is Multiple Use Agriculture-20 with zoning overlays for the 100-year floodplain, the Willamette River Greenway, Sauvie Island riparian area, and for wetlands designated on the National Wetlands Inventory.*

*The shape of the property is a narrow triangle 3,150 feet long along the water and ranging in width from 18 feet at the southern end and 500 feet at the northern end. There is a road running the entire length of the property with a boat repair facility at the northern end. Parking is on either side of the road. There is a lake on the west side of the road. The existing road, parking and upland facilities occupy approximately 10 acres of all previously disturbed land. The balance of land is landscaping and natural areas intermixed within the property. The proposed expansion is within the existing developed property.*

*The conclusion is that this property is irrevocably committed to an urban level of development as it has been developed and in use for almost 80 years. The property, mostly rock, is completely built out as a marina along the shoreline with all facilities in place. The area of expansion has had docks and piers and a house in the past. The house was removed many years ago, docks were removed several years ago, and the piers remain. The piers will be removed as a result of this project and new environmentally sound piers and docks will be*

*constructed.*

**Staff:** As a point of rule structure clarification - OAR Division 14 groups irrevocability committed and physically developed criteria under one section (OAR 660-014-0030), unlike Division 004 which more cleanly separates physically developed criteria under section 660-004-0025 and irrevocably committed criteria under section 660-004-0028. Staff confirmed with DLCD staff that OAR 660-014-0030, titled '*Rural Lands Irrevocably Committed to Urban Levels of Development*', must be used to evaluate a request involving both an irrevocably committed and physically developed exception request to Goal 14, despite the section title.

The applicant is requesting a physically developed Goal 14 exception request for the areas surrounding all existing in-water and upland developed areas and a Goal 14 irrevocably committed exception request for the wedge shaped area west of the boat yard, the in-water expansion area and the narrow up-land property located along the access road west of the proposed expansion area towards the southern end of the property. This request has been made so that the county can authorize deviation from the following rule preventing further residential expansion at the Rocky Pointe Marina:

***Single Family Dwelling per Parcel Restriction (OAR 660-004-0040(7)(f))***

***...A local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in a rural residential area...***

Findings related to the above described exception requests will all be made under the following OAR 660-014-0030 standards to evaluate whether these rural lands are irrevocably committed to urban levels of development, and/or physically developed to the extent that it is not appropriate to apply the Goal 14 requirement prohibiting the establishment of urban uses on rural land. DLCD staff also clarified that it is possible to find land is irrevocably committed *because* it is physically developed (i.e. clearing the higher evidentiary bar clears the lower one as well).

**6.1.2.3.2 OAR 660-014-0030(2)** A decision that land has been built upon at urban densities or irrevocably committed to urban levels of development depends on the situation at the specific site. The exact nature and extent of the areas found to be irrevocably committed to urban levels of development should be clearly set forth in the justification for the exception. The area proposed as land that is built upon at urban densities or irrevocably committed to urban levels of development must be shown on a map or otherwise described and keyed to the appropriate findings of fact.

*Applicant: The following facilities and structures exist on the property and with water lease. See attached map keyed to the following list;*

*Upland*

- A- roadway: approximately 2,800 feet long by 20 to 30 feet wide*
- B- water well house, storage and treatment*
- C-recycling/garbage/mail center upper ramp/marina*
- D- recycling/garbage station middle ramp/marina*
- E- recycling/garbage station lower ramp/marina*
- F- security gate*

*G- parking – 166 spaces*  
*H- trailer storage*  
*I- boat yard restroom*  
*J- sewage treatment plant*  
*K- evaporation pond*  
*L- boatyard shop/office – 3,500 square feet*  
*M- boat haul out pier*  
*N- boat wash down pad and building – 2,000 square feet*  
*O- boatyard – 40,000 square feet*  
*P- power- Columbia River PUD*  
*Q- telephone- CenturyTel*  
*R- fuel storage tanks, above ground – 6,000 gallons*

*On the Water*

*1- docks – 3,700 feet of primary walkways – 3 ramps*  
*2- marina office/store – 1,500 square feet*  
*3- fuel dock – 100 foot landing with two gas and one diesel pump marine sewer pump out*  
*4- restrooms/laundry – 4 sets of floating buildings each two toilets, two showers; washer and dryer.*

**Staff:** The scope of the existing upland and in-water development has been described above, is illustrated on the applicant’s site plan (Exhibit 4), and will be used to evaluate the committed and physically developed exception request to Goal 14.

**6.1.2.3.3 OAR 660-014-0030(3) A decision that is committed to urban levels of development shall be based on findings of fact, supported by substantial evidence in the record of the local preceding, that address the following:**

**6.1.2.3.3(a) (a) Size and extent of commercial and industrial uses;**

*Applicant: The marina contains a store, office, gas dock, and public restrooms including pumpouts to the traveling public to maintain clean rivers. The marina provides a full service repair and maintenance facility.*

**Staff:** OAR 660-014-0030(2) states “A decision that land has been built upon at urban densities or irrevocably committed to urban levels of development depends on the situation at the specific site”. Therefore; the focus of this physically developed and committed exception to Goal 14 is uses on the site and why those uses render compliance with Goal 14 impracticable.

Commercial uses and improvements supporting the commercial operation within the Goal 14 physically developed exception area, includes the boat yard, boat wash area, fuel dock and storage tanks, marina office and store, marina sewer pump out, restrooms, sewer system, and associated water and electric utilities. According to the Rocky Pointe Marina webpage<sup>4</sup>, the following services are offered:

**“Rocky Pointe Marina - Services**

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<sup>4</sup> [http://www.rpmarina.com/marina\\_services.asp](http://www.rpmarina.com/marina_services.asp), accessed 3/2/09 at 11:24

**Phone:** 503-543-7003

**Boat slips** - We have 150 boat slips accommodating vessels 30' to 80' in covered and open moorage. We provide 30amp power and water at the docks. All slips are single berth with deep water to handle the draw of deep keeled boats. Mobile pump outs are located on each dock, as well as a pump out station at our fuel dock.

**Office/Store/Fuel Dock**- The floating marina office and store is open 7 days a week. Gas and diesel are available at a discount to our tenants. Beer, ice, pop, chips, snacks and ice cream are available in our store. A pump out station is located at the fuel dock for your convenience. Visa, Mastercard and Discover Card are happily accepted. In addition to the weekday office staff, Rocky Pointe Marina has an on site caretaker.

**Security**- Safety and security is very important to us. Rocky Pointe Marina is a gated community and has 16 security cameras recording activity throughout the facility. Our marina does monthly and annual inspections of electrical shore power connections and tests all new arriving tenants boats for proper ground fault and bonding to identify stray current that may potentially cause corrosion or electrocution.

**Boatyard**- A&D Yacht Services is conveniently located within our facility. A full service boatyard, they can work on your boat in the marina or tow your boat to the Travelift to service your boat. There is a qualified crew on site to help with emergencies as well as routine maintenance.

**Boat ramp**- Our boat ramp on site suitable for boats up to 20'. Launch is free for tenants or just \$2 for the public. No public parking is available.

**Boat trailer parking**- Available for moorage tenants with trailers up to 20'

**Restrooms/Laundry**- Each section of marina has its own restrooms with showers and a coin-op laundry facility.”

This goal exception is required to expand the number of residential units rather than to establish or expand commercial or industrial uses. The proposed boat yard expansion area identified by the applicant as irrevocably committed by Goal 14 does not require a goal exception and can be reviewed under current county code. The size and extent of commercial uses is not relevant.

**6.1.2.3.3(b) (b) Location, number and density of residential dwellings;**

*Finding:* There are 40 floating homes. The average float size is 30ft wide by 50ft deep with the house size being smaller than the float. The houses are all moored on the outside docks facing the river and are intermixed with the 150 boat slips. (See attached map.)

**Staff:** The Rocky Pointe marina contains 40 floating dwellings associated with the 16.22 acre parcel. The dwellings are distributed amongst three separate docks, totaling roughly 2,500 lineal feet according to aerial photos.

**6.1.2.3.3(c) (c) Location of urban levels of facilities and services; including at least public water and sewer facilities;**



*Applicant: All necessary utilities currently exist. See attached map for water well/storage, waste water collection and processing, power lines, phones lines, and propane lines.*

**Staff:** According to Policy 10 inventory records, the subject property is served with a DEQ approved sewer system. Public water will serve the proposed development with an on-site well. The location of all sewer and water related improvements can be seen in Exhibit 16 which runs along the eastern side of the property starting at the southernmost gangway ramp. Goal 11 defines a public water system as a system for the provision of piped water for human consumption subject to regulation under ORS 448.119 to 448.285. These statutes apply to any water system serving water to public or commercial premises which are used by an average of at least 10 individuals daily at least 60 days each year (ORS 448.119).

The well’s capacity is currently under the level requiring a permitted water right by the State Department of Water Resources. Although the applicant has just begun the permitting process to establish a water right commensurate with the proposed demand, a department staff member indicated to staff over the phone that it is more likely than not that the permit will be approved. This is because the existing well provides the majority of the yield needed to serve the proposal and because Multnomah Channel is not a designated groundwater limited area. The state’s water right permitting process is estimated to take 9-12 months.

**6.1.2.3.3(d) (d) Parcel sizes and ownership patterns.**

*Applicant: There were 7 parcels of land owned by Stan Tonneson LLC and leased to Rocky Pointe Marina Portland LLC. They have been consolidated into a single lot of record. The previous lot numbers and sizes are listed below from North to South, see map for additional detail*

<i>Previous Tax Lots</i>		<i>Consolidated Tax Lots</i>		<i>Proposed Lot of Record</i>	
<i>Existing Lots of Record</i>					
<i>TL400</i>	<i>8.5 acres</i>	<i>TL400</i>	<i>8.73 acres</i>	<i>1 lot</i>	<i>16.22 acres</i>
<i>TL100</i>	<i>8.17</i>	<i>TL100</i>	<i>7.49</i>		
<i>TL200</i>	<i>.33</i>				
<i>TL300</i>	<i>.39</i>				
<i>TL400</i>	<i>.12</i>				
<i>TL500</i>	<i>.20</i>				
<i>TL600</i>	<i>.09</i>				
<i>Total</i>	<i>17.8</i>	<i>16.22 acres</i>	<i>16.22 acres</i>		

**Staff:** According to county tax assessment records, the 16.22 acre Rocky Pointe Marina is owned by Stanley and Jenice Tonneson. Exception areas within the channel are owned by the State of Oregon and leased by the Tonnesons.

**6.1.2.3.4 OAR 660-014-0030(4) A conclusion that rural land is irrevocably committed to urban development shall be based on all of the factors listed in section (3) of this rule. The conclusion shall be supported by a statement of reasons explaining why the facts found support the conclusion that the land in question is committed to urban uses and urban development rather than a rural level of development.**

*Applicant: Rocky Pointe Marina was established in the 1930's and has been in existence on the same site providing boat moorage, floating home moorage, boat repair, boat fueling station, boathouse construction, public boat ramp, public restrooms and floating general store. There is a paved road the entire length of the property parallel to the water's edge making the waterfront land accessible. The northern part of the road is a driveway on the Rocky Pointe Marina. The southern part, south of the County's road, is an easement across the Rocky Pointe property to the Happy Rock Marina (south), upstream from Rocky Point. The remainder of land is either lake, wetlands, natural or landscape areas.*

**Staff:** Justification for the Goal 14 physically developed and irrevocably committed exception is limited to the areas serving the existing and proposed residential and residential accessory uses. Valid exception areas must specifically be justified either by the presence of physical improvements necessary to serve the dwellings or by committing the land to urban level development by proximity to the other floating homes.

The justifiable areas for the Goal 14 physically developed exception include all existing docks, gangway ramps, access, parking areas, the footprint of all utilities serving the floating dwellings including sewer and water, the in-water expansion area and the land around the access road to the west. Two small natural areas on either side of Lower Rocky Point Road as the road enters the site are used by tenants for picnics, dog walking, etc. These small recreational areas are committed via recreational support of the residential uses. The 27 floating dwellings to the immediate south of the expansion area further support a conclusion that the area is committed to urban residential densities. The proposed expansion area fills the gap between these two existing urban areas.

The Goal 14 exception areas proposed by the applicant exceed the areas used to serve the existing and proposed residential uses described above and therefore must be modified. There is no clear relationship to some of the areas identified and the reason/need for the Goal 14 exception. Areas supporting commercial marina activities that can operate independent of the houseboats do not qualify for an exception to Goal 14. This includes the future boatyard expansion area, existing boatyard, boatyard office, boat haul out pier, boat wash down pad and building, boatyard restroom, fuel dock, marine sewer pump out station, and four restroom/laundry facilities. The Goal 14 exception areas should be modified to exclude these areas dedicated to commercial uses that could function independent of the homes. The scope of these existing and proposed commercial activities does not exceed the scope in the Oregon Administrative Rule and therefore a goal exception is not necessary to continue with these uses.

**6.1.2.3.5 OAR 660-014-0030(5) More detailed findings and reasons must be provided to demonstrate that land is committed to urban development than would be required if the land is currently built upon at urban densities.**

*Applicant: Rocky Pointe Marina is built to urban densities.*

**Staff:** We concur. There is no need for more detailed findings.

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**6.1.2.4 Single Family Dwelling per Parcel Restriction (OAR 660-004-0040(7)(f))**

**...A local government shall not allow more than one permanent single-family dwelling to**

**be placed on a lot or parcel in a rural residential area....**

*Applicant: The applicant requests a goal exception for this provision. The Multiple Use Agriculture-20 zone that is considered a type of rural residential zone. The applicant requests a goal exception for this provision...(In Conclusion)...The primary residential activity is on the waterway; a navigable waterway under the jurisdiction of the federal government. The residential use crosses the State jurisdictions with gangways and boat ramps. The use of terrestrial zoned land is limited to parking, boat yard, walking, loading, mail, and waste services.*

*The development is infill, filling a small stretch of currently unused waterway between the existing Rocky Pointe Marina and Happy Rock Marina upstream. No additional expansion is possible. The expansion will not result in additional restrooms, expansion of the store, or any other "urban use".*

**Staff:** The provisions of OAR 660-004-0040 (Application of Goal 14 to Rural Residential Areas) do not apply considering the request is for an exception to Goal 14. OAR 660-004-0040 implements Goal 14, with the single family dwelling per parcel provision of 660-004-0040(7)(f) being the primary driver behind this exception request.

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**6.1.3 ORS 197.732(4) A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons that demonstrate that the standards of subsection (2) of this section have or have not been met.**

**Staff:** This report sets forth the necessary findings of facts.

**6.1.4 ORS 197.732(5) Each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.**

**Staff:** The public notice for the Planning Commission hearing met this requirement.

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**6.1.5 MCC 37.0705(A)(2) 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; and**

*Applicant: The proposed houseboat expansion is a residential use.*

**Staff:** Although the exception areas encompass existing and proposed residential, non-residential and commercial uses associated with the marina and boat yard; The residential

portion of the request is the only use requiring the goal exceptions.

Comprehensive Framework Plan Policy 26 (Houseboats) references a number of other applicable Plans Policies including Policy 2 (Off-Site Effects), 13 (Air, Water, Noise), 15 (Significant Environmental Concern), 16 (Natural Resources), 21 (Housing Choice), 24 (Housing Location), and 38 (Facilities). These overarching policies will be used in the following findings for context, where appropriate. Rural Area Plan (RAP) Policies explaining how the Special Plan Area is intended to be used (RAP Policy 13), what density is acceptable (RAP Policy 14) and what criteria shall be used to evaluate impacts (RAP Policy 15) will also be considered. The RAP Policies are part of the overall Multnomah County Comprehensive Framework Plan and are intended to present decision making guidelines within the Sauvie Island/Multnomah Channel Rural Plan Area.

#### **6.1.5.1 RURAL AREA PLAN POLICY 13:**

**Multnomah County should adopt procedures to allow existing moorage/marina to become a 'special plan area' under MCC 11.15.6600 [Staff: now MCC 34.5000 *et seq.*] at the initiation of the property owner, to determine uses and densities allowed for each moorage on the channel. The special plan area designation would be allowed when the property owner requests an expansion or alteration, or for any new marina/moorage developments. The provisions of the existing Conditional Use criteria would still be in place in addition to the new special planning area procedure.**

**Discussion:** Each moorage/marina shall be allowed to enter into a special plan area (an existing part of the Multnomah County Zoning Code, which needs some minor amendments to fit the Multnomah Channel situation) procedure with Multnomah County to adopt essentially a master plan or comprehensive plan for each moorage/marina. As an attempt to take all issues into consideration, special plans can determine by looking at each existing or proposed moorage/marina on a case-by-case basis regarding the density, service levels and legal status of the property. At the County's initiation (no application fees), each individual marina/moorage could receive a special plan area designation which would be an overlay designation for each moorage and marina on the Channel. The special plan area will help reduce duplication of efforts by considering the Willamette River Greenway concepts concurrently with other code criteria.

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

*Applicant: The result of this exception would be to make Rocky Pointe a Special Plan Area.*

**Staff:** The applicant is requesting a SPA designation within the exception areas (i.e. zone change from MUA-20 to MUA-20 with a SPA overlay). With the SPA they are seeking criteria that would lift the 1 houseboat per 50 foot (i.e. 1:50 cap) of waterfront frontage carrying capacity standard in the Conditional Use provisions for moorages. Rural Area Plan Policy 13 indicates the **SPA process shall be used to determine densities for a moorage on a case-by-case basis** and that **all Conditional Use criteria would still be in place** in addition to the new special planning area procedure.

Multnomah County Conditional Use Code 34.6755 caps houseboat density at 1 houseboat per 50-feet (1:50) of waterfront frontage which the applicant is proposing to exceed by 13 dwellings.

The question becomes whether Policy 13 requires that the SPA not exceed the Conditional Use houseboat cap of 1:50, or if it can be determined at the time of SPA review that the 1:50 cap can be exceeded. Although the two statements in bold above could appear to conflict, this would not necessarily be the case for all SPA proposals. A SPA master plan, for example, could involve replacing existing boat slips with covered boathouses (floating boat garages) in which case the appropriate density of the non-residential boathouses could be considered through the SPA process. In this case, the 1:50 cap on residential houseboats would not be applicable to the request which would be subject to all applicable Conditional Use criteria.

Another hypothetical example could be the replacement of boat slips with houseboats so long as houseboat density does not exceed one per 50 feet of the parcel's waterfront frontage. In summary; The SPA analysis is not limited to residential densities and it appears possible to add dwellings through the SPA process up to a 1:50 density.

It is clear from select 'Discussion' and 'Strategy' language of Policy 13 above that future code amendments were intended to specifically address moorage/marina reviews within the SPA portion of county code. These revisions never occurred. It is staff's view that the Planning Commission must first determine whether it is appropriate to use Policy 13 (in combination with Policies 14, 15 & zone change criteria MCC 370705(B)), to consider this request to exceed the 1:50 residential density cap as proposed<sup>5</sup>. Secondly, if the Commission interprets the policies to allow a request of this nature, the Planning Commission must decide whether or not the applicant has justified the SPA overlay designation.

The Hearing's Officer through a Conditional Use review is the appropriate review body to determine the actual number of new houseboats that should be allowed. The Planning Commission will need to set a maximum appropriate residential density for the Hearing's Officer to consider in the event the Planning Commission believes the SPA designation is justified. In determining whether or not to apply a SPA designation the Commission must consider existing and proposed improvements.

#### **6.1.5.2 RURAL AREA PLAN POLICY 14:**

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

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<sup>5</sup> Using the applicant's estimate of 3,150 linear feet of waterfront parcel frontage, the 76 houseboats will result in a houseboat to frontage ratio of 1:41.

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

*Applicant: Rocky Pointe Marina will also be reviewed through a conditional use process and, as proposed, complies with all dimensional standards.*

**Staff:** Policy 14 states density within a SPA shall not exceed existing levels. This suggests at first glance that expansion of existing development may not be possible through the SPA review which is intended to establish more flexible and diversified standards and procedures (MCC 34.5000). Policy 14 indicates existing development levels shall be measured by factors such as area and length of docks and number of slips reconciled through the Policy 10 moorage inventory process. The two hypothetical SPA requests introduced in the previous finding would also not be in conflict with the Policy 14 limitation on expansion because no new slips or additional dock would be added to the operation in either example. Staff is not confident the applicant's request to expand the operation to the south is allowable per Policy 14 for the reasons explained below.

The applicant has submitted three different approaches explaining why the proposed density does not exceed existing levels. Staff will briefly summarize each argument below, referencing the materials submitted by exhibit which contains more details.

#### ***Density Analysis #1 – Specific vs. General Criteria & Dock Frontage/Number of Slips***

The first analysis, prepared by Steve Morasch of Schwabe, Williamson & Wyatt, opens with his opinion that Rural Area Plan Policy 13 allows consideration of residential expansion beyond the 1:50 threshold through the SPA process because this case-by-case density allowance supersedes the more general density provision of MCC 34.6755 (i.e. a basic rule of statutory construction is that when two provisions conflict, the more specific provision governs). This analysis can be found in Exhibit 29. Staff has already explained why no conflict exists between the two requirements.

Mr. Morasch states that even with the addition of the 36 dwellings and new dock, the overall density will not be increased as measured by length of docks and number of slips and reconciled through the Policy 10 marina inventory process. The 1997 Policy 10 inventory confirmed that “as of June 24<sup>th</sup>, 1998, Rocky Pointe Marina was operating within their existing permits.” The marina was permitted in 1993<sup>6</sup> for 197 slips (40 houseboats, 150 boat slips and 7 boathouse spaces). The marina currently contains 197 slips according to Mr. Morasch's analysis (39 floating homes, 150 boat slips and 8 boat houses). The additional boathouse (floating garage) does not appear to have been permitted by the County. Although Mr. Morasch references 39 floating homes, the applicant has indicated the operation currently serves 40 floating homes.

Mr. Morasch calculates 2,276 linear feet of dock, with twice this much frontage used today considering both sides of the dock are used to secure floating homes, boats, boathouses and

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<sup>6</sup> Permits CS 1-93, HV 1-93, WRG 1-93 and CU 7-93

<sup>7</sup> The owner's ratio exceeds 1.00 because the owner included gangway ramps extending perpendicular to the waterfront in the calculations.



miscellaneous marina related uses (4,552 feet total frontage). The length of dock and description of dock usage provided by Mr. Morasch matches plans approved in 1993 and measurements taken from recent aerial photos. Mr. Morasch's analysis indicates the new 520-foot of dock will contribute another 1,040 linear feet of dock to the operation along with an additional 278 feet of dock freed up through the permanent removal of 16 boat slips. The analysis continues that because the proposal offers 5,870 feet of dock frontage (1,318 more lineal feet than exists now) density between structures will be reduced by the expansion because development would be spread out further apart, thus decreasing density.

It seems counterintuitive that adding additional dwellings would reduce density and it is not clear that spreading development further apart meets the policy intent of retaining density at existing levels. It should also be noted that Mr. Morasch's analysis also places equal value on residential versus non-residential dock frontage which may not be appropriate considering residential uses put greater demands on a site than non-residential uses. On the other hand, Policies 13 and 14 do not appear to distinguish between various uses.

After carefully reviewing Mr. Morasch's analysis, Staff believes a problematic assumption was used within the calculations. This observation was conveyed to the applicant who offered no additional clarification. On Page 4, the analysis assumes 1,318 feet of new dock will be available for new floating homes. This was calculated by adding the 278 feet of frontage freed up by the removal of 16 boat slips and the 1,040 feet of new dock frontage proposed (520-foot x 2 sides). Mr. Morasch uses this 1,318 total to find the current 30.821 feet of dock frontage per dwelling will be reduced because the additional 1,318 feet of frontage available after construction would technically allow an additional 42.76 dwellings which exceeds the number proposed.

The apparent problem with this conclusion is that not all 1,318 feet of frontage freed up by the proposal will be used for dwellings. The application narrative states in a number of locations that the new dock side facing the bank will be used for boat slips rather than dwellings and that the side facing the channel will be used for homes. This would allow only 520-feet of dock frontage for homes, which would provide room for only 16.8 dwellings assuming Mr. Morasch's 30.821 feet of dock frontage required per floating home. By Staff's calculations, the 278 feet of dock frontage freed up by the removal of 16 boat slips would provide room for only 9 more dwellings totaling roughly 25 dwellings rather than the 36 proposed. In addition, removing only 16 boat slips while adding 36 new home slips simply adds additional slips to the operation (i.e. increases density) which is a Policy 14 metric not squarely addressed in the analysis.

Staff also has concerns that establishing all 25 dwellings would not seem to provide the additional space between structures as discussed in the narrative because all space created would now be occupied with new homes. The creation of more space between structures seems to be the overarching point to the analysis concluding that density is reduced. The exception plans also show only 15 channel side spaces along the new dock for homes rather than the 16.8 possible by the calculations above which would seem to drop the number of possible dwellings down somewhere around 23 while maintaining existing residential density within the SPA.

To summarize; Staff does not concur with Mr. Morasch's analysis in Exhibit 29 finding density will be reduced using factors such as dock length and number of slips. Staff is not convinced the numeric assumptions used are accurate, and does not agree that adding 36 slips while

removing only 16 slips reduces density.

### ***Density Analysis #2 – Dock Frontage per. Parcel Frontage***

The second analysis was provided by the owner to justify a finding that the density is reduced. This approach is based on the ratio of parcel frontage to dock length. The spreadsheet provided is presented in Exhibit 31. The crux of the argument appears to be that currently, 1.38<sup>7</sup> linear feet of dock is associated with each linear foot of parcel frontage, which will be reduced to 1.29 linear feet of dock with the new expansion. The owner has mentioned that the reduction is due to the purchase of additional land in 2001 and that even though he is adding dwellings, the resulting development will now have more room and therefore density will be decreased. The applicant provided an interesting analogy relating to a party – i.e. even though additional people showed up to a party, it did not become more crowded and density between the guests was reduced when the party was moved to a larger room. Within this analogy, the room was enlarged with the 2001 land purchase.

A problem with this analysis could be that different frontage lengths are being used for each calculation. The first calculation resulting in 1.38 feet of dock per foot of frontage uses 2,580 feet of frontage, whereas the second calculation uses 3,150 feet of frontage which reduces the ratio from 1.38 to 1.29. The owner claims this methodology is appropriate because he only owned 2,580 feet of frontage in 1997 but now owns 3,150 feet of frontage after purchasing a parcel in 2001. Staff estimates the density would increase from 1.12 (3,555 ÷ 3150) to 1.29 (4,075 ÷ 3150) when comparing the existing lineal feet of dock associated with the entire parcel's water frontage today versus the resulting lineal feet of dock associated with the entire parcel's water frontage after the proposal is constructed.

On the other hand, the owner's analysis could be valid in comparing the parcel frontage length in 1997 (2,580 feet) to the current frontage length (3,150 feet) when one looks closely at the Policy 14 language: "*The overall density for each existing moorage/marina that chooses to go through the special planning area process shall not exceed the existing levels as measured by factors such as area and length of docks and number of slips (existing in the Multnomah County Moorage Report Listing of Float houses and Watercraft as of July 1, 1997 and reconciled through supplemental information provided by the moorage owner).*" The owner asserts he has presented an apples to apples frontage analysis because he did not own the parcel adjacent to the in-water expansion area in 1997. It was purchased in 2001 with the intent of increasing the property frontage.

Regardless of the resulting frontage ratio, one potential problem with this overall argument is that Policy 14 focuses the density analysis on factors such as the length of docks and number of slips rather than the length of property frontage existing in 1997 versus that utilized by the current proposal. In summary, staff does not believe Policy 14 intended a ratio of land frontage to dock length to be considered in isolation for the density analysis.

### ***Density Analysis #3 – Live aboard Boat Reductions***

The third analysis concludes a reduction of over 32% in residential density would result, even with the addition of 36 additional floating homes, because the 76 boats currently being lived in full time will be removed. Live aboard boats at the Rocky Pointe Marina are a compliance issue. The owner has not provided evidence that the county authorized the use of boats as residences

and; therefore, the removal of these residences can not be used to justify a reduction in density. Removal is not a choice and is required by county code. As a point of clarification, the owner indicates in Exhibit 30 that live aboard boats are in the process of being removed and that 23 boats remained in late 2008 rather than the 76 used in the calculations.

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In conclusion, Staff is not able to find a reduction in density will result using any of the three analyses provided. The Planning Commission has the ability to make a policy decision regarding how density should be measured, using any of the three analyses as guidance, if needed. Each of the three approaches has impacts on the number of dwellings that could result. For example, density analysis #1 provided by Mr. Morasch does not distinguish between a residential and non-residential slip. Considering these uses as equal could overburden the carrying capacity of a property. Analysis #2 is limited to dock frontage versus parcel frontage and does not consider all relevant factors such as the number of slips. Analysis #3 relies on removal of unpermitted development to help mitigate the proposal impacts. It is Staff's position that the county must authorize any living unit within the Multiple Use Agriculture-20 zone regardless of the type of residential unit.

### **6.1.5.3 RURAL AREA PLAN POLICY 15:**

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

#### **Water Environmental**

*River Bank Protection* - Development which protects the river bank from erosion caused by boat traffic.

*Water Quality* - Development which contributes to or does not significantly degrade water quality

*Septic tanks/Sewage* - Development which is more amenable to safe and sanitary sewage disposal, along with adequate upland facilities for disposal of sewage.

*Fish and Wildlife* - Development which contributes to or does not have a significant detrimental impact to the fish and wildlife in the water.

#### **Land Environmental**

*Development in Wetland* - Development which does not impact wetlands.

*Traffic Increase* - Development which minimizes increases in traffic on moorage access roads, on railroad crossings, and onto Highway 30.

*Parking* - Development which minimizes the amount of parking area necessary.

*Ground Water Quality* - Development which minimizes impacts to ground water quality.

*Need for Restroom Facilities* - Development which minimizes the need for additional communal restroom facilities to serve the proposed uses.

*Land Wildlife* - Development which minimizes impacts to land wildlife.

*Necessary Utilities* - Development which requires fewer utilities to serve proposed uses.

*Floodplain Development* - Development which minimizes placement of permanent structures and uses in the floodplain.

*Accessory Structures* - Development which minimizes the need for accessory on-land structures to serve proposed uses.

## **Aesthetic**

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

*Visibility of Shore* - Development which minimizes changes to natural shoreline features.

*Massing and Scale* - Development which has a human scale or architectural quality to it.

*Diversity/Rural character* - Development which maintains the existing diversity and rural character of Multnomah Channel.

*Lighting* - Development which minimizes night lighting of uses.

*Vegetation/landscape on Water* - Development which minimizes its visibility from the Multnomah Channel waterway.

## **Safety**

*Contribution to Channel Traffic* - Development which minimizes Channel traffic.

*Residential Link* - Development with a permanent residence component which provides a human presence to both report emergencies and violations on Multnomah Channel.

*Fire Hazard* - Development which minimizes fire hazard.

*Emergency Services* - Development which minimizes the need for emergency services.

**Economic** - Development which provides economic value to Multnomah County in the form of assessment value and reduced need for public services.

## **Recreation**

*Contribution to Public Recreation* - Development which contributes to public recreation opportunities on Multnomah Channel.

*Protect Public's Right to Access and Utilize Public Waterway* - Development which

promotes and does not infringe on public's ability to access the public waterway (Multnomah Channel) for recreational purposes.

### **Cumulative Impacts**

The cumulative impacts of the proposed development on the overall carrying capacity of Multnomah Channel shall be considered and minimized.

**The criteria listed shall be weighed and balanced by the hearing body considering each Special Plan Area so as to determine the most appropriate intensity and type of development allowed within each of these areas.**

**Discussion: It is not intended that each proposed use strictly meet each of the criteria listed above, but rather the criteria be used by the hearing body to weigh the appropriateness of different potential uses. It is assumed that each site within the boundaries of Policy 26 is appropriate for some sort of marine related development unless a single criteria weighs so strongly upon the site that it precludes all or some of the potential marine development uses.**

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

*Applicant: Rocky Pointe Marina has submitted a conditional use, site/design review and greenway request that will test its proposal against these criteria.*

**Staff:** The criteria above must be considered at this time to determine if the location, density and type of development proposed within the SPA is appropriate for this site. The proposed SPA includes all Goal 11 and Goal 14 Physically Developed and Irrevocably Committed areas and all commercial and residential uses supported by the marina. The specific criteria are listed below, along with staff analysis considering the appropriateness of the proposed uses. It is staff's view that the SPA should not be approved because the intensity of residential uses proposed exceeds what is appropriate for this site when considering all of the criteria.

#### **6.1.5.3.1 (Water Environmental)**

*Applicant: The marina has strict operating policies and is regularly inspected to ensure that there are no impacts to air and water. The houseboat population values and enforces quiet.*

*The majority of the property remains in natural condition. The bank is protected and impacted in relatively few locations; essentially only where the gangways and boat ramps are. A biological assessment reviewed the natural situation, assessed impacts, and dictated specific practices. The project requires permission from the Army Corp of Engineers and Department of Fish and Wildlife and the federal; level and the Oregon State Department of State Lands.*

*The site has been developed as a marina and related water dependant activities since the 1930's. The development minimizes impacts on the natural surroundings. The majority of development is on the water and upland from the bank. The banks are virtually untouched except for gangways and boat ramps.*

***River Bank Protection - Development which protects the river bank from erosion caused by boat traffic.***

***Water Quality - Development which contributes to or does not significantly degrade water quality.***

**Staff:** This request is not yet subject to many of the county's specific development review standards, a number of which would directly evaluate environmental impacts to the riparian area, to fish and wildlife and to water quality. Examples would be the Willamette River Greenway and Grading and Erosion Control permits. These standards will be evaluated by a county Hearing's Officer as part of the Conditional Use Permit review in the event this goal exception is approved and acknowledged by the Department of Land Conservation and Development. This does not prevent the Planning Commission from evaluating the criteria as informed by the Comprehensive Framework Plan Policies, where direction is necessary.

Impacts to water quality are best achieved by providing a buffer between uses and water bodies and mitigating any loss of riparian vegetation to the greatest extent possible. Aerial photos show heavy vegetation running the length of the channel roughly 60-90 feet wide providing an adequate buffer between the upland development and the channel. All upland development is either associated with the in-water uses or in the case of the boat repair yard, is related to in-water uses in general and; therefore, should be located near the channel to consolidate the operation as much as possible. The applicant has indicated that any areas disturbed along the channel bank will be replanted with native landscaping. Disturbed bank areas are expected to be very limited and only associated with installation of the emergency 4-foot wide gangway access ramp serving the in-water expansion.

Rocky Pointe enforces a no-wake zone which will help limit bank erosion associated with boat traffic. The in-water development that will extend the length of the property will also act as a breakwater greatly reducing bank erosion from wave action. The on-site septic system is approved by DEQ, and of adequate capacity to serve the proposed expansion according to an engineer retained by the owner (Exhibits 35, 36, 47). Adequate sewage disposal is critical to water quality protection within the SPA.

Asphalt parking areas are sloped inland, away from the channel to allow runoff to filter through gravel areas and grass before entering the on-site wetland. The marina has a spill response plan in place in the event of a boat yard accident, offers a self contained recycled water boat wash down area to prevent bottom paint, etc. from migrating into the channel and the boat yard expansion area will be designed so that runoff from the existing and proposed boat yard surface will be channeled into a series of swales and filters running through the center of the boat yard. The marina also has received the 'Clean Marina' status from the Oregon State Marine Board attesting to its clean business practices.

The applicant has not adequately addressed how auto parking in support of the houseboats will be provided. Staff suspects the applicant will also need to place a large volume of fill near or in wetland areas to meet current parking standards which could have an impact on water quality.

The applicant has not demonstrated the proposed development can fit on the property and meet all applicable standards without impacting wetland areas and/or the channel. The county's Community Service Conditional Use code requires that the owner provide at least two auto parking spaces for each new houseboat, and the parking area including all ingress and egress



thereto, shall located at least 2-feet above the 100-year floodplain (MCC 34.6760). The vast majority of the property is mapped within the 100-year floodplain (Exhibits 14 & 15) suggesting to staff fill materials would likely be needed to create an elevated parking area on the property. In 1993, the applicant estimated 7 – 9 feet of fill would be required at this site to elevate parking areas as required by County code (Exhibit 25). The Hearing's Officer granted a variance to this parking standard in 1993 (Exhibit 25) which can no longer be waived under the county's current variance provisions (MCC 34.7606(B)). Current code also limits fill placed within the floodplain to less than 5,000 cubic yards under the Large Fill provisions (34.6705(D)). The applicant has not demonstrated all development envisioned with the SPA can be accomplished using less than 5,000 cubic yards of fill material.

Many aspects of the SPA are designed to minimize impacts to water quality. Other aspects, such as the new parking areas, have not been fully explored and therefore the applicant has not demonstrated all development in support of the SPA meets this standard.

***Septic tanks/Sewage - Development which is more amenable to safe and sanitary sewage disposal, along with adequate upland facilities for disposal of sewage.***

**Staff:** The DEQ permitted sewage treatment system is located within an upland facility which has been determined by an engineer to have adequate capacity to serve existing and proposed development.

***Fish and Wildlife - Development which contributes to or does not have a significant detrimental impact to the fish and wildlife in the water.***

**Staff:** The Sauvie Island/Multnomah Channel Rural Area Plan's Natural and Environmental Resources assessment ranked Multnomah Channel as the fourth (out of ten inventoried) most significant waterways with respect to wildlife habitat values. The plan finds the greatest wildlife habitat function is as a travel corridor and that the water and adjacent riparian vegetation provide habitat for waterfowl, heron, cormorants and kingfishers.

The applicant submitted a Biological Assessment prepared by Ellis Ecological Services and Flowing Solutions, LLC assessing impacts of the proposed in-water expansion (Exhibit 23). The report concludes the project is expected to have "no effect" on listed plant or wildlife species or their habitat but that the project is "likely to adversely affect" the following salmonids that are likely to occur in the vicinity of the proposed action: Lower Columbia River Coho Salmon, Lower Columbia River Chinook Salmon, Upper Willamette River Chinook Salmon, Lower Columbia River Steelhead Trout and Upper Willamette River Steelhead Trout. This determination was based on short-term acoustic disturbances caused by pike driving, temporary disturbances to water quality and benthic food organisms during construction and long-term shading effects caused by the new expansion.

The report's executive summary concludes that no significant long term effects to essential fish habitat are anticipated with proper implementation of appropriate conservation measures. Conservation measures recommend in-water work to occur July 1 to October, control of turbidity and contaminants, establishment of a spill prevention and control plan, use of a vibratory hammer for pile driving, cutting old piles at the mud line, installation of anti-perching piling caps, use of encapsulated dock floats. The applicant has also proposed installing grating along the new docks to minimize shading.

Although new in-water development may have a detrimental impact on birds and aquatic species given the surface coverage and noise, the existing moorage improvements within the SPA is a mitigating factor reducing the habitat value of the expansion area. **As such, there is not a significant detrimental impact caused by the SPA in-water expansion.** The applicant has considered the design of the entire in-water development in the SPA, making adjustments where needed to minimize impacts to fish and wildlife such as replacing sections of existing dock with open grating to minimize light reduction in the shallows and proposing grading along the new dock. In addition, the in-water development is typically located in deep water (25-foot plus) further minimizing light reduction in the shallows.

Wetland areas identified on the National Wetlands Inventory maps are located along the western portion of the site, 1.2 acres of which would need to be filled to expand the boatyard west as envisioned within the SPA according various maps and plans (Exhibits 4, 11, 17, & 74). Although the applicant has mentioned wetland mitigation is possible, Staff has not seen details on the specific mitigation areas or fill volume proposed. Considering the evidence in the record, Staff finds that certain aspects of the SPA such as the boatyard expansion, new auto parking areas could have a detrimental impact on fish and wildlife using the area. **Although long-term impacts to fish habitat are not anticipated, short term impacts to fish and fish habitat are likely to be caused by the construction of the in-water expansion area. It appears these temporary impacts can be reduced through mitigating techniques, but cannot be eliminated.**

#### 6.1.5.3.2 (Land Environmental)

##### ***Development in Wetland - Development which does not impact wetlands.***

**Staff:** Portions of the SPA development are located immediately adjacent to and within wetland areas labeled PEMC (Palustrine Emergent Seasonally Flooded) or PSSC (Palustrine Scrub Shrub Seasonally Flooded) on the National Wetland's Inventory. In 1993, the previous owner's request to establish 50 floating homes was denied and reduced to 40 by a Hearing's Officer who felt 50 dwellings on this site would adversely impact wetlands. Page 19 of the decision noted *"In this case, the hearing's officer finds that the parking needs associated with 50 houseboats, along with the cumulative affects of the other proposed uses and its associated parking, will unnecessarily endanger portions of the wetland and riparian fringe. In short, the applicant is attempting to put too much development in too small of a place, and the resource area is being unnecessarily crowded by parking in order to achieve such density. The hearings officer notes that one way to alleviate such an over crowding is to grant a larger variance for the required parking standards. Although some variation could be warranted under the circumstances, a variance of the magnitude requested by the applicant is not appropriate as noted below. The better solution, in view of all the evidence in the record, is to reduce both the number of houseboats and the number of required parking spaces, in an effort to better protect more fragile and important resource areas from intrusion by roads and parking."* A copy of this decision is presented as Exhibit 24.

The current request for 76 floating homes, in combination with the proposal to fill 1.2-acres of wetlands in the boatyard expansion area leads staff to believe that development under a SPA would likely impact wetlands. The applicant has submitted a generalized wetland mitigation plan on the last page in Exhibit 17 noting an "open water wetland replacement area" which appears to match the existing wetland footprint in aerial photos of the site. Exhibit 17 contains

a mitigation plan plant list but provides no information as to where mitigation planting will occur. Staff suspects the applicant will also need to place a large volume of fill near wetland areas to meet current parking standards as previously discussed. The applicant has not demonstrated the proposed development can fit on the property and meet all applicable standards without impacting wetland areas.

At this point, not enough information has been provided to demonstrate that the SPA designation is appropriate. The applicant should demonstrate the increased residential density will not impact wetland areas and that the mitigation proposed is feasible, appropriate and adequate when considering measures to offset impacts created within the SPA.

**Traffic Increase - Development which minimizes increases in traffic on moorage access roads, on railroad crossings, and onto Highway 30.**

**Parking - Development which minimizes the amount of parking area necessary.**

**Staff:** Traffic from the site will access Highway 30 on Old Lower Rocky Pointe Road, which is a county road. The addition of 36 new dwellings will increase traffic on the local moorage access road, will increase traffic crossing the railroad west of the site and will increase traffic onto Highway 30. The applicant has explained that traffic will actually be reduced with the SPA master plan which removes all 22 live-a-board boats from the property and removes 16 boat slips to help make room for the new dwellings. Staff has not found evidence of approval for the use of any boats to be used as dwellings and therefore the removal of unpermitted live aboard boats can not be used as mitigation to meet this standard. Nothing has been provided to the record addressing how the owner would change his operational practices to reduce traffic.

The removal of 16 recreational boat slips will not offset the increase in transportation demand caused by the addition of 36 new homes. Considering the evidence in the record, Staff finds that development under a SPA designation would increase traffic on local roads and over the rail crossing. The applicant has not provided tangible evidence as to how that increase would be offset to minimize the impact.

No right-of-way dedications are being required by the County Transportation Planning group at this time, although a traffic impact study will be required in the future if the Goal Exception application is approved to determine if traffic mitigation is needed as a result of this proposal (Exhibit 33). A traffic impact study has not yet been submitted by the applicant.

**Ground Water Quality - Development which minimizes impacts to ground water quality.**

*Applicant (Supplied by Andrew Jansky, PE., Flowing Solutions):*

*The proposed expansion to the work yard includes the addition of approximately 17,800 sf of new impervious area (0.41Ac). In order to estimate the increased runoff due to the proposed development the 10-yr, 24-hr storm was analyzed using the Santa Barbara Unit Hydrograph for the existing site conditions as well as the proposed expansion. The results of this analysis show an increased flow of 0.15cfs and an increased volume of approximately 1900cf. The preliminary grading plan shows adequate room for treatment and storage of this volume of water.*

*As the soil type and high groundwater make infiltration of the runoff impractical, a treatment chain of swales and mechanical systems will be used to treat the runoff with a pond for storage. The overflow from this pond will be discharged into the existing pond on the site. Discharge from the pond and swales can be controlled through the use of an orifice or weir to restrict the flow rates to existing rates.*

*While these calculations are preliminary and final design of the site has not been completed, it is clear that it is feasible to maintain runoff rates to those seen under the existing conditions.*

*The existing areas site includes repaving and adding additional parking spaces. These spaces generally exist and include gravel or grass overflow parking zones. The additional areas are generally small, however one section includes 14,000 sf of parking. The stormwater for the smaller areas can be treated by shed draining to a small grass diffusion strip. The larger area will require the use of pervious pavement or a collection and treatment system using bio-swales. Sufficient area exists adjacent to the proposed parking area to accommodate this type of stormwater treatment.*

**Staff:** Comprehensive Plan Policy 16G (Natural Resources – Water Resource and Wetlands) states it is the county’s policy to protect a number of water resources, including groundwater, from a public safety standpoint. The Comprehensive Plan Policies provide general policy decision making context when evaluating more specific Rural Area Plan Policy criteria, such as Policy 15 in this case.

The safety of shallow groundwater quality for public consumption could most easily be impacted by inadequate sewer service and improper storm water runoff treatment. Sewer service is provided throughout the SPA in association with the dwellings, boatyard and marina office. Potable water will be provided throughout the SPA for permanent residents, recreational guests using the boathouses and boat slips, general public purchasing fuel, washing clothes, etc. and boatyard workers.

The sewer system is permitted and routinely inspected by DEQ and, and at the request of both DEQ and the county, has been found by an engineer to have adequate capacity to safely treat all existing and proposed development within the SPA. Grass diversion strips, a series of drainage swales, mechanical treatment and a storm water storage pond is proposed by the engineer to treat runoff from parking areas and the new and expanded boat maintenance yard. The applicant indicated groundwater is typically found 18 feet deep and the well is 146 feet deep suggesting to staff that public drinking water is likely being withdrawn from fairly deep in the local aquifer less susceptible to shallow contamination. Although staff can offer no evidence to this effect, Staff suspects static groundwater may actually be less than 18-feet deep at times considering the low property elevation and proximity to wetland areas and the channel.

#### ***Land Wildlife - Development which minimizes impacts to land wildlife.***

**Staff:** The wildlife population around the marina includes geese, ducks, otter, beaver, nutria, muskrats, turtles, frogs, and many birds. As previously stated, the natural portions of the site are predominately outside the SPA in an attempt to minimize wildlife impacts. It is unclear whether the boatyard expansion would have impacts to wildlife. Oregon Department of Fish and Wildlife Staff have been invited to comment on the proposal but have not yet provided feedback. Notice of the public hearing was sent to ODFW staff.

The Biological Assessment prepared by Ellis Ecological Services & Flowing Solutions, LLC (Exhibit 23) focuses only on the in-water work proposed and does not address the boatyard expansion. The report states on page iii that “*No listed plant and wildlife species are known to occur at the Project site. The proposed Project is expected to have “no effect” on listed plant or wildlife species or their habitat.*” Rural Area Plan Policy 15 does not limit protection to only listed wildlife species.

Expanding the boatyard north is not an option due to a property line, east due to the riparian area buffer and channel and south due to existing development. Trees will not need to be removed to serve this expansion, although a few shrubs will be. The SPA layout, which corresponds to the outside boundaries of the exception areas, preserves a continuous natural area running along the northern third of the property on the west side. Approximately 30% of the site will be left in the natural state preserving a protected linear wildlife corridor allowing movement through the area west of the SPA.

As previously mentioned, the applicant has not explained how the houseboat auto parking (and access thereto) will be elevated at least 2-feet above the 100-year floodplain to meet current parking codes. After reviewing the FEMA Flood Insurance Rate Map of the property, Staff believes a large amount of fill may be required to create an elevated parking area. The applicant has not provided details on the design or location of the required parking area and therefore, Staff does not have the information necessary to adequately evaluate impacts to wildlife.

***Necessary Utilities - Development which requires fewer utilities to serve proposed uses.***

**Staff:** Comprehensive Plan Policy 37 (Utilities) defines necessary utilities as sewer, water, storm water drainage, energy and communications systems. The applicant’s site plans in Exhibits 4, 16 & 77 show the location of each of these utilities which run the length of the SPA. It appears feasible that these existing utilities can simply be extended south of the upstream dock to serve the in-water expansion area and extended west from the boatyard into the boatyard expansion area. No new utilities will be required to serve the proposed uses with the SPA.

The well’s capacity is currently under the level requiring a permitted water right by the State Department of Water Resources. Although the applicant has just begun the permitting process to establish a water right commensurate with the proposed demand, a department staff member indicated to staff over the phone that it is more likely than not that the permit will be approved. This is because the existing well provides the majority of the yield needed to serve the SPA (post expansion) and considering Multnomah Channel is not designated a groundwater limited area. The state’s water right permitting process is estimated to take 9-12 months. Notice of the public hearing was sent to Department of Water Resources staff.

***Need for Restroom Facilities - Development which minimizes the need for additional communal restroom facilities to serve the proposed uses.***

**Staff:** All existing dwellings within the SPA have private restroom facilities to minimize the need for additional communal restroom facilities on the site. Public restrooms available to serve the recreational users of the site and employees are found on the docks and in the boat

repair yard. All new dwellings will have private restroom facilities. The applicant is contemplating a floating community meeting room within the expansion area and has not indicated whether that building would contain a restroom. A communal restroom in this building would be reasonable considering it would be a place for community members to congregate and recreate. Without a communal restroom in the building, some tenants using the meeting room would need to walk over ½ a mile to the nearest public restroom, assuming their home was one located at the opposite end of the site.

***Floodplain Development - Development which minimizes placement of permanent structures and uses in the floodplain.***

**Staff:** This criterion relates to Comprehensive Plan Policy 14 (Development Limitations), which directs development outside the 100-year floodplain when possible. Ninety-five percent of the subject property appears to be mapped within the 100-year floodplain. Areas outside the floodplain are small pockets along the west side of the property not suitable for development considering setback requirements of the zone. Therefore, the SPA must be located in the floodplain.

It is staffs view that this criterion applies to a permanent structure affixed to the ground and that the majority of new development within the SPA will be floating structures and gangways designed to rise and fall with floods. This ensures development is always located above flood waters meeting the intent of Policy 14. Staff believes the SPA minimizes the placement of permanent structures inside the floodplain.

***Accessory Structures - Development which minimizes the need for accessory on-land structures to serve proposed uses.***

**Staff:** The applicant has requested the SPA designation in order to have the ability to depart from the Community Service Use requirement in county code limiting houseboat density to a maximum of one floating dwelling per 50 feet of waterfront frontage (MCC 34.6755). The Rocky Pointe Marina serves a number of uses in addition to the 40 residential floating homes including marine related recreational support and commercial activities associated with fuel sales and boat repair. Although the SPA covers the entire operation, the relevance of this criterion should be viewed solely with respect to minimizing the need for on-land residential accessory structures.

Land structures used to support the residential use of the property include a well house, filter house, sewage treatment plant, three recycling/garbage collection structures, and a mail center. These structures are limited in size and necessary to support the 40 existing floating homes. The applicant has not indicated any new residential accessory structures are proposed on land to support the 36 additional floating structures. The remaining land structures are primarily congregated towards the northern property line and used in conjunction with the boat yard and therefore are not relevant (36' x 48' boat repair building, 24' x 50' portable shelter, utility shed, two 8' x 40' conex containers and a 20' x 60' portable shelter). All buildings on the property are illustrated on the applicants four existing site plans copied from associated case T3-06-005 which show the four sections of the operation (Exhibit 77).

**6.1.5.3.3 Aesthetic**

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

**Staff:** This criterion needs to only be considered within the expansion areas since the existing land development has been in place for decades. The boatyard expansion area can be reviewed under existing county code and as such, there is no need to consider it as part of the SPA criteria. No trees will be removed to establish the emergency gangway ramp to the southern dock expansion area. Without details explaining where and how the residential parking area will be established, Staff is unable to find the SPA minimizes loss of vegetation.

***Visibility of Shore - Development which minimizes changes to natural shoreline features.***

**Staff:** Staff is not aware of any changes to the natural shoreline features that have occurred in the past. No changes are proposed. A vegetative buffer 60-90 feet wide between the upland operation and the channel has been established according to aerial photo measurements. Gangway ramps to the in-water development rise above the shoreline.

***Massing and Scale - Development which has a human scale or architectural quality to it.***

**Staff:** This standard is met primarily through the separation of more intense commercial boat repair use from the more human scale, lower intensity residential uses on the property. The boat repair use is clustered towards the northern portion of the site adjacent to the property line, while the dwellings are located primarily on the outside of the three docks facing the channel. Homes are proposed on the outside of the proposed dock expansion as well. Parking in support of the existing homes is provided next to the channel clustered around the three existing gangway ramps helping to further separate the residential uses on the property from other uses as much as possible.

***Diversity/Rural character - Development which maintains the existing diversity and rural character of Multnomah Channel.***

**Staff:** The rural character of this channel reach is best described as undeveloped natural areas on the east bank, and in-water marina/moorage on the west bank. The proposal maintains the existing character of floating dwellings and boat slips defining the west bank. Moorages are a dominant feature along the channel. They are a part of its character and provide diversity in terms of form of development. The in-water footprint will follow the natural flowline of adjacent marinas.



***Lighting - Development which minimizes night lighting of uses.***

**Staff:** Although lighting within the SPA is necessary for safety, it has been designed and sited to minimize impact to neighboring areas according to the owner. Within the channel, only the gangway ramps are illuminated using low wattage lights placed at ground level. For security reasons, the parking area serving the docks must be illuminated at night. Six to Seven floodlights roughly 20 feet tall are directed downward within the parking area. These floodlights are below tree canopy level helping screen the lights and reduce light pollution. Fences and gates are utilized on the property to increase security, especially in the boat yard area, while reducing the need for security lighting.

***Vegetation/landscape on Water - Development which minimizes its visibility from the Multnomah Channel waterway.***

**Staff:** The landscaped buffer along the length of the channel helps push upland improvements associated with the residential uses back from the water and provides visual screening. Upland development does not extend above the tree line and all in-water docks and piers are brownish red weathered steel or brown wood helping it blend into the surrounding landscape as much as possible.

Houseboats are a dominant feature along the channel as illustrated in the photo above. Filling the remaining gap between the moorage to the south and the southern extent of the Rocky Pointe Marina will not impact visibility in a meaningful way.

**6.1.5.3.4 Safety**

***Contribution to Channel Traffic - Development which minimizes Channel traffic.***

**Staff:** The in-water expansion area will not extend further out into the channel than surrounding development and therefore will not impede channel traffic. The SPA envisions adding 36 new residences and 65 new auto parking spaces which will not have an effect on channel traffic. To create the space needed to add the homes, 550-feet of dock will be constructed and 16 existing boat slips will be permanently removed. The removal of the boat slips will reduce channel traffic.

***Residential Link - Development with a permanent residence component which provides a human presence to both report emergencies and violations on Multnomah Channel.***

**Staff:** The SPA envisions 76 full time residents that can watch over the site and report emergencies and/or violations. The Rocky Pointe Marina also has a full time care-taker living on the middle dock at the center of the marina. Each tenant has been provided with the care-taker's cell phone number.

***Fire Hazard - Development which minimizes fire hazard.***

***Emergency Services - Development which minimizes the need for emergency services.***

**Staff:** The applicant has worked closely with the Scappoose Fire Department in the SPA design to reduce the potential for emergencies. Prominent signage will be posted at each



gangway entrance noting the dwelling numbers accessible from that gangway ramp. In addition to the numerous water stand pipes required around the site by the fire department; five portable 5-horsepower fire pumps are available for additional mobile fire fighting protection. One is located on each of the three docks and one on each of the two service boats. The owner has also decided to run three to four fire drill exercises per year and require each tenant to attend at least one drill a year.

#### **6.1.5.3.5 Economic**

##### **Development which provides economic value to Multnomah County in the form of assessment value and reduced need for public services.**

**Staff:** The expansion proposed within the SPA will provide temporary construction jobs and permanently increase the assessed value of the property. The owner is estimating a \$100,000 increase in personal property tax to the county for the new homes proposed. The consolidated development pattern within this SPA will economize on centralized on-site public water and sewer system and no additional public services are necessary to serve the expansion. All public services exist currently.

The additional homes will place additional demand on public police, fire, school services. Michael Greisen, Scappoose Fire District, indicated his office will support the development application assuming the applicant demonstrates a number of fire codes can be met. This will require review of access road constraints by the Fire Chief, installation of no parking signs along the access road, installation of a fire protection standpipe system and installation of gangway walkway and slip number signage (Exhibit 41). The Scappoose Fire Chief agrees that it is feasible that the owner can meet all fire requirements and that nothing needs to be completed before building permits are issued. The applicant has provided the Fire Chief a survey of the access road as requested by the Chief. The applicant has requested that any conditions of approval be incorporated into the pending Conditional Use case that will proceed in the event this goal exception is approved. Staff agrees this request is reasonable and finds that it is feasible that necessary fire service can be provided given the applicant can satisfy fire district requests.

The Multnomah County Sheriff's Office confirmed the level of police service available to serve the proposed project is adequate (Exhibit 40). Paul Peterson, Scappoose School District Superintendent, has reviewed the proposal and provided a letter of support (Exhibit 37).

#### **6.1.5.3.6 Recreation**

##### ***Contribution to Public Recreation - Development which contributes to public recreation opportunities on Multnomah Channel.***

**Staff:** The SPA includes a public boat ramp which can be used by the general public and residents of the marina to access recreational opportunities on Multnomah Channel. Smaller boats, such as kayaks and canoes, can be launched directly off the dock adjacent to the houseboats.

##### ***Protect Public's Right to Access and Utilize Public Waterway - Development which promotes and does not infringe on public's ability to access the public waterway***

**(Multnomah Channel) for recreational purposes.**

**Staff:** The marina offers a public boat ramp allowing public access to the channel through the site. The in-water development is set back from the channel allowing people to canoe and kayak along the bank rather than be blocked by the SPA houseboat development. The space provided between the docks and riverbank is illustrated in the photo below.



**6.1.5.3.7 Cumulative Impacts**

**The cumulative impacts of the proposed development on the overall carrying capacity of Multnomah Channel shall be considered and minimized.**

**The criteria listed shall be weighed and balanced by the hearing body considering each Special Plan Area so as to determine the most appropriate intensity and type of development allowed within each of these areas.**

**In reviewing each Special Plan Area, Multnomah County shall consult with other relevant local, state, and federal agencies, including but not limited to the following agencies:**

- Division of State Lands**
- Oregon Department of Fish and Wildlife**
- Oregon Parks and Recreation Department**
- Oregon State Marine Board**
- U.S. Army Corps of Engineers**
- Metro Parks and Greenspaces**

**Staff:** Notice of the project was mailed to every agency above and an opportunity to raise concerns provided. No concerns were provided by any of the agencies above. The expansion area is identified as being an area identified as suitable for houseboat uses in the Sauvie Island/Multnomah Channel Rural Area Plan. That process evaluated carrying capacity of the channel as a whole when setting limits on where houseboat expansions can occur.

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**6.1.6 MCC 37.0705(A)(3) The uses allowed by the proposed changes will:**  
**(a) Not destabilize the land use pattern in the vicinity;**

*Applicant: The surrounding land uses are very stable with marinas upstream and downstream; and a railroad and state highway between the marina and upland properties that grade steeply up into heavily forested mountains. The proposed expansion is an in-fill on the water lease. Additional land will not be disturbed.*

**Staff:** The land use pattern in the vicinity is defined by linear in-water marina/moorage development consisting of pilings, docks, ramps, slips and various one and two story floating structures. The urban style density and abnormally linear arrangement of this development visually dominates the land use pattern along this reach of the channel. Although large farm tracts are found to the east and large forest tracts to the west, the vicinity is defined in this staff report as the developed reach of Multnomah Channel 5,000 feet downstream and 1,000 feet upstream of the expansion area. Staff believes that considering the channel as the vicinity is appropriate considering how different the in-water urban style development is from surrounding sparsely developed rural upland properties.

The proposed expansion will fill a small gap in existing similar development along the channel's west bank. The expansion will result in one continuous line of in-water marina/moorage development over one mile long formed by the Happy Rock Moorage on the upstream side, Rocky Pointe in the middle and the McCuddy's Marina on the downstream side<sup>8</sup>. The expansion will physically align with, conform to the architectural appearance of and not destabilize the existing land use pattern in the vicinity. It should be noted that the expansion area is already designated as appropriate for houseboat development Policy [16 26](#) (Houseboats) of the county's Comprehensive Plan.

**(b) Not conflict with existing or planed uses on adjacent lands;**

*Applicant: The marina is isolated from any properties where there could be a conflict.*

**Staff:** Staff is not aware of any planned uses on adjacent lands that would be relevant for this analysis. At the time of this writing, no active land use cases were pending on adjacent properties. Adjacent lands to the north and south are developed with the same type and relative scale of in-water development proposed. The proposal has been amended to accommodate waterway access concerns raised by the owner of Happy Rock Moorage on the upstream side. The most recent plan offers 50-foot separation between the new dock expansion and the Happy Rock Moorage to allow necessary waterway access to the slips on the bank side of Happy Rock's docks. In order to avoid conflict, establishing this 50-foot separation is a recommended condition of approval.

The proposed expansion will not extend further than adjacent development into the channel and therefore will not obstruct river traffic. The rail line and Highway 30 transportation corridors abut the west side of the property and Multnomah Channel to the east. The proposed expansion will not obstruct either the road or rail-line. Staff finds the expansion will not conflict with adjacent lands.

**(c) That necessary public services are or will be available to serve allowed uses.**

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<sup>8</sup> This operation has been referred to in the past as "McCuddy's", "Big Oak Marina" and "McCuddy's Big Oak Marina".

*Applicant: All utilities are currently in place.*

**Staff:** Public services include drinking water, septic disposal, fire and police response and public school availability. The owner has indicated an on-site artesian well currently provides drinking water to the site and has applied for a water right expansion to serve the new dwellings from the Department of Water Resources (Exhibit 53, 38, & 60).

In September of 2008, the owner informed the Department of Environmental Quality (DEQ) of the request to add 36 floating homes with a 10,000 gallon per day on-site Davco wastewater septic treatment plant. On October 22<sup>nd</sup>, 2008, DEQ staff requested the owner retain an engineer to prepare an evaluation report confirming whether or not the existing system can handle the increased septic load. Stuart L Cato, PE, CWRE has confirmed that *“based on the existing flows and treatment levels it is our opinion that the proposed addition of 36 more floating homes will not overload the package (sewage) treatment plant with a permitted average monthly flow of 6,500 GPD.”*

Michael Greisen, Scappoose Fire District, indicated his office will support the development application assuming the applicant demonstrates a number of fire codes can be met. This will require review of access road constraints by the Fire Chief, installation of no parking signs along the access road, installation of a fire protection standpipe system and installation of gangway walkway and slip number signage (Exhibit 41). The Scappoose Fire Chief agrees that it is feasible that the owner can meet all fire requirements and that nothing needs to be completed before building permits are issued. The applicant has provided the Fire Chief a survey of the access road as requested by the Chief. The applicant has requested that any conditions of approval be incorporated into the pending Conditional Use case that will proceed in the event this goal exception is approved. Staff agrees this request is reasonable and finds it feasible that necessary fire service can be provided given the applicant can satisfy fire district requests.

The Multnomah County Sheriff’s Office confirmed the level of police service available to serve the proposed project is adequate (Exhibit 40). Paul Peterson, Scappoose School District Superintendent, has reviewed the proposal and provided a letter of support for the proposal (Exhibit 37). Staff finds all necessary public services are or can be made available to serve the proposal. The applicant will need to provide authorization from the Oregon Department of Water Resources and the Department of Environmental Quality to expand the marina as part of the pending Conditional Use process.

**6.1.7 MCC 37.0705(A)(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 under this subsection.**

*Applicant: There are no errors or mistakes in planning. Multnomah County has clearly identified Rocky Pointe Marina in an area for floating homes as outlined in both the Sauvie Island Plan and the Multnomah County Comprehensive Plan Policy 26 which is part of the county’s adopted and acknowledged comprehensive plan.*

**Staff:** Staff concurs with the applicant. This plan revision request is based neither on neighborhood change nor on a zoning mistake. This reach of the channel has been used for non-resource based development for decades and the land zoned accordingly. As the applicant

points out, Comprehensive Plan Policy 26 (Houseboats) specifically calls out the Rocky Pointe Marina as suitable for houseboat development.

**6.2 MCC 37.0705(B) Quasi-Judicial Zone Change. The burden of proof is upon the person initiating a zone change request. That burden shall be to persuade that:**

**6.2.1 MCC 37.0705(B)(1) Granting the request is in the public interest;**

*Applicant: The public benefits from a diversity of housing types; stewardship of the river; river access; and the provision of an efficient waste treatment system.*

**Staff:** Staff has informed the applicant that the burden of proof lies with the applicant rather than staff. The request will increase housing availability and offer more diverse housing options opportunities in Multnomah County which benefits the public. Comprehensive Policy 24 (Housing Location) supports the location of new housing in areas where services can be provided most economically and efficiently. The extension of existing sewer and water service at the site will be more economical and efficient than the traditional rural development model of a separate on-site system serving each dwelling.

This proposal also aligns with Comprehensive Framework Plan Policy 20 (arrangement of land) encouraging a complementary blend of mixed uses to create a sense of neighborhood identity and stability. Consolidating residential development into one rural location adjacent to a highway also makes it quicker for emergency services to respond to a call. The new dwellings will be located adjacent to numerous recreational opportunities on the property, within the channel, within Forest Park to the southwest and Sauvie Island to the east. The proposal provides a number of benefits to the general public.

**6.2.2 MCC 37.0705(B)(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;**

*Applicant: The site is committed to the proposed use for over fifty years. The exception is to allow additional houseboats and continued improvements to the existing sewer system. The area is developed as a marina and the location is designated by Multnomah County's Comprehensive Plan as appropriate for houseboats. The only location available for this type of exception is along the waterfront. This location is one of the few, if not the only, location were an expansion can occur between two existing marinas in an area that has been developed with docks in the past.*

**Staff:** The applicant submitted additional narrative on March 4<sup>th</sup>, 2009 addressing public need. A copy is presented as Exhibit 21. In this narrative, the applicant explains the population of the Portland area is expected to increase substantially in the next 10 years and that floating homes have proven to be a favorable housing option and that a currently a need for floating home spaces exists. The applicant projects the new I-5 bridge could possibly displace as much as 100 floating homes increasing demand further in the future.

Staff is not confident a finding of public need can be made for the requested change in zoning to accommodate higher residential densities considering language in the County's Comprehensive Plan Policy 26 (Houseboats), which states:" "Moorage sites are limited in the

County, and demand for moorage space is high. Local moorages are all at or near capacity. However, demand for houseboat space should not be equated with need. Houseboats were not considered in Multnomah County's housing needs inventory, nor are they required to fulfill the County's housing obligation. Projected housing demand to the year 2000 can be met with the land already zoned for residential development. Therefore, houseboats may be considered a desired housing choice, but not a needed one." The proposed zone change does not appear to meet this standard.

**6.2.3 MCC 37.0705(B)(3) The proposed action fully accords with the applicable elements of the Comprehensive Plan;**

*Applicant: The applicant submitted findings in support of each applicable element of Multnomah County's Comprehensive Plan; and*

**Staff:** Applicable Comprehensive Plan and Rural Area Plan policies have been evaluated within this report where applicable to the criterion at hand.

**6.2.4 MCC 37.0705(B)(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 under this subsection. The existence of home occupations shall not be used as justification for a zone change.**

**Staff:** This zone change request is based neither on neighborhood change nor on a zoning mistake. This reach of the channel has been used for marina based development for decades and the land zoned accordingly. The applicant is not using the existence of home occupations for justification.

**7.0 SPECIAL PLAN AREA (MCC 34.5000-34.5010)**

**MCC 34.5000- Purposes**

**The general purposes of the Special Plan Area Subdistricts are to implement various provisions of the Comprehensive Plan, the Statewide Planning Goals and the land use control elements of Special Plan Area plans and of plans for neighborhoods and subcommunity vitalization; to aid in realizing opportunities to achieve community, social and economic stability and vigor; to institute desired patterns and improvement standards for land uses according to adopted specific-place plans; to facilitate public-private sector cooperation in the development of such areas; to establish more flexible and diversified standards and procedures; and to provide means to establish such interim land use controls as are deemed necessary, pending the preparation of local area comprehensive plan revisions or development strategies.**

**MCC 34.5005 - Area Affected**

**The provisions of a Special Plan Area subdistrict shall apply to specific land areas**

according to their designations as subdistricts SPA-1, SPA-2, SPA-3, etc., on the Multnomah County Zoning Map.

#### MCC 34.5010 - Standards to Establish an SPA Subdistrict

(A) An amendment establishing an SPA subdistrict shall include the following:

- 7.1 MCC 34.5010(A)(1) The designation of the subdistrict as SPA-1, SPA-2, SPA-3, etc., in the text and on the appropriate Sectional Zoning Map;

Staff: Staff does not believe the proposed SPA is justified for the reasons outlined in this report. In the event the Planning Commission finds that the SPA designation is justified, Staff proposes the public hearing be continued until a later date so that Staff can draft appropriate SPA subdistrict zoning text using the standards provided in MCC 34.5010(A)(1) – (11).

### 8.0 PLANNING AND ZONING FOR EXCEPTION AREAS (OAR 660-004-0018)

- 8.1 OAR 660-004-0018(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

*Applicant:* The applicant is proposing physically developed and irrevocably committed exceptions to Goal 11 and 14 that is intended to recognize existing marina development and sewer system.

Staff: The following rules apply to this goal exception request because it involves adoption of zoning provisions authorizing an increase in residential density. These rules relate to residential densities (i.e. Goal 14) rather than sewer densities (Goal 11). The physically developed and irrevocably committed exception is intended to allow the continuation of urban level residential development at this site, as has occurred for decades. Exceptions are limited to Goals 11 and 14 as outlined in this report.

- 8.2 OAR 660-004-0018(2) For "physically developed" and "irrevocably committed" exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those:

- (a) That are the same as the existing land uses on the exception site;  
(b) That meet the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal



requirements; and

- (B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-004-0028; and
- (C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;
- (c) For which the uses, density, and public facilities and services are consistent with OAR 660-022-0030, "Planning and Zoning of Unincorporated Communities", if applicable, or
- (d) That are industrial development uses, and accessory uses subordinate to the industrial development, in buildings of any size and type, provided the exception area was planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

*Applicant: The zoning limits the uses, density and public facilities on the subject property and marina to those that are the same as the existing land uses on the exception site/marina pursuant to OAR 660-004-0018(2)(a).*

**Staff:** This standard requires the new zoning resulting from a goal exception to specify a numeric lot size and limit uses, density and services to those that are the same as the existing land uses. With an approved exception in place, the existing Multiple Use Agriculture-20 (MUA-20) zone will be applied to the exception areas because the SPA zone change has not been justified. The MUA-20 zoning code already establishes a 20-acre minimum lot size and specifies the allowed range of uses in MCC 34.2800 – 34.2885, as required by this standard. Additionally, the approved exception would allow the owners to apply for expansion under the 1:50 density limitation codified in the current MUA-20 zone. Staff finds 2(a) is met as long as the expansion does not exceed the 1:50 land use density limitation in current county code<sup>9</sup>.

Although the applicant has justified Exceptions to Statewide Planning Goals 11 and 14 for portions of the proposed exception areas, Staff believes the proposed SPA subdistrict is not justified for the reasons outline in this report. The applicant has not justified an exception is necessary for the boat yard expansion which can be reviewed under current code.

The Multiple Use Agriculture 20 (MUA 20) base zone with associated 20-acre minimum lot size will still apply to the exception areas. The uses listed in the MUA 20 zoning ordinance (MCC 34.2800 – 34.2885) apply. Because the SPA has not been justified, the maximum residential density shall be determined by the Community Service/Conditional Use Density standard of MCC 34.6755 apply capping the maximum density to one houseboat for each 50-foot of waterfront frontage.

The Hearings Officer has the authority to reduce density below the maximum allowed if it is determined development at the maximum density would place an undue burden on school, fire protection, water, police, road basic utility or any other applicable service (MCC 34.6755(A)). Additionally, a Hearing's Officer may reduce the approvable density below the 1:50 maximum

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<sup>9</sup> The county's 1:50 density limitation was not derived from state law.



if development at the maximum density would endanger an ecologically fragile natural resource or scenic area (MCC 34.6755(B)).

Therefore, the Hearings Officer, rather than the Planning Commission, is the appropriate review authority to determine appropriate residential density at the Rocky Pointe Marina during the pending Conditional Use/Community Service Use review. The Planning Commission is the appropriate review body to determine whether or not the 1:50 residential density cap must be applied and, if not, what is the appropriate maximum density.

- 8.3 OAR 660-004-0018(3) Uses, density, and public facilities and services not meeting section (2) of this rule may be approved only under provisions for a reasons exception as outlined in section (4) of the rule and OAR 660-004-0020 through 660-004-0022.

*Applicant: This rule is not applicable because the uses, density and public facilities and services meet section (2) of this rule.*

**Staff:** This standard is not applicable. Provision 2(b) does not have to be met because the project qualifies under 2(a). Section (2) of the rule has been met through application of the current MUA 20 zoning ordinance within the exception area. Section (3) does not apply.

- 8.4 OAR 660-004-0018(4) "Reasons" Exceptions:

(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;

(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required;

(c) When a local government includes land within an unincorporated community for which an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, which ever is more stringent.

*Applicant: No "reasons" exception is being proposed, and therefore, this rule is not applicable.*

**Staff:** Not applicable. Provision 2(c) does not have to be met because the project qualifies under 2(a). Staff concurs.

## 9.0 CONCLUSION

*Applicant: The marina has existed at this site for almost fifty years. Multnomah County's Comprehensive Plan acknowledges that this area is appropriate for Marinas. The proposed development is infill development between an existing marina upstream and Rocky Pointe Marina. The sewer system is permitted and monitored by the DEQ. The sewer system protects*

*the river's ecology from human waste and provides a practical and environmentally sound method to retrieve and process the waste. The conditional use process, design review, and greenway review ensured that all proposed and existing development complies with Multnomah County's rules and regulations.*

**Staff:** Staff recommends the Planning Commission forward a recommendation of approval to the Board of County Commissioners for the Exception request to Statewide Planning Goal 14 and Goal 11, for all proposed areas illustrated in Exhibits 1, 2 & 3 other than the westerly boatyard expansion and areas of existing commercial development not required to support the residential uses. Expansion of the boatyard does not require an exception because the use is not residential (Goal 14) nor is it dependant upon sewer service (Goal 11). The scope of the commercial activities does not exceed that allowed in the Oregon Administrative Rule and therefore a goal exception is not necessary to continue with these uses. Staff recommends the Planning Commission direct the applicant to revise the goal exception plans accordingly prior to the Board public hearing.

Staff also recommends the Planning Commission deny the request to exceed the request to establish a Special Plan Area within the Exception Areas allowing the one houseboat per 50 feet of waterfront frontage density cap of MCC 34.6755 to be exceeded. The applicant has not demonstrated the SPA criteria within Rural Area Plan Policy 15 [particularly with respect to impacts on traffic, natural resources and wildlife] or the zone change criteria of MCC 37.0705(B)(2) have been met. Staff respectfully requests that the Planning Commission clarify for the record that as a policy of general applicability - the residential density limitations of MCC 34.6755 apply to any request to establish a Special Plan Area.

**10.0 CASE TIME LINE**

- Application submitted: 7/03/08**
- Application deemed incomplete by staff: 8/1/08**
- Application deemed complete by the applicant: 12/30/08**
- Notice sent to the Department of Land Conservation and Development: 2/19/09**
- Newspaper notice of Planning Commission hearing published: 3/11/09**
- Direct notice of Planning Commission hearing mailed: 3/17/09**

**11.0 LIST OF EXHIBITS**

**MOST RELEVANT EXHIBITS ARE SHADED**  
***SUPERSEDED EXHIBITS ARE ITALICIZED***

<i>Exhibit #</i>	<i>Description</i>	<i>Date Submitted (by applicant or staff)</i>
<b>1</b>	<b>Site Plan – Irrevocably Committed Goal 11 Exception Areas (1 page)</b>	11/10/08
<b>2</b>	<b>Site Plan – Irrevocably Committed Goal 14 Exception Areas (1 page)</b>	11/10/08

3	<b>Site Plan</b> – Physically Developed Goal 11 and Goal 14 Exception Areas (1 page)	11/10/08
4	<b>Site Plan</b> – Existing Site Development Plan (1 page)	11/10/08
5	<b>Site Plan</b> – Property Vicinity Plan (1 page)	11/10/08
6	<b>Site Plan</b> – Vicinity Plan using 2004 Aerial Photo (1 page)	3/18/09
7	<b>Zoning Map</b> – Base Zoning Map of Township 3 North, Range 1 West (Willamette Meridian), Section 36A & D (1 page)	3/18/09
8	<b>Zoning Map</b> – GIS Produced Base Zoning Map of surrounding area (1 page)	3/18/09
9	<b>Tax Assessment Map</b> – Tax Assessment Map of Township 3 North, Range 1 West (Willamette Meridian), Section 36A & D (1 page)	3/18/09
10	<b>Comprehensive Plan Map</b> – Current Comprehensive Plan Map Showing Policy 26 Moorage Boundaries (1 page)	3/18/09
11	<b>Aerial Photo</b> – 2004 Aerial Photo of Downstream Portion of the Rocky Pointe Marina (1 page)	3/18/09
12	<b>Aerial Photo</b> – 2004 Aerial Photo of Middle Portion of the Rocky Pointe Marina (1 page)	3/18/09
13	<b>Aerial Photo</b> – 2004 Aerial Photo of Upstream Portion of the Rocky Pointe Marina (1 page)	3/18/09
14	<b>Aerial Photo</b> - 2004 Aerial Photo Showing 100-Year Floodplain Boundaries (1 page)	3/18/09
15	<b>FIRM MAP</b> – FEMA Flood Insurance Rate Map (Community-Panel Number 410179 0030 B, revised March 18, 1986) Showing 100-Year Floodplain Boundaries (1 page)	3/18/09
16	<b>Site Plans</b> – Various Plans Showing Site Improvements Relating to Sewer Improvements, Roadway Locations, and Power Easements (3 pages)	11/10/08
17	<b>Site Plans</b> – Various Plans Showing Wetland Location, Proposed Fill Location, Typical Fill Cross-Section Views and a Wetland Mitigation Plan Within the Proposed Boat Yard Expansion Area (8 pages)	2/10/09
18	<b>Narrative</b> – Applicant’s Narrative Addressing Goal Exception and SPA Criteria (40 pages)	10/15/08
19	<b>Narrative</b> – Stormwater Narrative Submitted by Andrew Jansky, PE. Flowing Solutions, LLC (1 page)	9/30/08
20	<b>Superseded Narrative</b> - Applicant’s Narrative Addressing Goal Exception and SPA Criteria (47 pages)	9/30/08

21	<b>Narrative</b> – Applicant’s Narrative Addressing Density, Public Need and Parking Issues (4 pages)	3/5/09
22	<b>Narrative</b> – Narrative Describing Aerobic Sewage Treatment Process (3 pages)	7/3/08
23	<b>Narrative</b> – Biological Assessment for the Rocky Pointe Marina Expansion Prepared by Ellis Ecological Services and Flowing Solutions, LLC (55 pages)	2/10/09
24	<b>Decision</b> – Hearing’s Officer Decision CS 1-93, WRG 1-93, HV 1-93, CU 7-93 issued July 30, 1993 for the Rocky Pointe Marina (32 pages)	3/18/09
25	<b>Decision</b> – Staff Administrative Decision for final Design Review Plan, Grading and Erosion Control Permit and Floodplain Development Permit (DR 28-93, HD 33-93 & FD 6-93), issued January 24, 1994 for the Rocky Pointe Marina. Copies of approved site plans included (21 pages)	3/18/09
26	<i>Superseded Narrative - Applicant’s Narrative Addressing Goal Exception and SPA Criteria (40 pages)</i>	7/3/08
27	<i>Superseded Plans – Applicant’s Goal Exception Plan, Existing Development Plan and Sewer Improvement Plan (3 pages)</i>	7/3/08
28	<i>Superseded Plans – Applicant’s Vicinity Map, Goal Exception Plan, Existing Development Plan, Road Access, Sewer Improvement and Utility Plan (7 pages)</i>	9/30/08
29	<b>Narrative</b> – Residential Density Analysis prepared by Steve C. Morasch, Schwabe, Williamson & Wyatt (4 pages)	11/14/08
30	<b>Narrative</b> – Residential Density Analysis prepared by Stan and Jen Tonneson (1 page)	2/9/09
31	<b>Narrative</b> – Residential Density Spreadsheet prepared by Stan Tonneson (1 page)	2/11/09
32	<b>Comment</b> – Comments Submitted by Ross Kevlin, Oregon Department of Transportation (1 page)	7/28/08
33	<b>Comment</b> – Comments Provided by Ken Born, Multnomah County Transportation Planner (3 pages)	9/10/08
34	<b>Comment</b> – 11/16/07 Comments Provided by Charles R. Gilbert, Oregon Department of Transportation Rail Crossing Compliance Specialist (7 pages)	7/03/08
35	<b>Comment</b> – Copy of 9/7/06 Fax from Lyle Christensen, State of Oregon Department of Environmental Quality (1 page)	7/03/08
36	<b>Comment</b> – Copy of 10/22/08 email from Garry L. Sage, EIT, State of Oregon Department of Environmental Quality (1 page)	10/27/08

37	<b>Comment</b> – Comments provided by Paul Peterson, Scappoose School District Superintendent (1 page)	7/03/08
38	<b>Comment</b> – Copy of 8/14/08 email from Darrell Hedin, State of Oregon Department of Water Resources District 18 and Certification of Water Service Form Completed by the Land Owner For the “Artesian Well” (4 pages)	8/14/08
39	<b>Comment</b> – Land Owner Responses to Concerns Raised 1/31/09 by Estella (Ginger) Curtis of Happy Rock Moorage (3 pages)	2/2/09
40	<b>Comment</b> – Police Services Review Form filled out by Bernie Gusto, Multnomah County Sheriff’s Office on October 4, 2005 (1 page)	7/03/08
41	<b>Comment</b> – Fire District Access Review Form, Fire Flow Requirement Form, 2/16/07 letter, 10/24/07 email, 2/05/09 email and 2/6/09 email from Mike (9 pages)	7/03/08, 7/03/08, 2/16/07, 10/24/07, 2/05/09 & 2/6/09, respectively
42	<b>Permit</b> – Department of State Lands Removal/Fill Permit 2004-00812 for the Rocky Pointe Marina issued February 18, 2009 (4 pages)	2/18/09
43	<i><b>Superseded Permit</b> – Department of State Lands Removal/Fill Permit 2004-00812 for the Rocky Pointe Marina issued November 28, 2008 (5 pages)</i>	11/28/08
44	<i><b>Superseded Permit</b> – Department of State Lands Removal/Fill Permit 2004-00812 for the Rocky Pointe Marina issued December 21, 2007 (4 pages)</i>	7/03/08
45	<b>Comment</b> – Comment Letter from Tami Hubert, State of Oregon Department of State Lands Property Manager (1 page)	7/03/08
46	<b>Comment</b> – Email from Michael V. McCabe, Oregon Department of State Lands, Explaining Why DSL Revised Permit 2004-00801 Two Times (2 pages)	2/17/09
47	<b>Narrative</b> – Sewage Treatment Capacity Report Prepared December, 2008 by Stuart L Cato PE/WRE, Slca Consulting Civil Engineers & 1/2/09 Letter (same author) Providing Additional Information on Showers, Liveboard Boats and Evaporation Sewage Pond (15 pages)	1/15/09
48	<b>Certification</b> – Oregon State marine Board ‘Clean Marina’ Certification for the Rocky Pointe Marina (1 page)	10/13/08
49	<b>Letter</b> – 8/29/06 Letter from Doug White, Department of Land Conservation and Development, Addressing Goal Exception Need to Expand Moorages (2 pages)	3/18/09
50	<b>Deeds/Easements</b> – Copies of Historic Deeds and Easements Involving All or Portions Of the Subject Property (21 pages)	8/15/08

51	<b>Application Authorization</b> – General Application Form – Case T4-08-001 (1 page)	7/03/08
52	<b>Site Plan</b> – Site Plan Showing Two Possible Locations For Floating Community Room Within Proposed Dock Expansion Area (1 page)	1/20/09
53	<b>Land Use Compatibility Statement</b> – Land Use Compatibility Statement Prepared 1.21.09 For the State of Oregon Water Resources Department by Adam Barber, Multnomah County Senior Planner (3 pages)	1/21/09
54	<b>Notice</b> – DLCD Notice of Proposed Amendment mailed to DLCD 2/19/09  [7 pages. The attached application materials sent with the DLCD notice are not included in Exhibit 54 to minimize un-necessary duplication within the record. These materials (i.e. site plans & narrative) have previously been introduced into the record above. <b>The original DLCD notice, with all attachments, is contained in the permanent case file record and available for review</b> ]	2/19/09
55	<b>Letter</b> – Letter Deeming Case T4-08-001 Incomplete on August 1, 2008 (9 pages)	8/1/08
56	<b>Letter</b> – Acknowledgement Letter Asking Whether the Applicant Agrees or Refuses to Provide The Additional Information Within 180-Days (1 page)	8/1/08
57	<b>Letter</b> – Applicant’s Acknowledgement to Provide the Additional Information Within 180-Days (1 page)	8/7/08
58	<b>Letter</b> – Owner’s Acknowledgement to Provide the Additional Information Within 180-Days (1 page)	8/12/08
59	<b>Letter</b> – Letter to Applicant Asking For Further Justification On Why the 1:50 Density Ratio Can Be Exceeded Through the Special Plan Area Process (2 pages)	9/29/08
60	<b>Email</b> – Email to Owner Asking For Additional Information Regarding Water and Sewer Permits (1 page)	12/9/08
61	<b>Email</b> – Email From Applicant Deeming Case Complete on December 30 <sup>th</sup> , 2008	12/30/08
62	<b>Letter</b> – Letter To Michael Greisen, Scappoose Fire Chief, Asking For Clarification on Fire District Requirements (1 page)	12/31/08
63	<b>Email</b> – Email from Stan Tonneson, Property Owner, Clarifying Historic and Current Use of Portions of the Property Used for Recreation (1 page)	1/15/09
64	<b>Letter</b> – Letter Offering METRO’s Staff An Opportunity to Comment On The Proposal (1 page)	1/28/09
65	<b>Letter</b> – Letter Offering U.S. Army Corps of Engineer’s Staff An Opportunity to Comment On The Proposal (1 page)	1/28/09

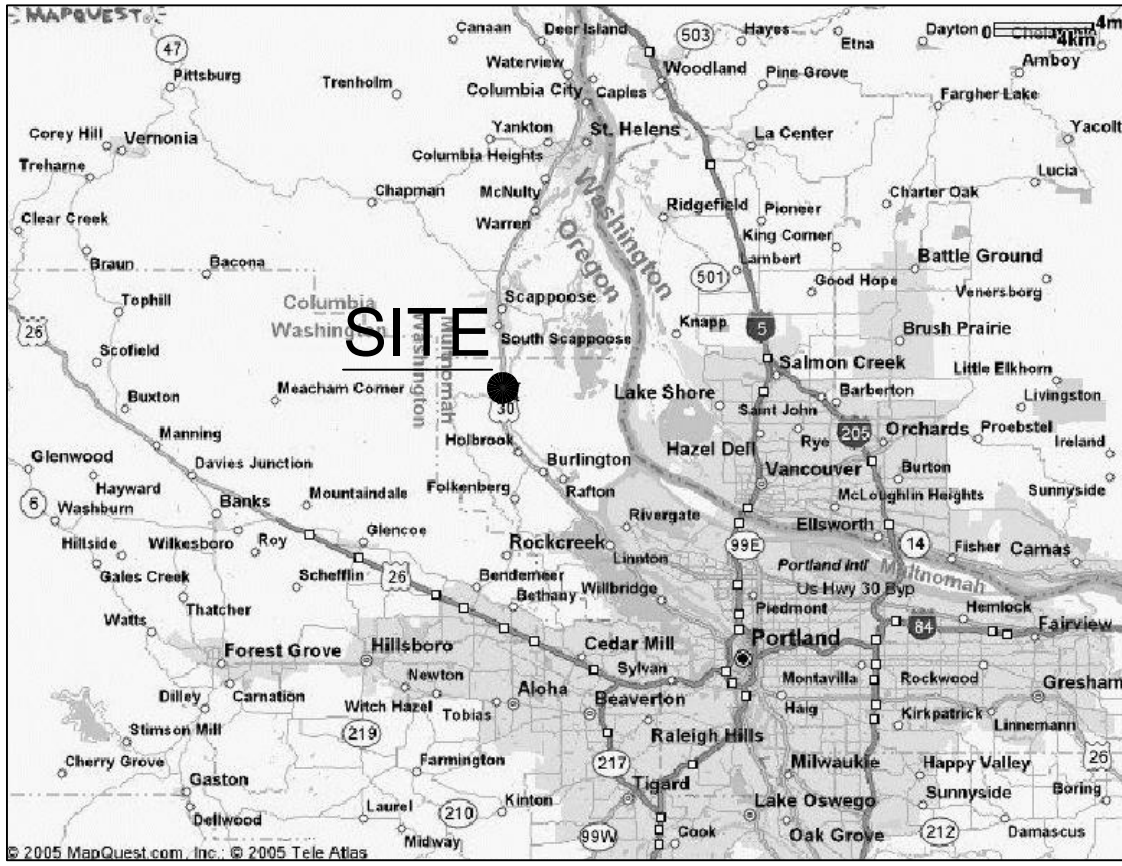
66	<b>Letter</b> – Letter Offering Oregon Department of Fish and Wildlife’s Staff An Opportunity to Comment On The Proposal (1 page)	1/28/09
67	<b>Letter</b> – Letter Offering the Oregon Department of State Land’s Staff An Opportunity to Comment On The Proposal (1 page)	1/28/09
68	<b>Letter</b> – Letter Offering the Oregon Parks and Recreation’s Staff An Opportunity to Comment On The Proposal (1 page)	1/28/09
69	<b>Letter</b> – Letter Offering the Oregon State Marine Board’s Staff An Opportunity to Comment On The Proposal (1 page)	1/28/09
70	<b>Hearing Notice</b> – Public Notice of April 6 <sup>th</sup> Planning Commission Public Hearing Mailed 3/17/09 (2 pages. <b>Mailing List Provided in the Permanent Record</b> )	3/17/09
71	<b>Meeting Notes</b> – Copy of 11/20/07 Pre-Application Meeting Notes PA-07-013 (7-pages)	3/18/09
72	<b>Letter</b> – Letter from Adam Barber, case planner to Multnomah County Planning Commission outlining Goal Exception/Special Plan Area/Zone Change Criteria (14 pages)	3/10/09
73	<b>Email</b> – Email From Owner Authorizing Staff to Amend Notation on Submitted Goal Exception Plan Clarifying Requested Goal Exception Areas (1 page)	1/22/09
74	<b>Map</b> – National Wetland Inventory Map of Property and Surrounding Areas (1:24,000 Scale – Sauvie Island, Oreg – Wash. 1989) – 1 page	3/18/09
75	<b>Guidebook</b> – Oregon Clean Marina Guidebook Prepared By the Oregon State Marine Board, August 2005 (192 pages – <b>Copy Contained in Permanent Case File</b> )	2/10/09
76	<b>Phone Note</b> – Adam Barber, case planner’s, notes from phone conversation with Cary Goodman, ODOT Rail, confirming the rail crossing near the site entrance is already designated a public rail crossing and that the State of Oregon owns the right-of-way on either side of the rail line running along the west boundary of the site (1 page)	3/18/09
77	<b>Plans</b> – Plans Showing Current Development Patterns Across the Site (4 pages)	7/03/08
78	<b>Marketing Pamphlet</b> – Copy of Tri-Fold Marketing Pamphlet for the Rocky Pointe Marina (2 pages)	3/18/09

### OVERSIZED EXHIBITS

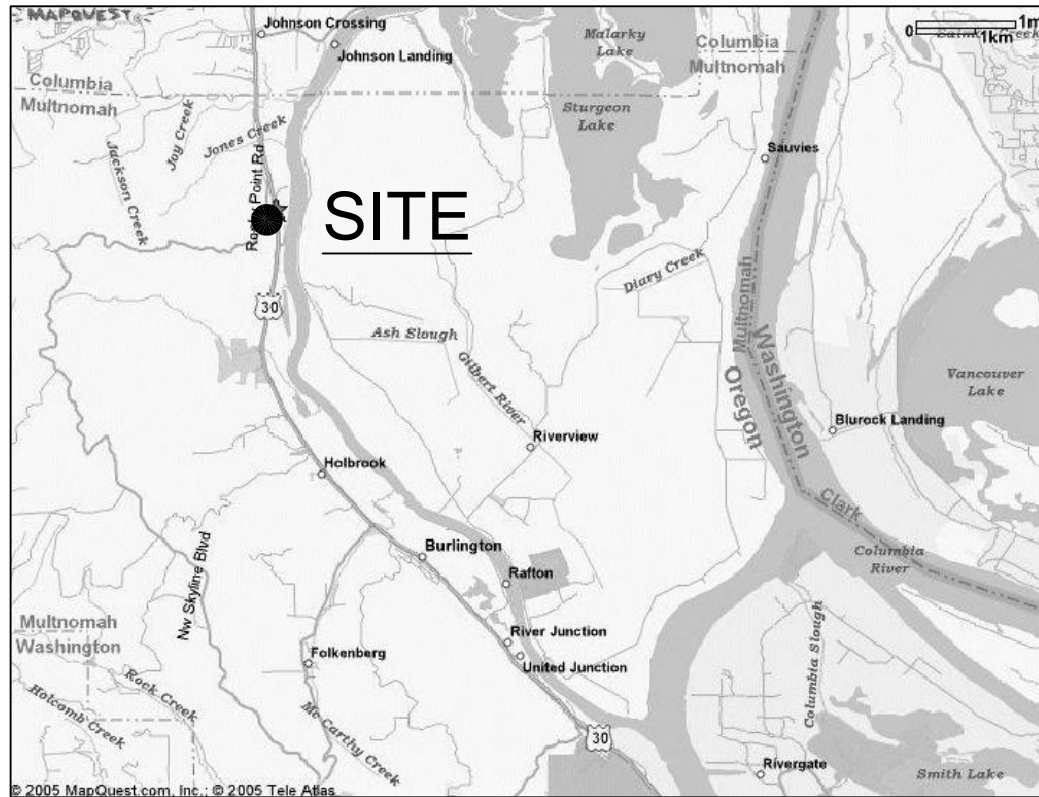
OS-1	<i>Superseded Plans - 11 X 17” Scaled Site Plans submitted 9/30/08</i>	9/30/08
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<b>OS-2</b>	<i>Superseded Plans - 11 X 17" Scaled Site Plans submitted 10/10/08</i>	<i>10/10/08</i>
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**LOCATOR MAP**

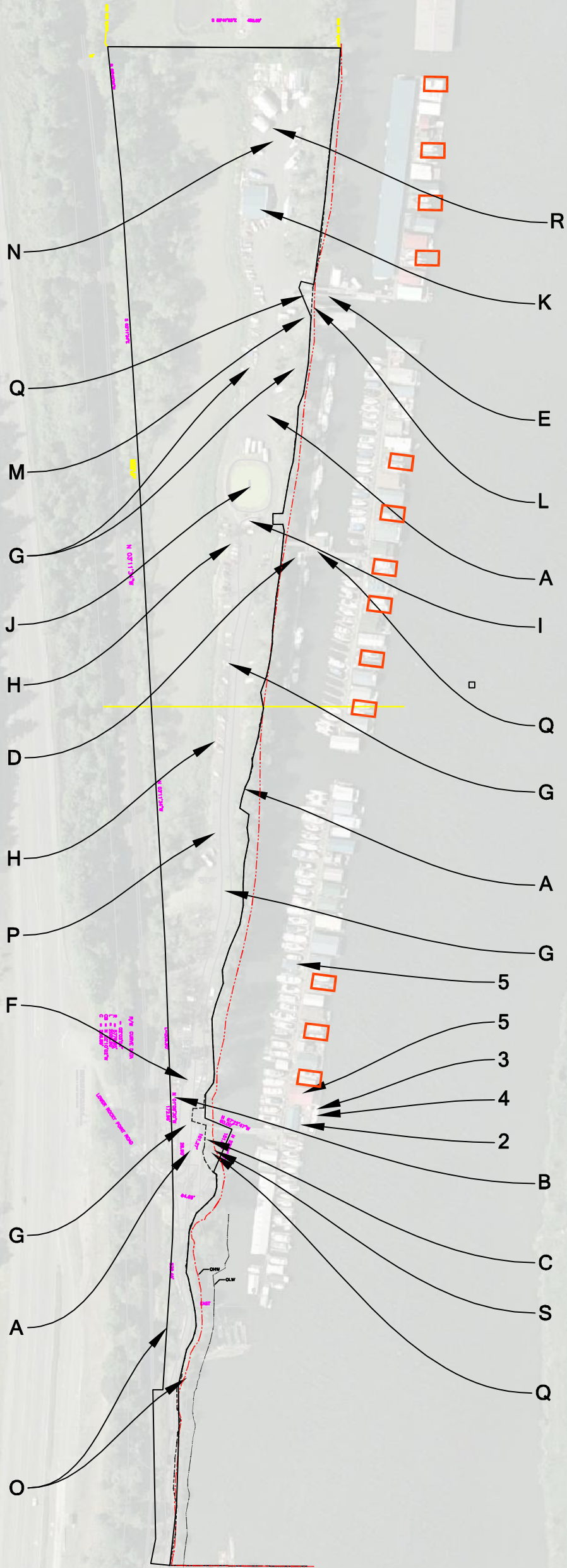


**VICINITY MAP**

**OREGON STATE GOAL EXCEPTIONS**

 <p>Flowing Solutions 3305 SW 87th Avenue Portland, OR 97225 Phone (503) 297-6331 Fax (503) 297-6053</p>	<p>TITLE: LOCATOR MAPS</p>		<p>REVISED: 7/14/09</p>
	<p>ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231</p>	<p>RIVER: MULTNOMAH CHANNEL DATUM: NGVD</p>	<p>SHEET NO. 0</p>

NOTE: Boxes Indicate Proposed House Boat Conversion/Additions

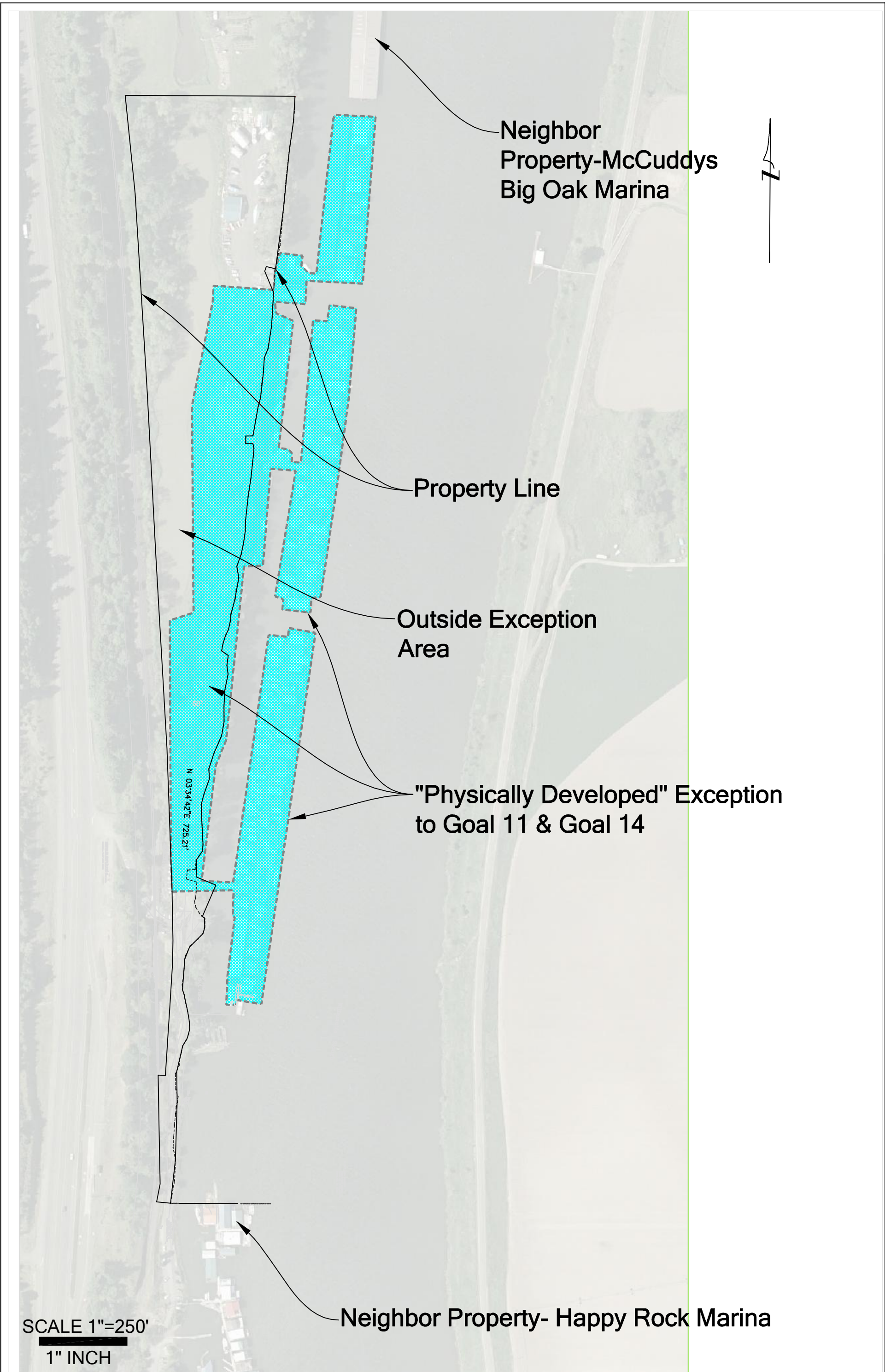


- A. roadway
  - B. water well house, storage and treatment
  - C. recycling/garbage/mail center (upper)
  - D. recycling/garbage station (middle)
  - E. recycling/garbage station (lower)
  - F. security gate
  - G. parking (167 space)
  - H. trailer storage
  - I. sewage treatment plant
  - J. evaporation pond
  - K. boatyard shop/office
  - L. boat haul out pier
  - M. boat wash down pad and building
  - N. boatyard
  - O. power- Columiba PUD
  - P. telephone - CenturyTel
  - Q. fuel storage tanks
  - R. boat yard restroom
  - S. propane storage tanks
- 
- 1. docks
  - 2. marina office/store
  - 3. fuel dock
  - 4. marine sewer pump out
  - 5. restrooms/laundry (4 bldg)

NOTE: Utilities Are Underground, Both Sides of Road From Main Ramp to Boat Yard

SCALE 1"=250'  
1" INCH





SCALE 1"=250'  
1" INCH

**Flowing solutions**  

 Flowing Solutions  
 3305 SW 87th Avenue  
 Portland, OR 97225  
 Phone (503) 297-6331  
 Fax (503) 297-6053

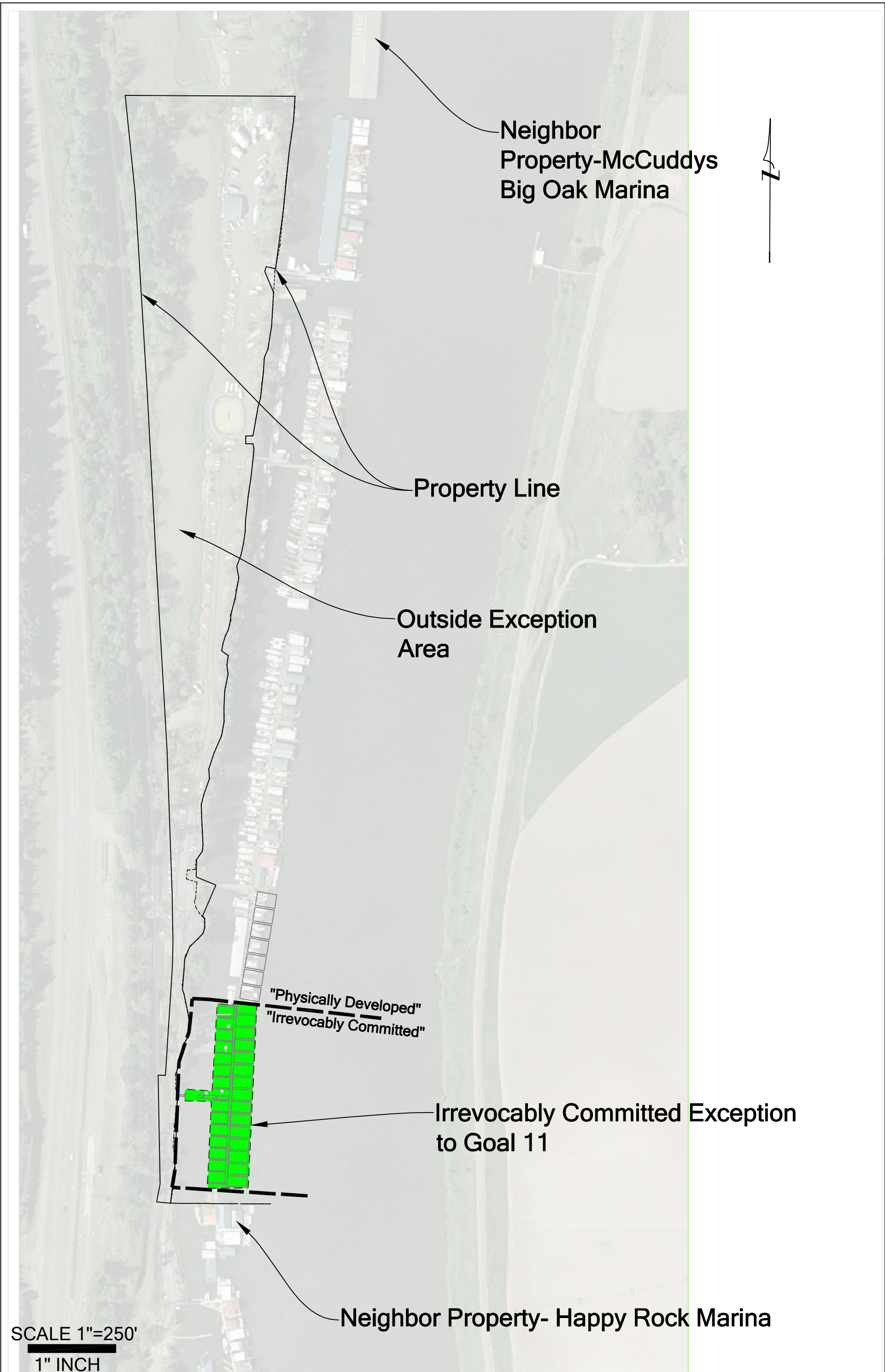
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ROCKY POINT MARINA  
 23586 NW ST. HELENS ROAD  
 PORTLAND, OR 97231

RIVER: MULTNOMAH CHANNEL  
 DATUM: NGVD

REVISED:  
7/14/09

SHEET NO.  
2



SCALE 1"=250'  
1" INCH

**Flowing solutions**  
  
 Flowing Solutions  
 3305 SW 87th Avenue  
 Portland, OR 97225  
 Phone (503) 297-6331  
 Fax (503) 297-6053

TITLE: EXHIBIT 2D - IRREVOCABLY COMMITTED  
GOAL 11 EXCEPTION AREA

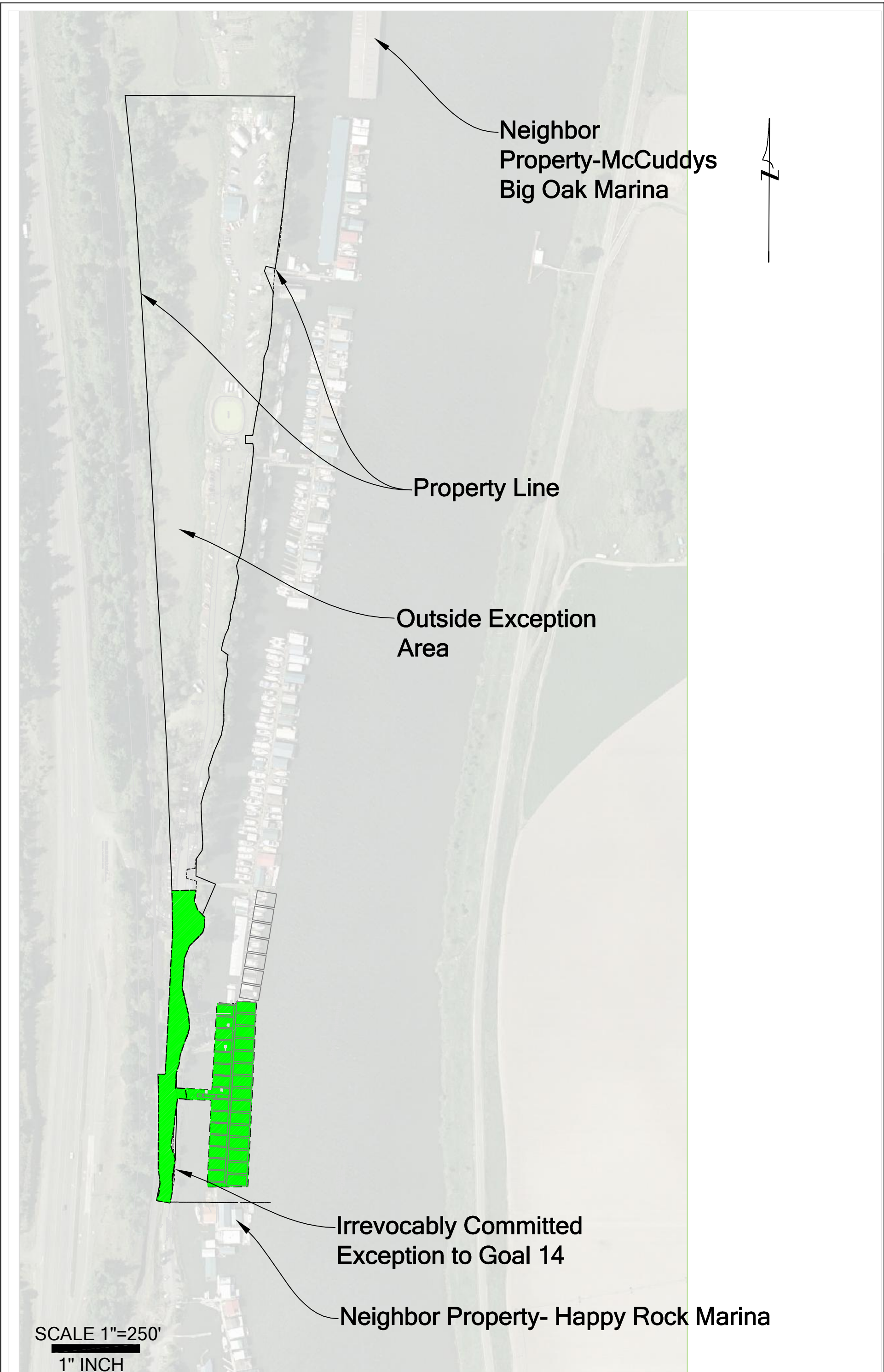
ROCKY POINT MARINA  
23586 NW ST. HELENS ROAD  
PORTLAND, OR 97231

RIVER: MULTNOMAH CHANNEL  
DATUM: NGVD


REVISED:  
7/14/09

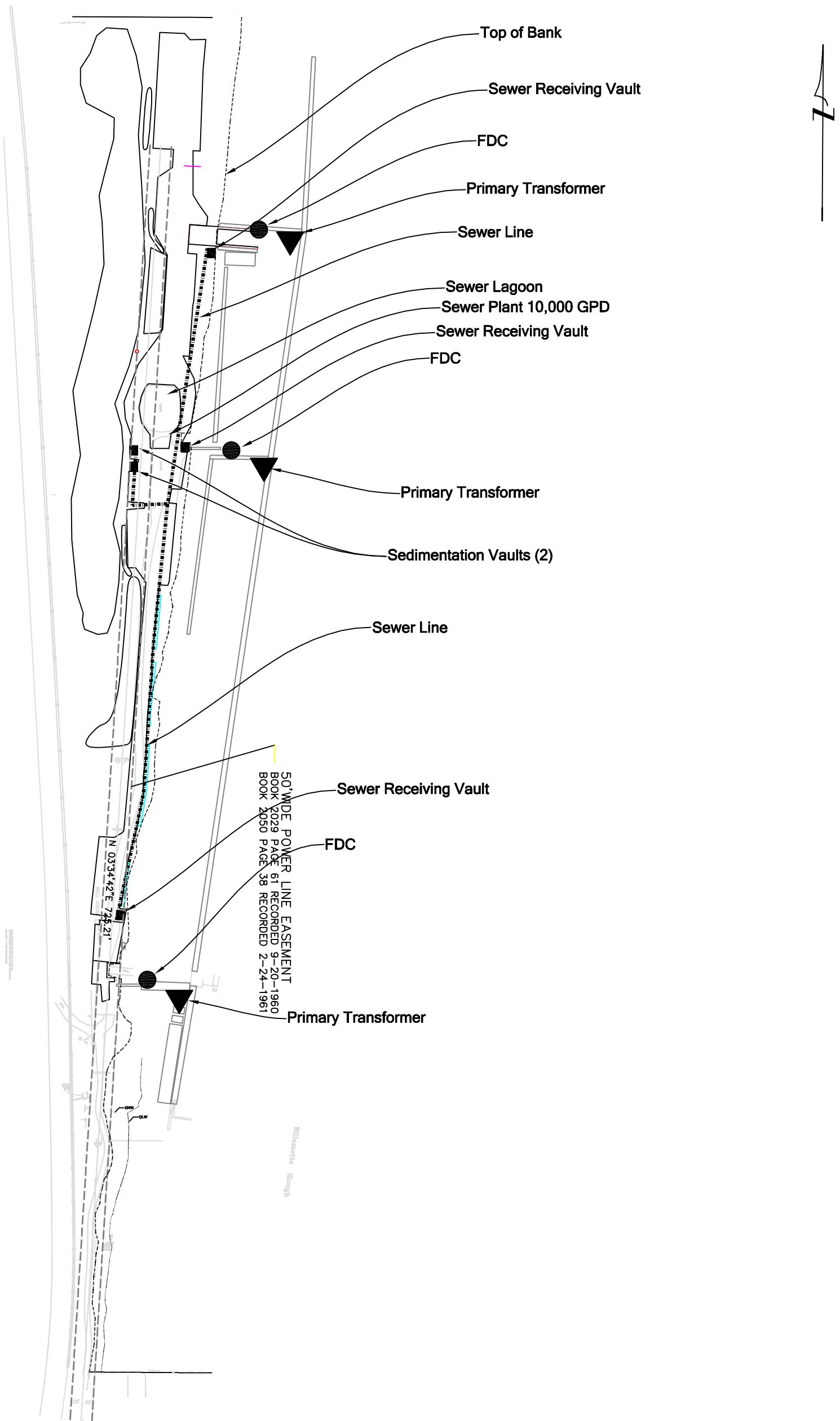
SHEET NO.  
**5**





SCALE 1"=250'  
 1" INCH

 <p>Flowing Solutions          3305 SW 87th Avenue          Portland, OR 97225          Phone (503) 297-6331          Fax (503) 297-6053</p>	TITLE: EXHIBIT 2E - IRREVOCABLY COMMITTED EXCEPTION GOAL 14		REVISED: 7/14/09
	ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231	RIVER: MULTNOMAH CHANNEL DATUM: NGVD	SHEET NO. <b>6</b>



SCALE 1"=250'  
 1" INCH

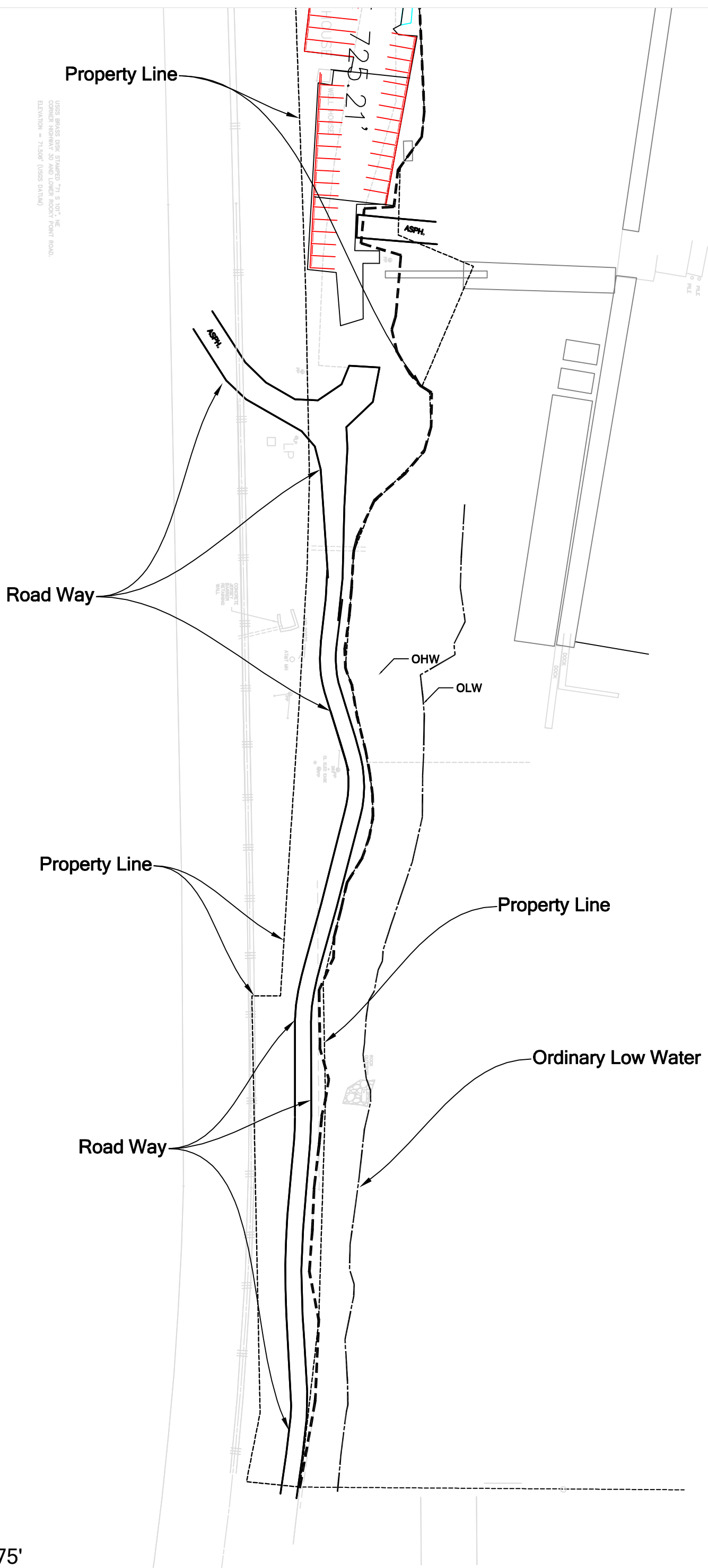
**Flowing solutions**  
  
 Flowing Solutions  
 3305 SW 87th Avenue  
 Portland, OR 97225  
 Phone (503) 297-6331  
 Fax (503) 297-6053

TITLE: EXHIBIT '3" COMBINATION UTILITY PLAN  
 (SEWER-FIRE-TRANSFORMERS)  
 ROCKY POINT MARINA  
 23586 NW ST. HELENS ROAD  
 PORTLAND, OR 97231


RIVER: MULTNOMAH CHANNEL  
 DATUM: NGVD

REVISED:  
 7/14/09  
 SHEET NO.  
 7

USGS BASSIS DATA STRAIGHTENED TO 8' 10" NE  
USGS BASSIS DATA STRAIGHTENED TO 8' 10" NE  
USGS BASSIS DATA STRAIGHTENED TO 8' 10" NE  
ELEVATION = 71.56' (USGS DATUM)



SCALE 1"=75'

 Flowing Solutions 3305 SW 87th Avenue Portland, OR 97225 Phone (503) 297-6331 Fax (503) 297-6053	TITLE: EXHIBIT '4" PROPERTY LINE-ROAD LOCATION		REVISED: 7/14/09
	ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231	RIVER: MULTNOMAH CHANNEL DATUM: NGVD	SHEET NO. <b>8</b>

EASEMENT (PROJECTED)

EXISTING BUILDING

POWER EASEMENT

EXISTING BUILDING

POWER EASEMENT

EXISTING BUILDING

50.0'

50' WIDE POWER LINE EASEMENT  
BOOK 2029 PAGE 61 RECORDED 9-20-1960  
BOOK 2050 PAGE 38 RECORDED 2-24-1961

N 03°34'42"E - 725.21'

Willamette Slough

SCALE 1"=200

**Flowing solutions**



Flowing Solutions  
3305 SW 87th Avenue  
Portland, OR 97225  
Phone (503) 297-6331  
Fax (503) 297-6053

TITLE: EXHIBIT '4" POWER LINE EASEMENT

ROCKY POINT MARINA  
23586 NW ST. HELENS ROAD  
PORTLAND, OR 97231

RIVER: MULTNOMAH CHANNEL  
DATUM: NGVD

REVISED:  
7/14/09

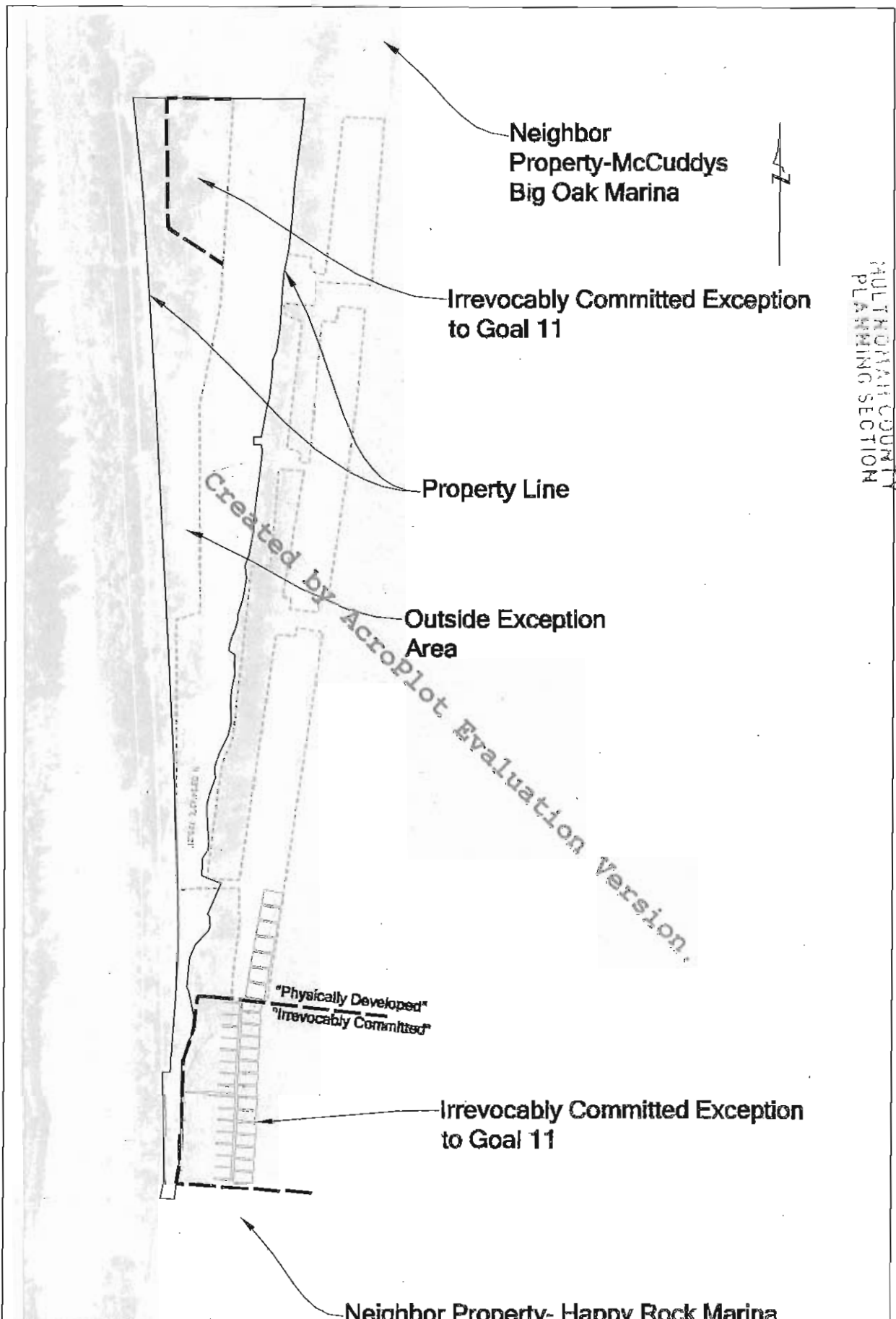
SHEET NO.  
**9**



RECEIVED

08 NOV 10 AM 9:27

MULTNOH COUNTY  
PLANNING SECTION



SCALE 1"=250'  
1" INCH

**Flowing solutions**  
 Flowing Solutions  
 3315 SW 87th Avenue  
 Portland, OR 97225  
 Phone (503) 297-8331  
 Fax (503) 297-6052

TITLE: EXHIBIT 2D - IRREVOCABLY COMMITTED EXCEPTION  
 GOAL 11  
 ROCKY POINT MARINA  
 23586 NW ST. HELENS ROAD  
 PORTLAND, OR 97231

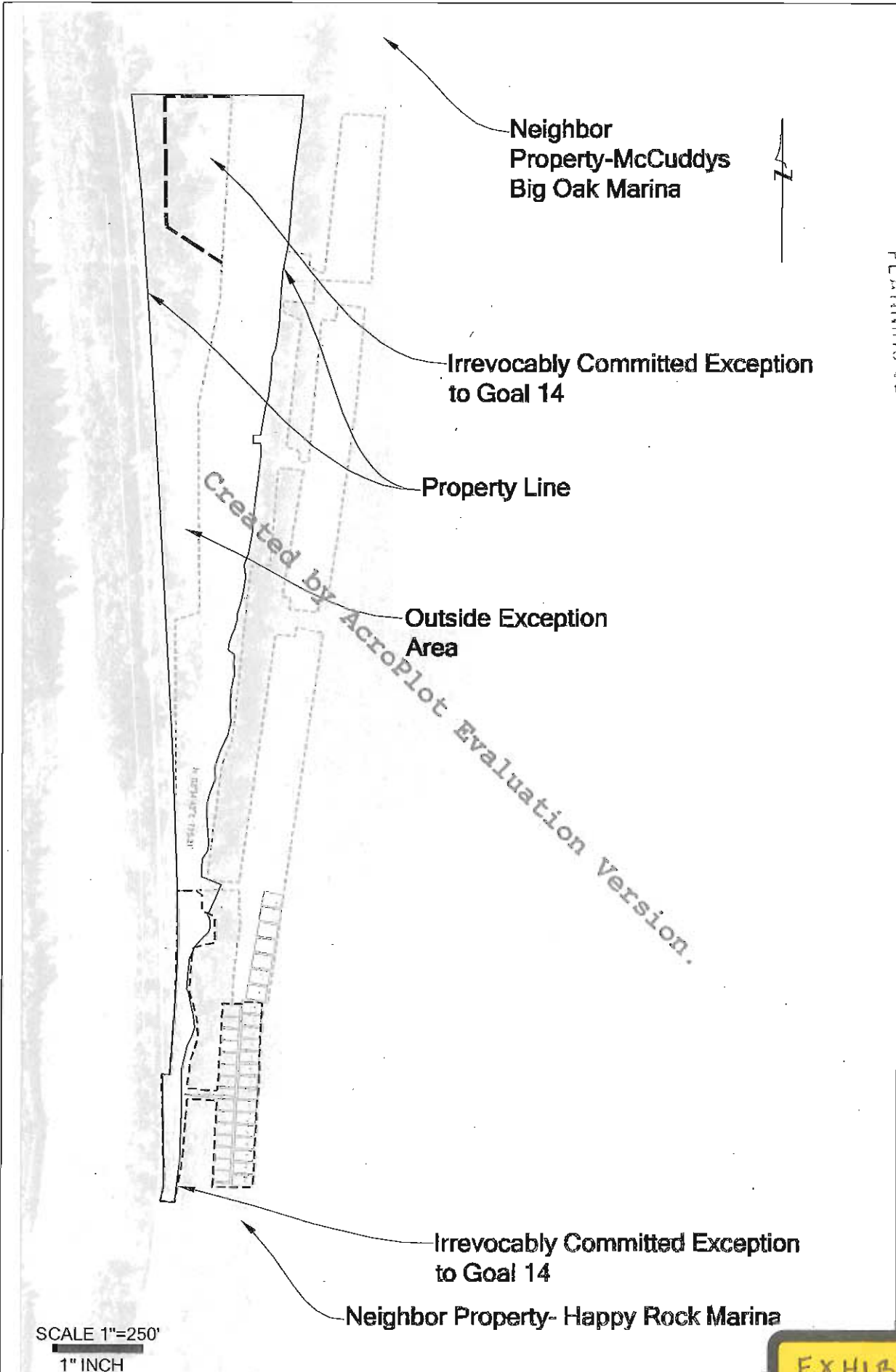
RIVER: MULTNOH CHAN  
 DATUM: NGVD

EXHIBIT  
 1

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MULTNOMAH COUNTY  
PLANNING SECTION



SCALE 1"=250'  
1" INCH


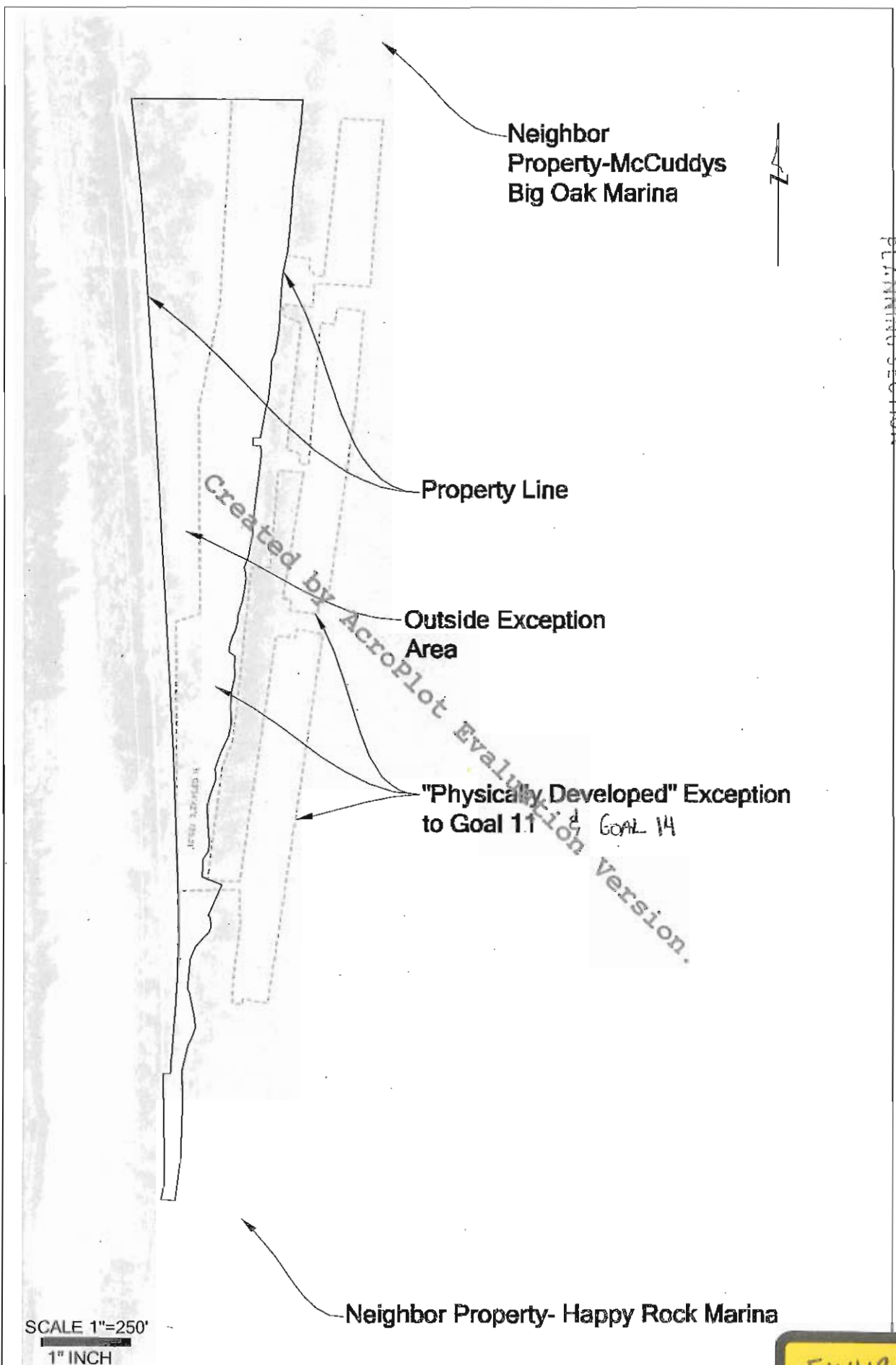
 <b>Flowing solutions</b> Flowing Solutions 5205 SW 87th Avenue Portland, OR 97225 Phone (503) 297-5331 Fax (503) 297-6053	<b>TITLE:</b> EXHIBIT 2E - IRREVOCABLY COMMITTED EXCEPTION GOAL 14	
	<b>ROCKY POINT MARINA</b> 23586 NW ST. HELENS ROAD PORTLAND, OR 97231	<b>RIVER:</b> MULTNOMAH CH <b>DATUM:</b> NGVD

EXHIBIT  
2

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PLANNING SECTION



*Created by AcroPlot Evaluation Version.*

SCALE 1"=250'  
1" INCH

Neighbor Property- Happy Rock Marina


 Flowing solutions 3305 SW 131st Avenue Portland, OR 97225 Phone (503) 297-8331 Fax (503) 297-6052	TITLE: EXHIBIT 2C PHYSICALLY DEVELOPED EXCEPTION GOAL 14	
	ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231	RIVER: MULTNOMAH CHANNEL DATUM: NGVD

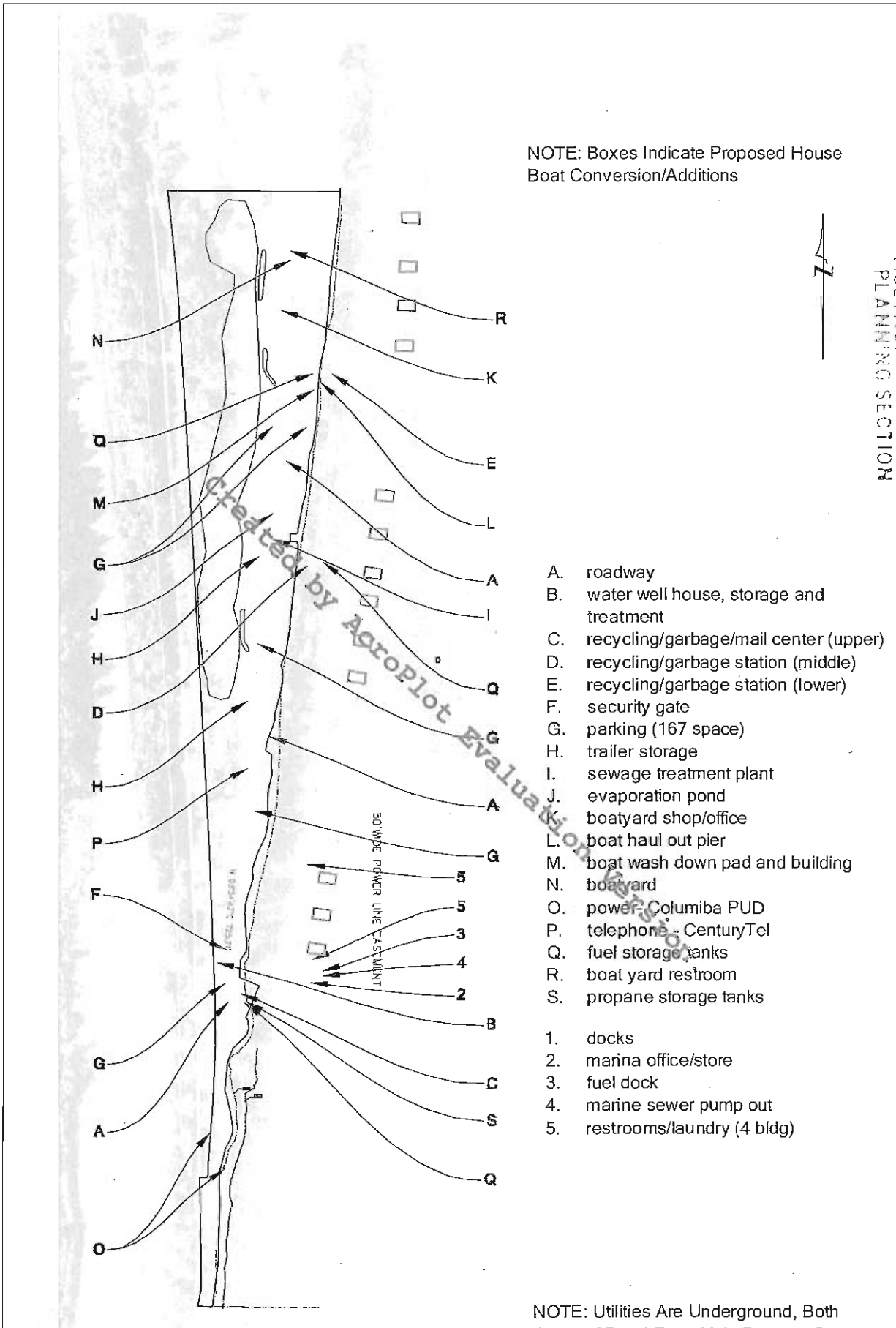
EXHIBIT  
3

RECEIVED

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MULTNOMAH COUNTY  
PLANNING SECTION

NOTE: Boxes Indicate Proposed House  
Boat Conversion/Additions



- A. roadway
  - B. water well house, storage and treatment
  - C. recycling/garbage/mail center (upper)
  - D. recycling/garbage station (middle)
  - E. recycling/garbage station (lower)
  - F. security gate
  - G. parking (167 space)
  - H. trailer storage
  - I. sewage treatment plant
  - J. evaporation pond
  - K. boatyard shop/office
  - L. boat haul out pier
  - M. boat wash down pad and building
  - N. boat yard
  - O. power - Columba PUD
  - P. telephone - CenturyTel
  - Q. fuel storage tanks
  - R. boat yard restroom
  - S. propane storage tanks
- 
- 1. docks
  - 2. marina office/store
  - 3. fuel dock
  - 4. marine sewer pump out
  - 5. restrooms/laundry (4 bldg)

SCALE 1"=250'  
1" INCH

NOTE: Utilities Are Underground, Both  
Sides of Road From Main Ramp to Boat  
Yard

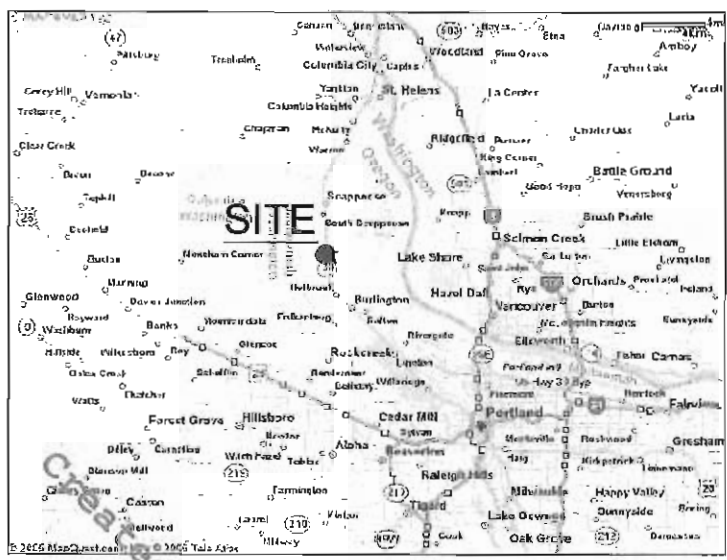
<p>Flowing Solutions 3305 SW 97th Avenue Portland, OR 97225 Phone (503) 297-8331 Fax (503) 287-6053</p>	TITLE: EXHIBIT '1' KEY MAP	
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EXHIBIT  
4

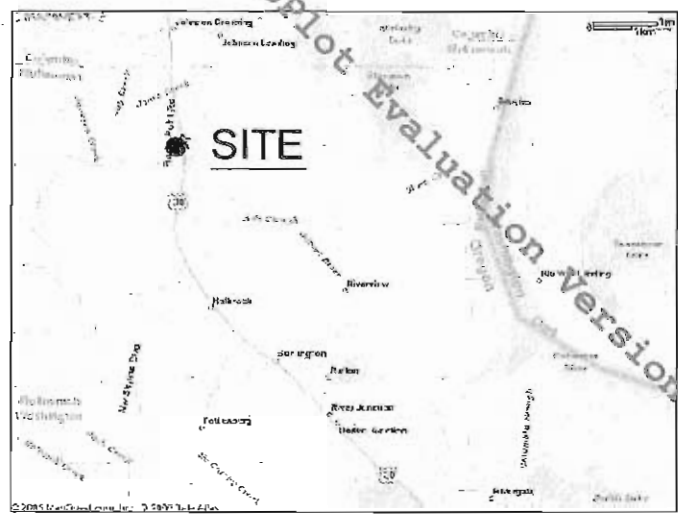
RECEIVED

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MULTNOMAH COUNTY  
PLANNING SECTION



**LOCATOR MAP**



**VICINITY MAP**

OREGON STATE GOAL EX

<p>Flowing Solutions Flowing Solutions 3305 SW 87th Avenue Portland, OR 97225 Phone (503) 297-6331 Fax (503) 297-6053</p>	TITLE	<p>LOCATOR MAPS</p> <p>ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231</p>	<p>RIVER: MULTNOMAH CHANNEL DATUM: NGVD</p>

EXHIBIT  
5



**Land Use Planning Division**  
**MULTNOMAH COUNTY**  
**VICINITY MAP**

Tax Lots



0 241 482 723 964 Feet

1" = 861 feet



1600 SE 180th Ave.  
 Portland, OR 97233  
 503.248.3043 Fax 503.248.3388  
 Email: land.use.planning@co.multnomah.or.us

This map is based on data from Metro Multnomah County cannot accept responsibility for errors, omissions or positional accuracy. There are no warranties expressed or implied.

EXHIBIT  
 6

SZM3

SEE MAPS IN ORD.  
830, 833, & 882 FOR  
SEC-STREAMS INFO  
SEE FEMA MAP FOR  
FLOOD BOUNDARIES

SZM11

SEE MAPS IN ORD.  
830, 833, & 882 FOR  
SEC-STREAMS INFO  
SEE FEMA MAP FOR  
FLOOD BOUNDARIES

SZM4

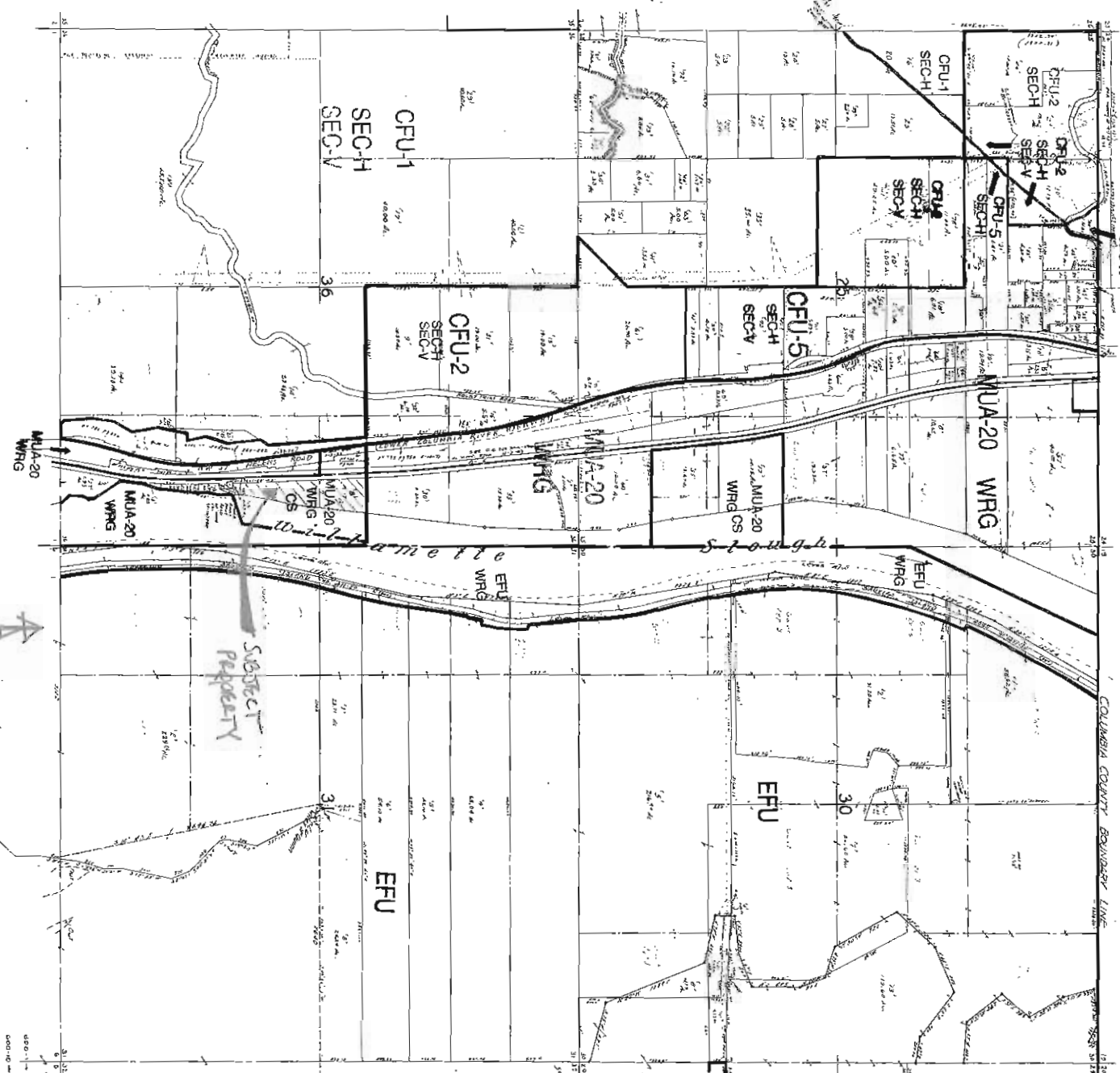
SEE FEMA MAP FOR  
FLOOD BOUNDARIES

SZM12

SEE FEMA MAP FOR  
FLOOD BOUNDARIES

ZONING  
MAP

EXHIBIT  
7



25.36-3N2W  
30.31-3N1W



**BASE ZONES**

- County Cover
- UGB
- Macro Boundary
- Streams
- Streams (Fill)
- Tax Lots
- Report Notification
- 1/4 Section 14 Buffer
- Till 11
- NON - RS/A
- RS/A
- City Limits
- City View
- Maywood Park
- Portland
- Woodlawn
- PTM
- Extraction Area
- Impact Area
- Scenic Waterway
- Scenic Water Resources
- SECH (MSR Habitat)
- Fortland UPA
- 142002
- 6132005
- Green City Reviewed
- WSR Rural Center
- DD
- Rural Zoning
- CEU1
- CEU2
- CEU3
- CEU4
- CEU5
- MU1
- MU2
- MU3
- MU4
- MU5
- MU6
- MU7
- MU8
- MU9
- MU10
- MU11
- MU12
- MU13
- MU14
- MU15
- MU16
- MU17
- MU18
- MU19
- MU20
- RC
- Local Zoning

0 241 482 723 964 Feet

1" = 964 feet



1600 SE 190th Ave.  
 Portland, OR 97233  
 503.248.3043 Fax 503.248.3389  
 Email: landuse.planning@co.multnomah.or.us

This map is based on data from Metro  
 Multnomah County cannot accept responsibility  
 for errors, omissions or positional accuracy.  
 There are no warranties expressed or implied.

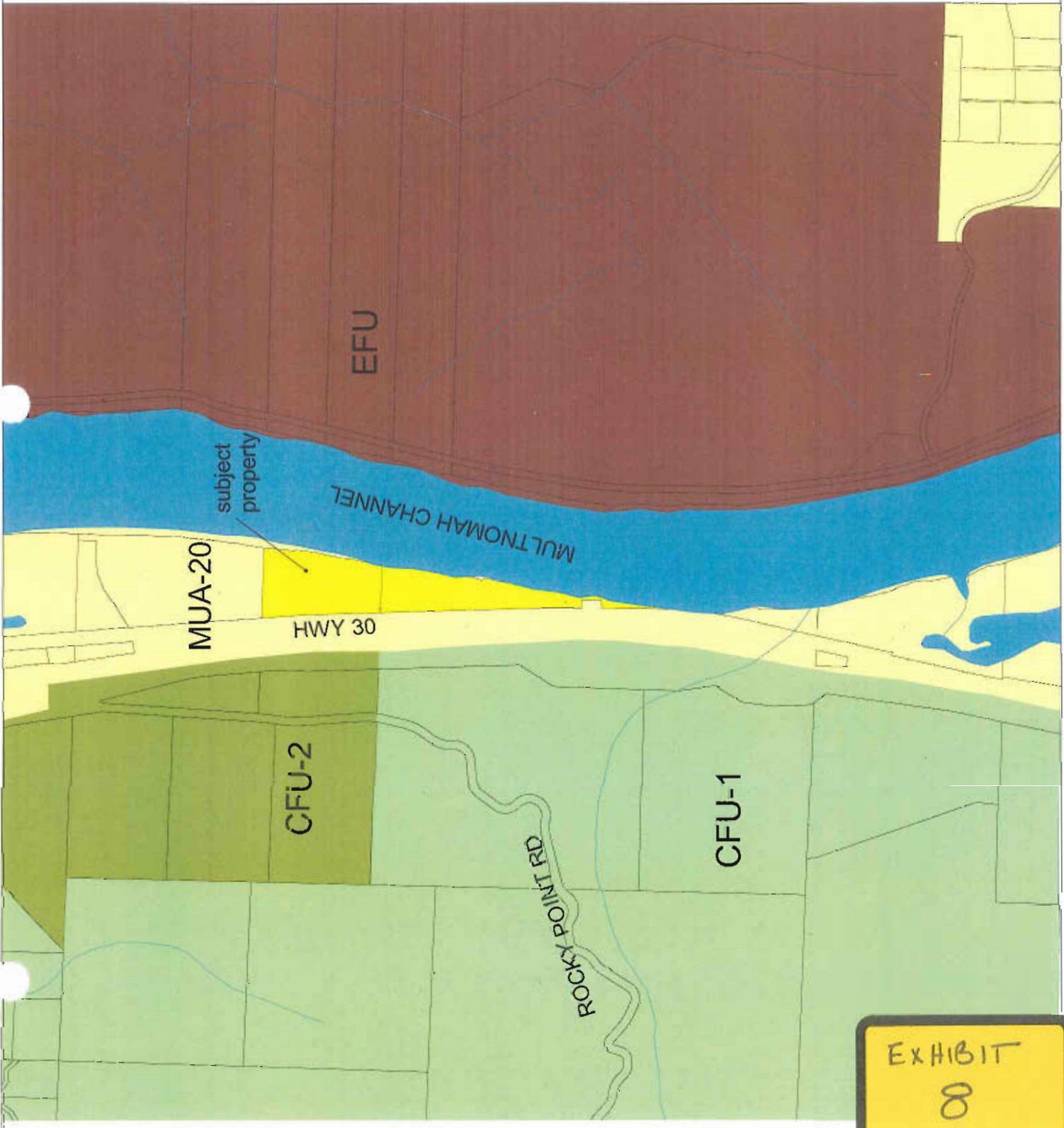


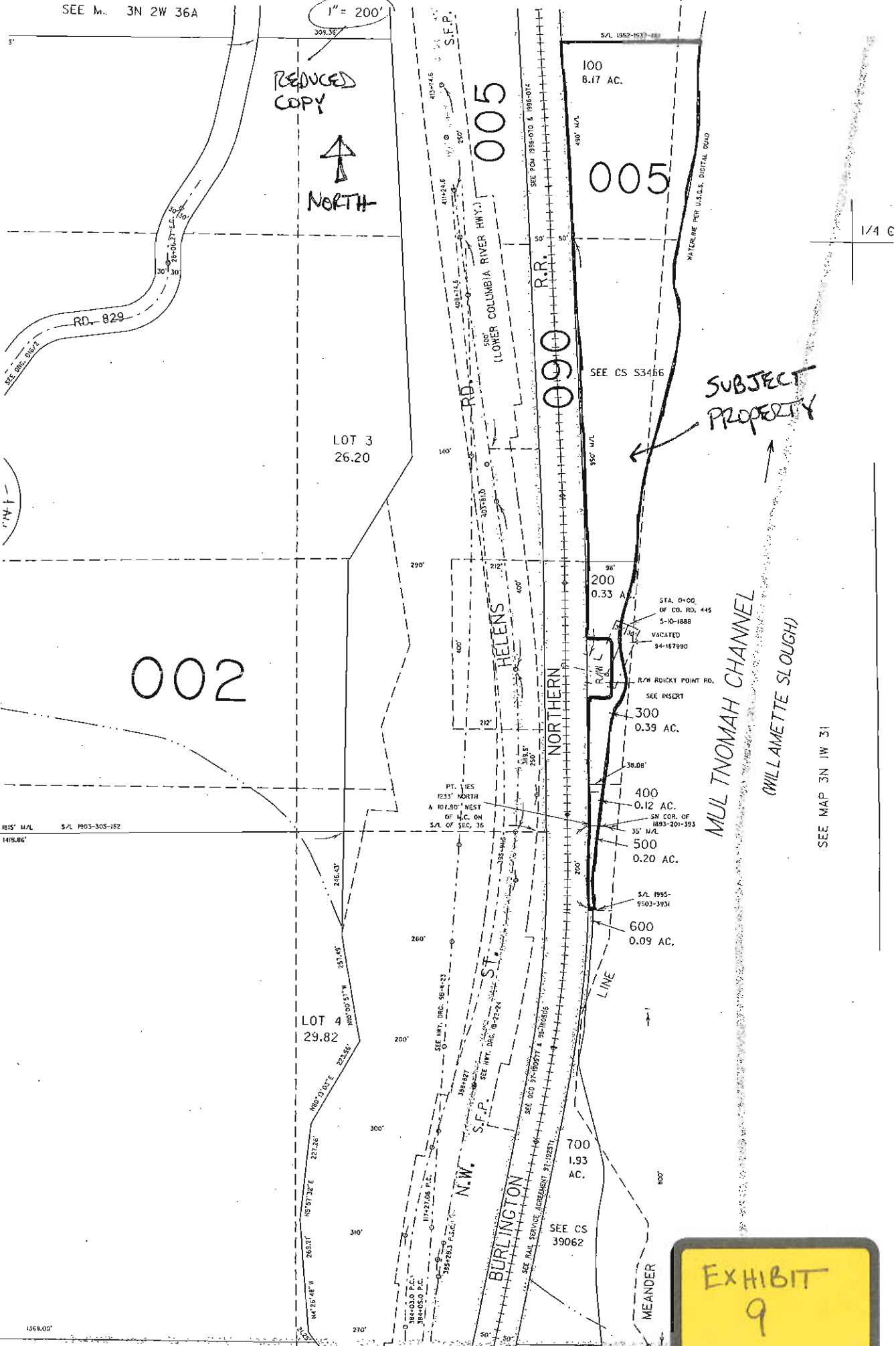
EXHIBIT  
 8



MULTNOMAH COUNTY

SEE M. 3N 2W 36A

1" = 200'



REDUCED COPY



LOT 3  
26.20

002

LOT 4  
29.82

005

005

SUBJECT PROPERTY

MULTNOMAH CHANNEL  
(WILLAMETTE SLOUGH)

SEE MAP 3N 1W 31

EXHIBIT  
9

SEE CS 47703

SEE CS 39062

100  
8.17 AC.

200  
0.33 AC.

300  
0.39 AC.

400  
0.12 AC.

500  
0.20 AC.

600  
0.09 AC.

700  
1.93 AC.

1415.86' S/L 1903-305-182

1568.00'

1/4 C

SEE FOR 1985-910 & 1986-014

SEE FOR 1985-910 & 1986-014

SEE INSERT

S/L 1955-9503-3931

SEE CS 39062

S/L 1982-1537-88

SEE CS S3466

STA. 0+00 OF CO. RD. 445 5-10-1888 VACATED 94-167890

RAW RICKY POINT RD.

SW COR. OF 1893-201-393

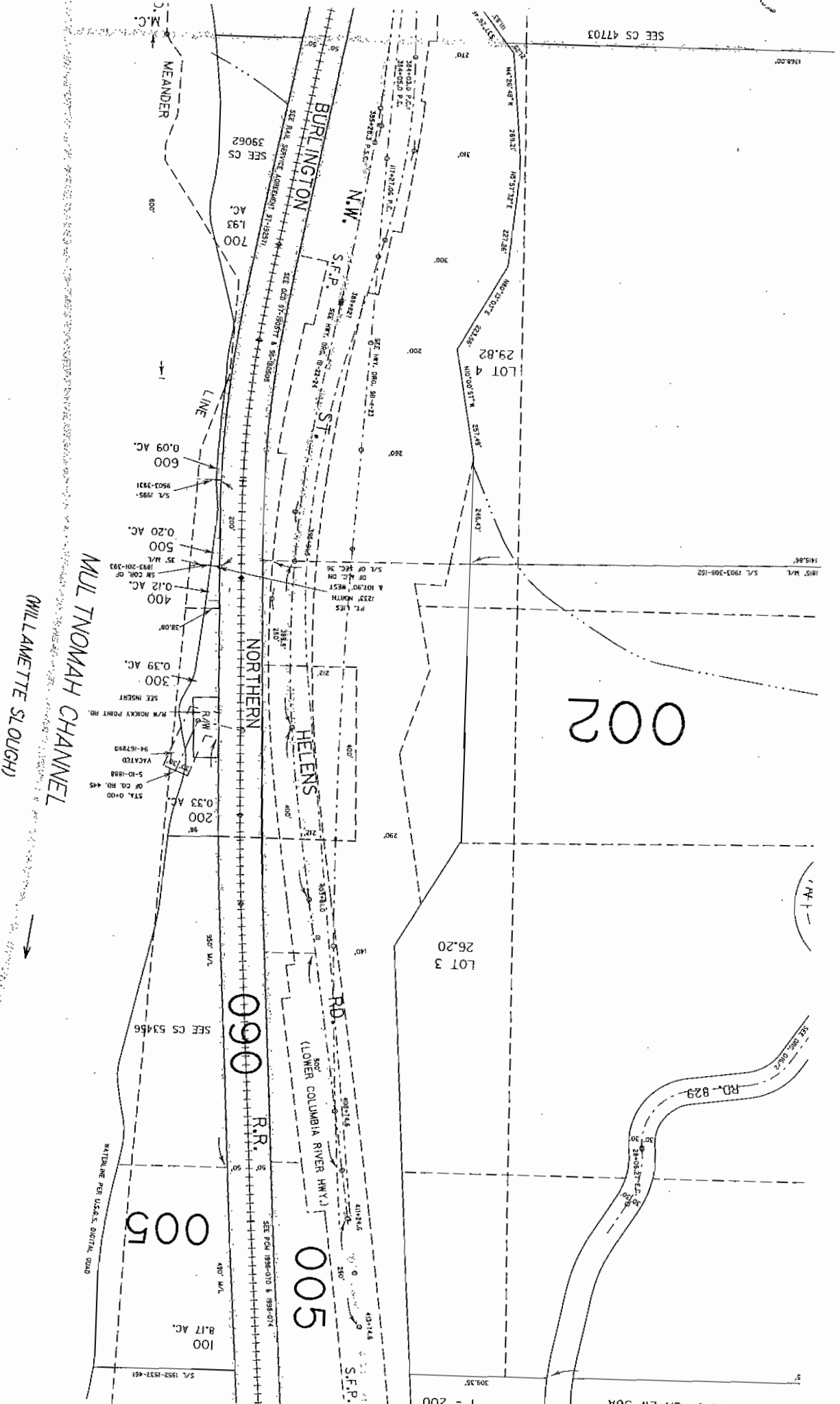
SEE INT. DRC. 88-4-23

SEE INT. DRC. 8-22-24

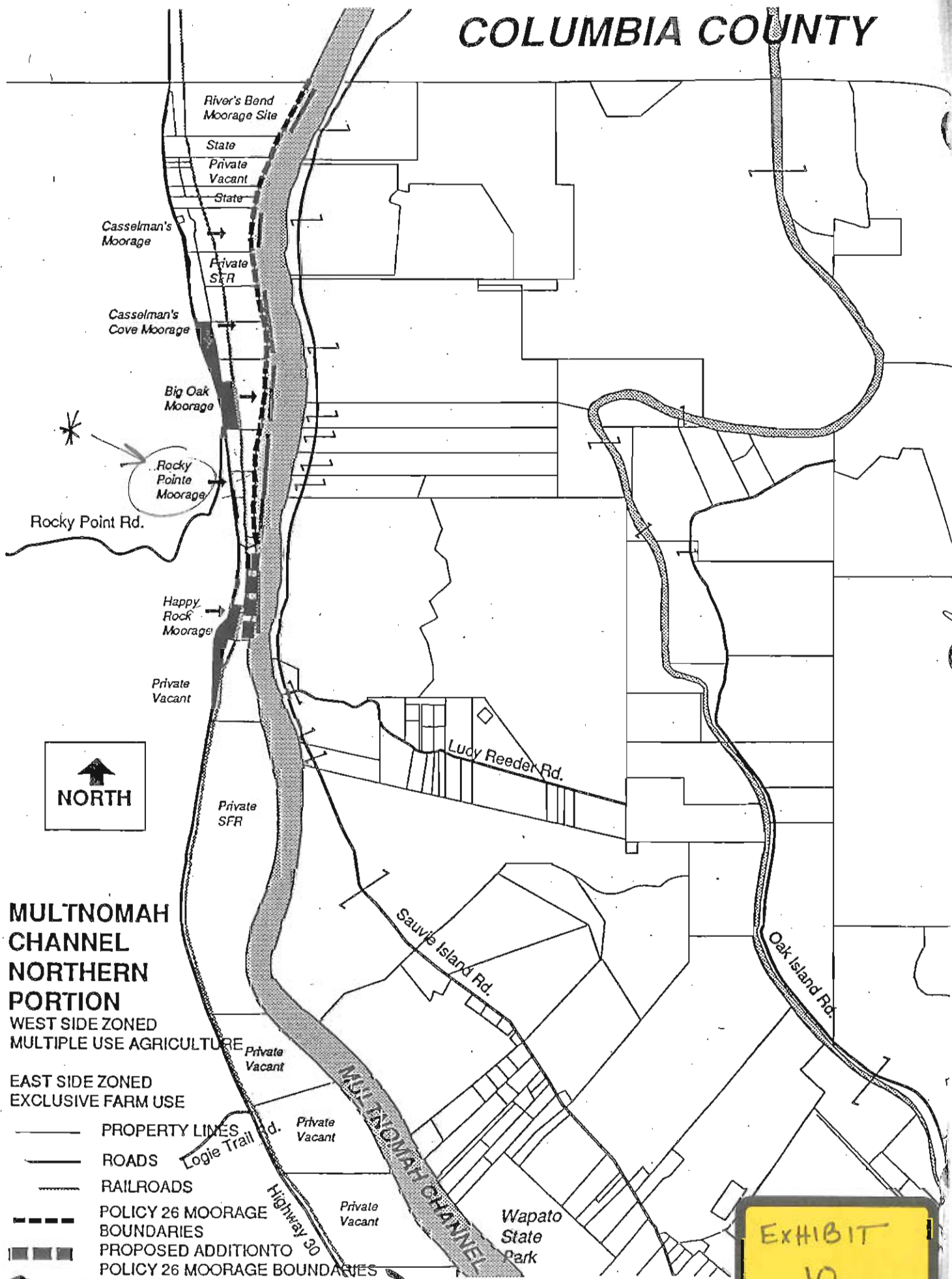
SEE DCU ST. 18277 & 18-18285

SEE PAUL SERVICE AGREEMENT ST. 18287

M.C.



# COLUMBIA COUNTY



**MULTNOMAH CHANNEL NORTHERN PORTION**  
 WEST SIDE ZONED MULTIPLE USE AGRICULTURE

EAST SIDE ZONED EXCLUSIVE FARM USE

- PROPERTY LINES
- ROADS
- RAILROADS
- POLICY 26 MOORAGE BOUNDARIES
- ▬▬▬ PROPOSED ADDITION TO POLICY 26 MOORAGE BOUNDARIES

EXHIBIT 10

COMP. PLAN MAP



Tax Lots

DOWN STREAM  
 PORTION OF OPERATION

0 69 138 207 276 Feet

1" = 276 feet



1500 SE 150th Ave.  
 Portland, OR 97233  
 503.248.3043 Fax 503.248.3369  
 Email: land.use.planning@co.multnomah.or.us

This map is based on data from Metro  
 Multnomah County cannot accept responsibility  
 for errors, omissions or positional accuracy.  
 There are no warranties expressed or implied.



EXHIBIT  
 11



**Land Use  
Planning  
Division**  
MULTNOMAH COUNTY  
2004 AERIAL

Tax Lots



1" = 276 feet



1800 SE 190th Ave  
Portland, OR 97233  
503.248.3043 Fax: 503.248.3389  
Email: landuseplanning@co.multnomah.or.us

This map is based on data from Metro  
Multnomah County cannot accept responsibility  
for errors, omissions or positional accuracy.  
There are no warranties expressed or implied.

MIDDLE OF SITE

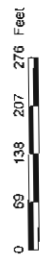
EXHIBIT  
12





# 2004 AERIAL

Tax Lots

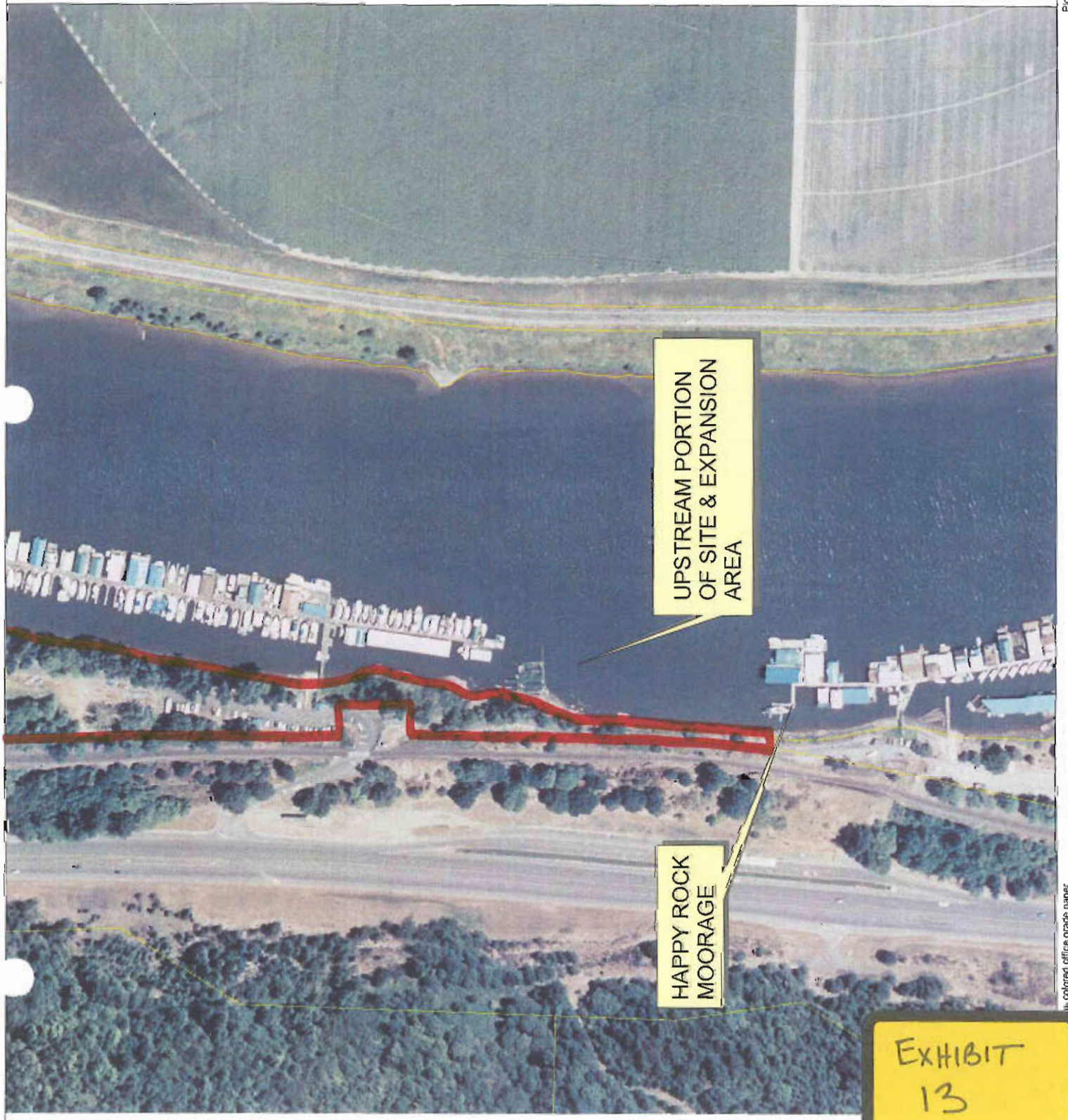


1" = 276 feet



1600 SE 190th Ave.  
Portland, OR 97233  
503.248.3043 Fax 503.248.3389  
Email: land.use.planning@co.multnomah.or.us

This map is based on data from Metro Multnomah County cannot accept responsibility for errors, omissions or positional accuracy. There are no warranties expressed or implied.



UPSTREAM PORTION OF SITE & EXPANSION AREA

HAPPY ROCK MOORAGE

EXHIBIT 13





# 100 Year Floodplain

Tax Lots Floodplain Development



0 138 276 414 552 Feet

1" = 552 feet



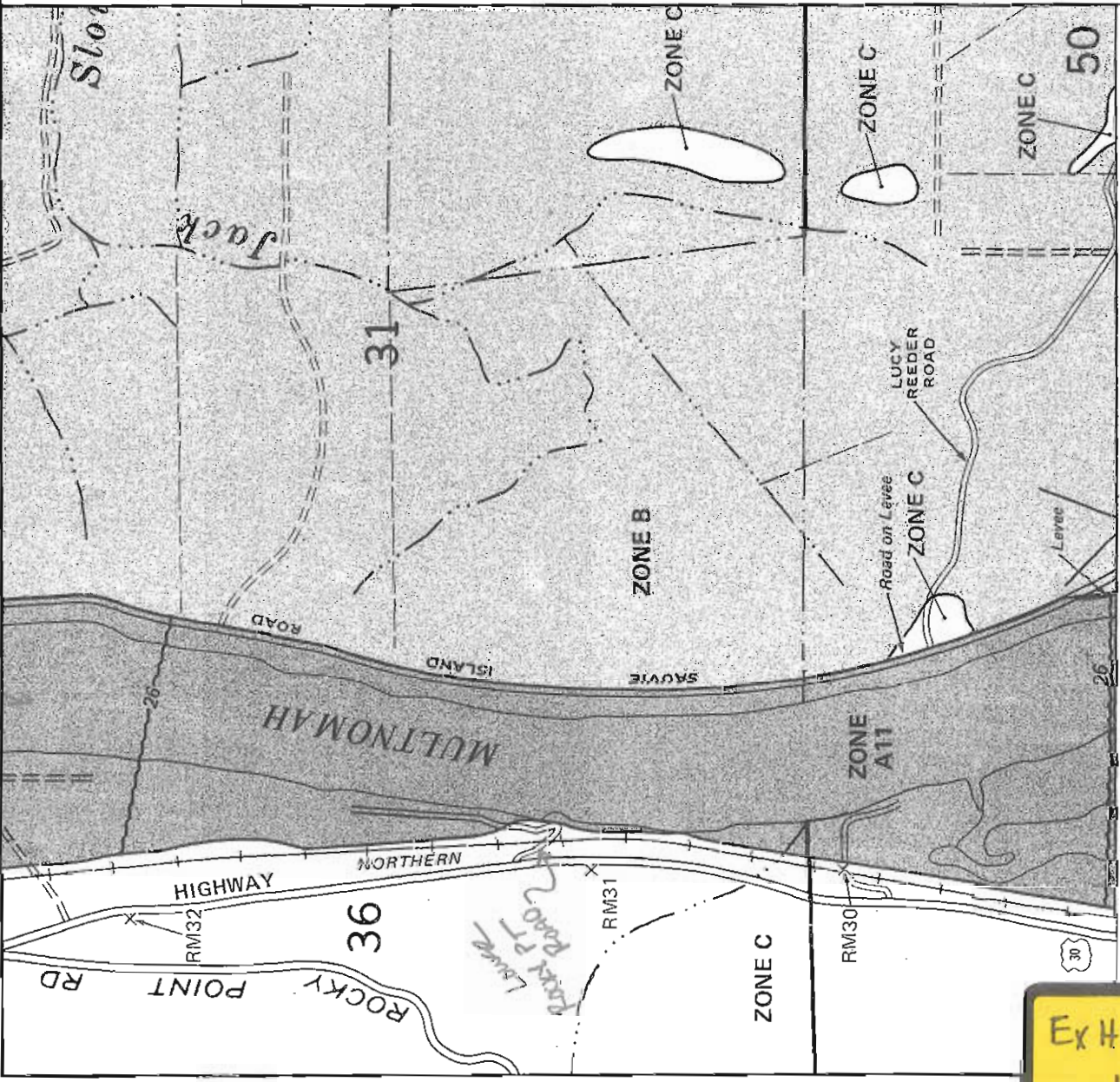
1600 SE 190th Ave.  
Portland, OR 97233  
503.248.3043 Fax 503.248.3389  
Email: land.use.planning@co.multnomah.or.us

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EXHIBIT  
14



100-YR-FLOOD PLAIN (DARK E 1)



NATIONAL FLOOD INSURANCE PROGRAM

**FIRM**  
FLOOD INSURANCE RATE MAP

MULTNOMAH COUNTY,  
OREGON  
(UNINCORPORATED AREAS)

PANEL 30 OF 550  
(SEE MAP INDEX FOR PANELS NOT PRINTED)

COMMUNITY-PANEL NUMBER  
410179 0030 B

MAP REVISED:  
MARCH 18, 1986



Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at [www.msc.fema.gov](http://www.msc.fema.gov)

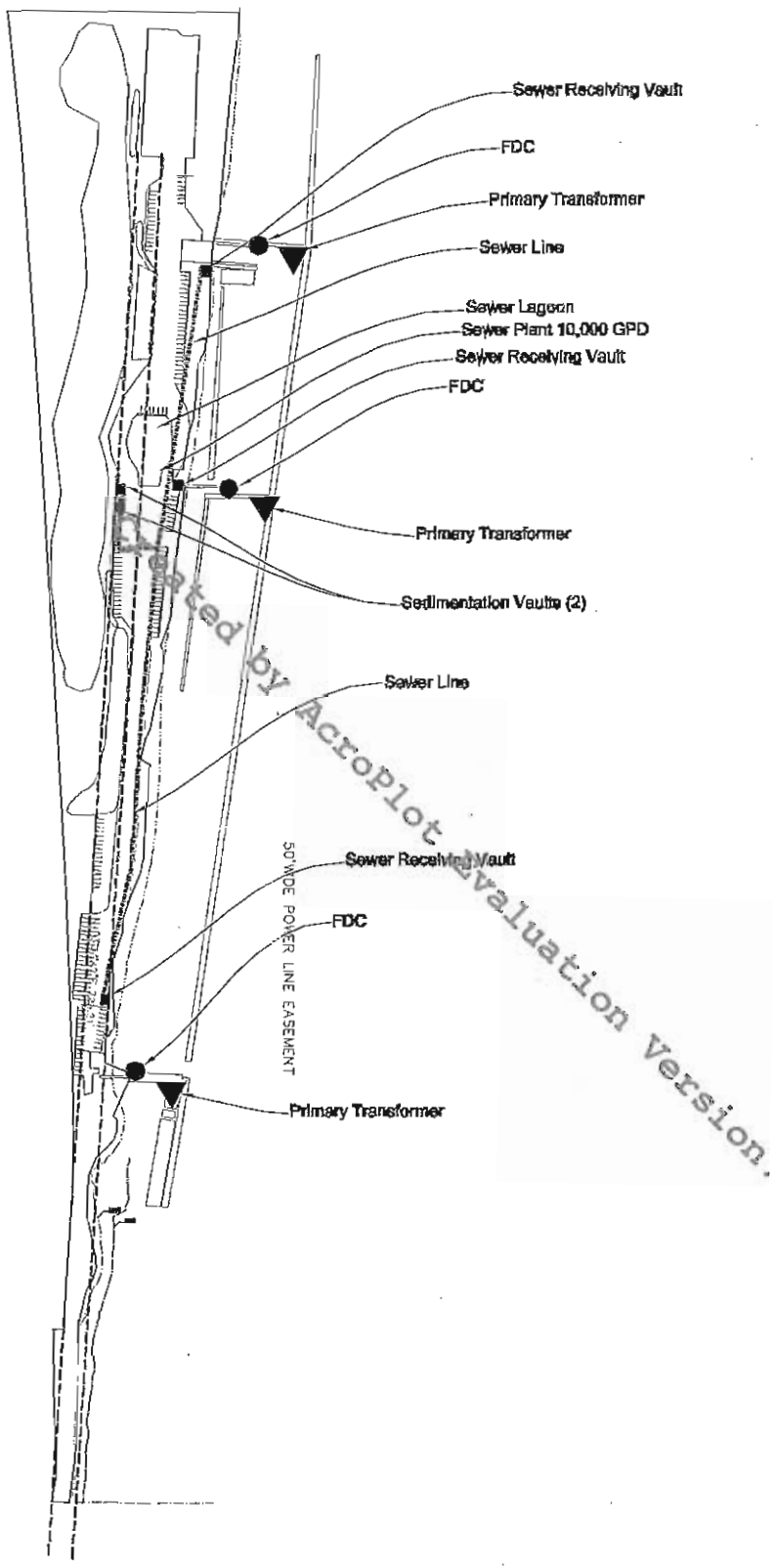
EXHIBIT  
15



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08 NOV 10 AM 9:28

MULTNOMAH COUNTY  
PLANNING SECTION



SCALE 1"=250'  
1" INCH

**Flowing solutions**  
 Flowing Solutions  
 3305 SW 87th Avenue  
 Portland, OR 97225  
 Phone (503) 297-6131  
 Fax (503) 297-5003

TITLE: EXHIBIT '3" COMBINATION UTILITY PLAN  
(SEWER-FIRE-TRANSFORMERS)  
 ROCKY POINT MARINA  
 23586 NW ST. HELENS ROAD  
 PORTLAND, OR 97231

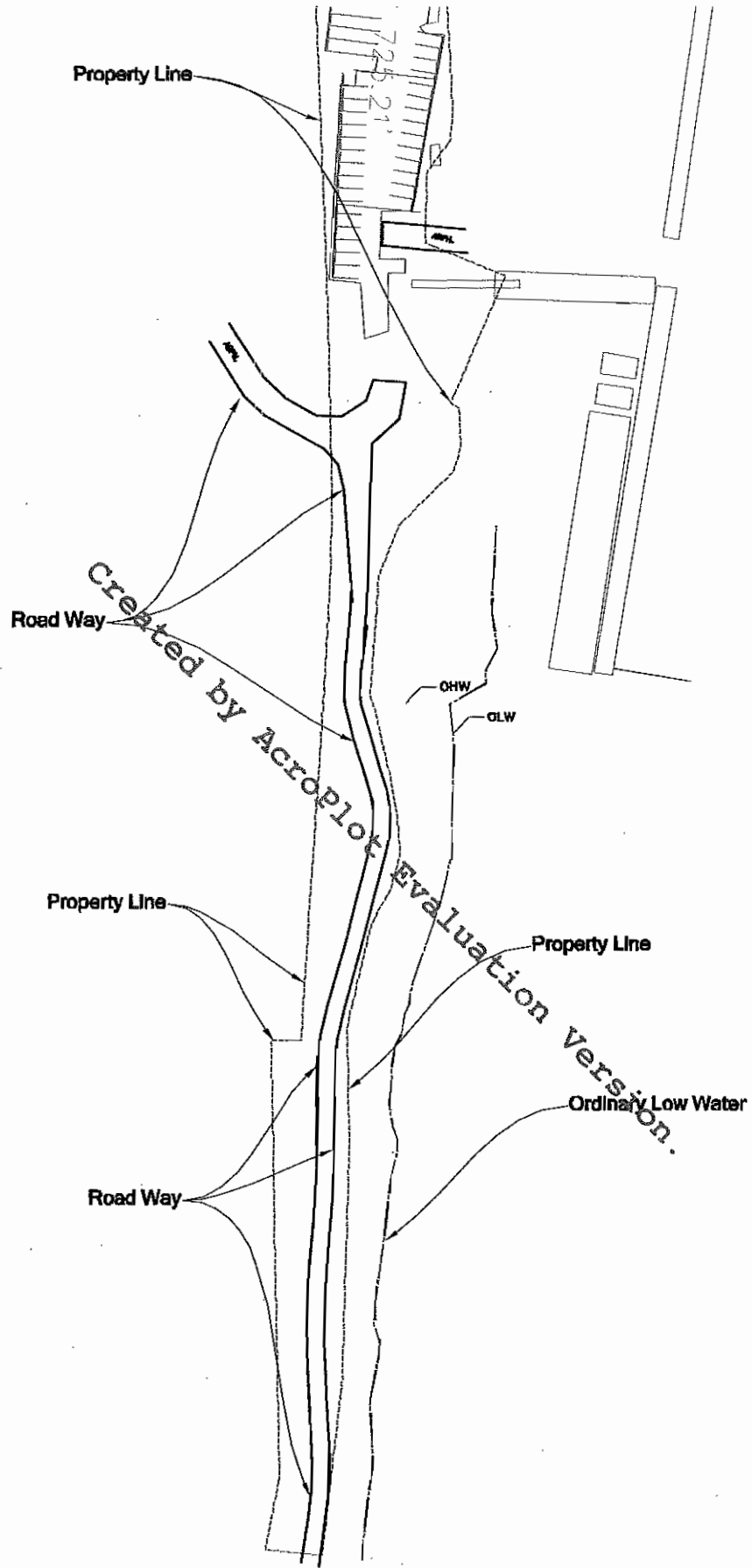
RIVER: MULTNOMAH CHA  
 DATUM: NGVD

EXHIBIT  
16


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MULTNOMAH COUNTY  
PLANNING SECTION



SCALE 1"=75'

 <p>Flowing Solutions 2305 SW 87th Avenue Portland, OR 97225 Phone (503) 297-6331 Fax (503) 297-6053</p>	TITLE: EXHIBIT '4" PROPERTY LINE-ROAD LOCATION		REVISED: 11/3/08 8/5/08
	ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231	RIVER: MULTNOMAH CHANNEL DATUM: NGVD	SHEET NO. 8

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7/2 11 00

EASEMENT (PROJECTED)

EXISTING BUILDING

POWER EASEMENT

EXISTING BUILDING

POWER EASEMENT

EXISTING BUILDING

50.0'

Created by AcroPlot Evaluation Version.

50' WIDE POWER LINE EASEMENT

SCALE 1"=200

Flowing solutions

Flowing Solutions  
3305 SW 87th Avenue  
Portland, OR 97223  
Phone (503) 297-5131  
Fax (503) 297-6053

TITLE: EXHIBIT '4" POWER LINE EASEMENT

ROCKY POINT MARINA  
23586 NW ST. HELENS ROAD  
PORTLAND, OR 97231

RIVER: MULTNOMAH CHANNEL  
DATUM: NGVD

REVISED:  
11/3/08  
8/5/08

SHEET NO.  
9



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09 FEB 10 PM 3:48



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Flowing Solutions  
3305 SW 87th Avenue  
Portland, OR 97225  
Phone (503) 297-6311  
Fax (503) 297-6053

TITLE: WORK YARD EXPANSION  
SITE PHOTO

ROCKY POINT MARINA  
23586 NW ST. HELENS ROAD  
PORTLAND, OR 97231

RIVER: MULTNOMAH CHANNEL  
DATUM: NGVD 1"=

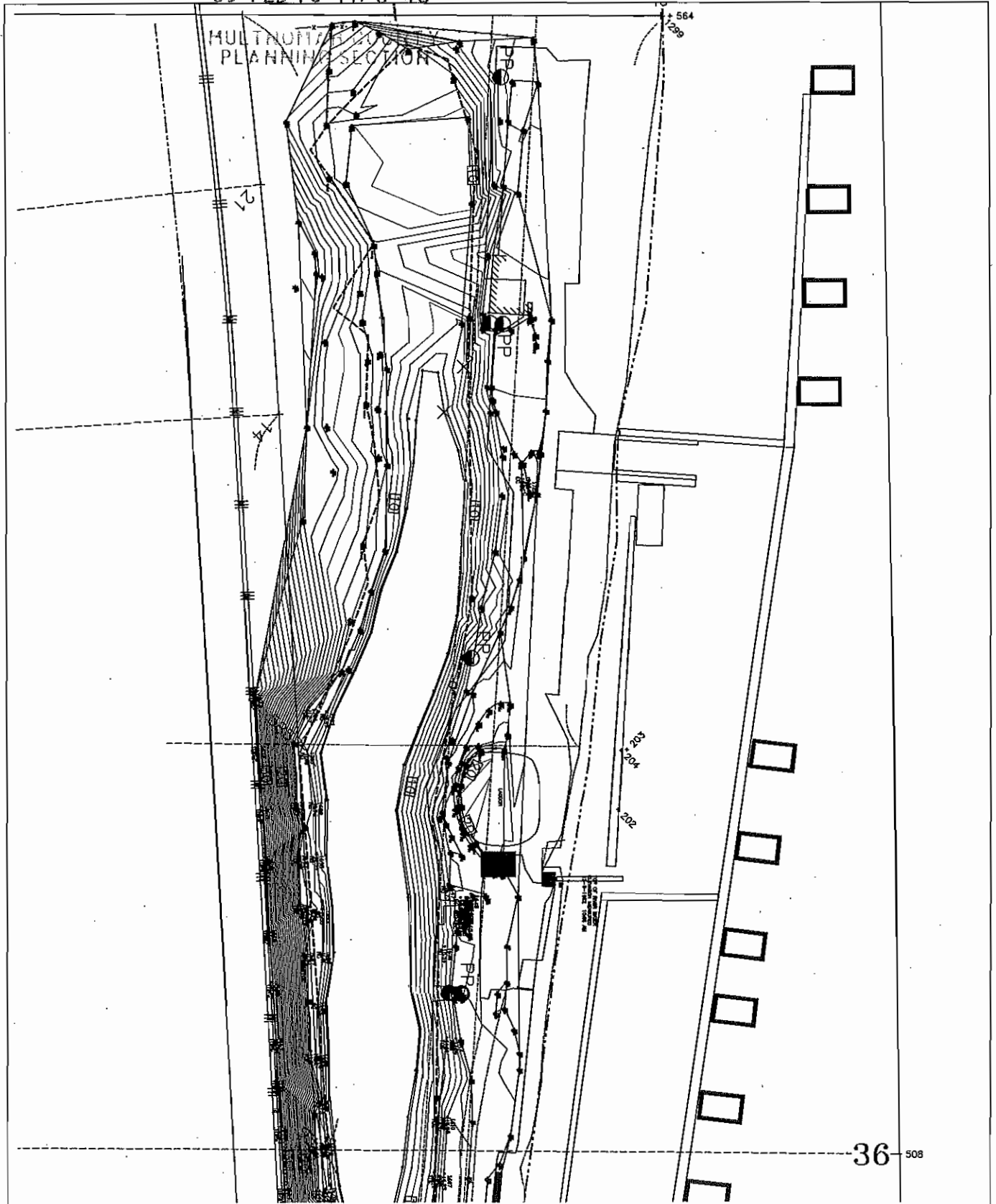
DATE:  
12/08/08

EXHIBIT  
17



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09 FEB 10 PM 3:48



Flowing solutions



Flowing Solutions  
3305 SW 87th Avenue  
Portland, OR 97225  
Phone (503) 297-6311  
Fax (503) 297-6053

TITLE: WORK YARD EXPANSION  
SURVEY

ROCKY POINT MARINA  
23586 NW ST. HELENS ROAD  
PORTLAND, OR 97231

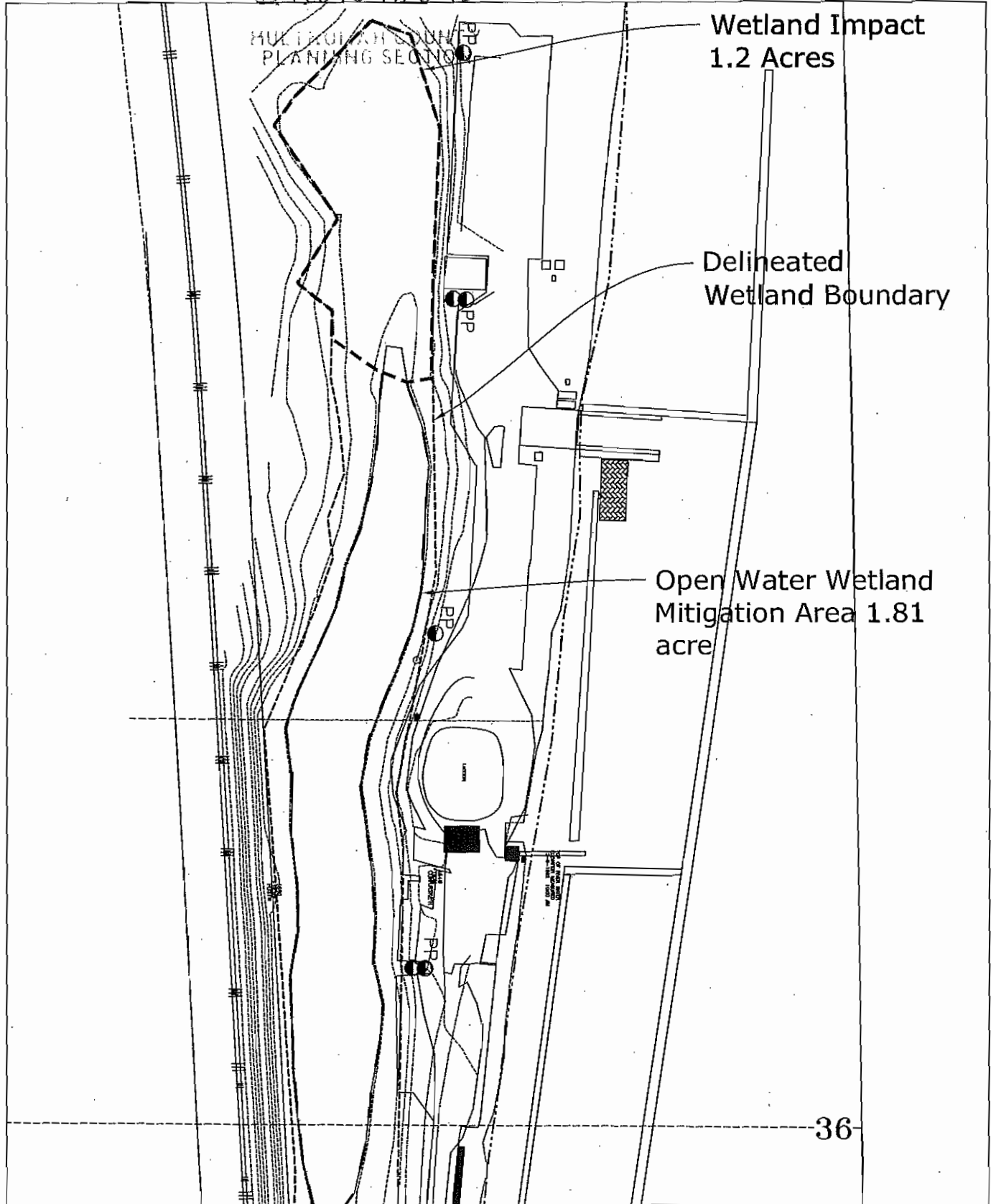
RIVER: MULTNOMAH CHANNEL  
DATUM: NGVD 1"=150'

DATE:  
12/08/08

SHEET NO.  
4

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09 FEB 10 PM 3:49



Flowing solutions



Flowing Solutions  
3305 SW 87th Avenue  
Portland, OR 97225  
Phone (503) 297-6311  
Fax (503) 297-6053

TITLE: WORK YARD EXPANSION  
WETLAND IMPACT

ROCKY POINT MARINA  
23586 NW ST. HELENS ROAD  
PORTLAND, OR 97231

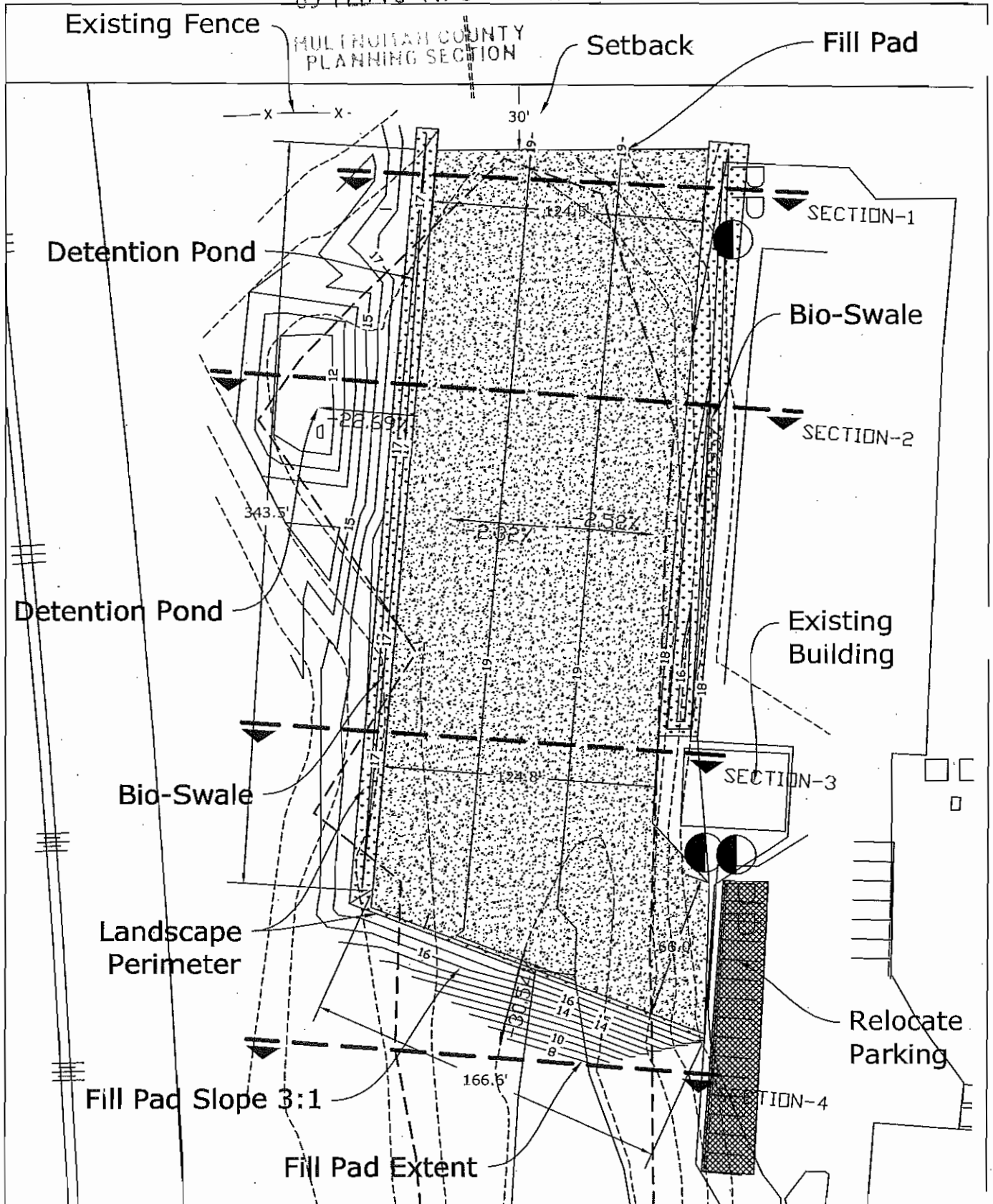
RIVER: MULTNOMAH CHANNEL  
DATUM: NGVD 1"=150'

DATE:  
12/08/08

SHEET NO.  
5

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<p><b>Flowing solutions</b>            Flowing Solutions          3305 SW 87th Avenue          Portland, OR 97225          Phone (503) 297-6311          Fax (503) 297-6053</p>	<p>TITLE: WORK YARD EXPANSION          SITE PLAN          ROCKY POINT MARINA          23586 NW ST. HELENS ROAD          PORTLAND, OR 97231</p>	<p>RIVER: MULTNOMAH CHANNEL          DATUM: NGVD          1"=60'</p>	<p>DATE:          12/08/08          SHEET NO.          6</p>
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Flowing Solutions  
 3305 SW 87th Avenue  
 Portland, OR 97225  
 Phone (503) 297-6311  
 Fax (503) 297-6053

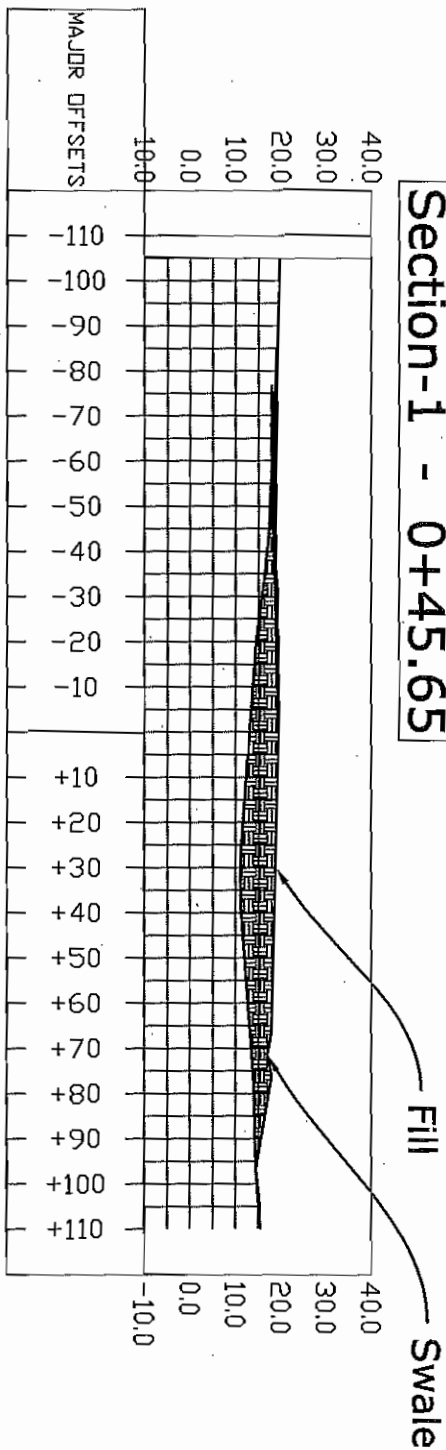


TITLE: WORK YARD EXPANSION  
 SECTIONS

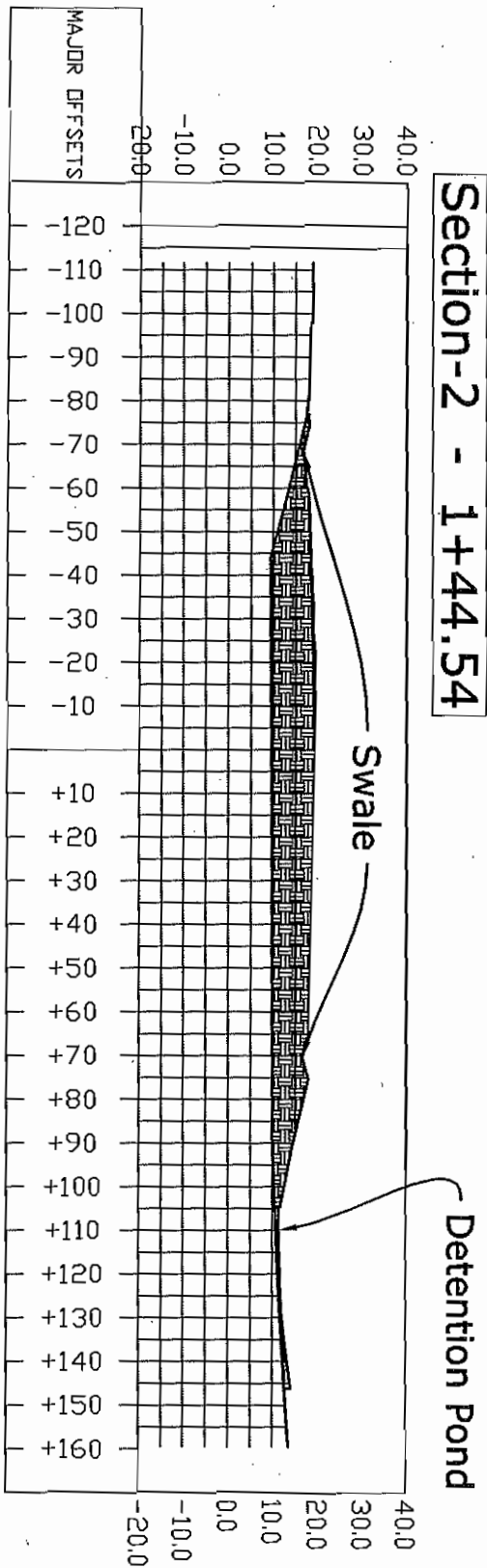
ROCKY POINT MARINA  
 23586 NW ST. HELENS ROAD  
 PORTLAND, OR 97231

RIVER: MULTNOMAH CHANNEL  
 DATUM: NGVD  
 1"=40'

DATE: 12/08/08  
 SHEET NO. 8



Section-1 - 0+45.65



Section-2 - 1+44.54

MULTNOMAH COUNTY  
 PLANNING SECTION

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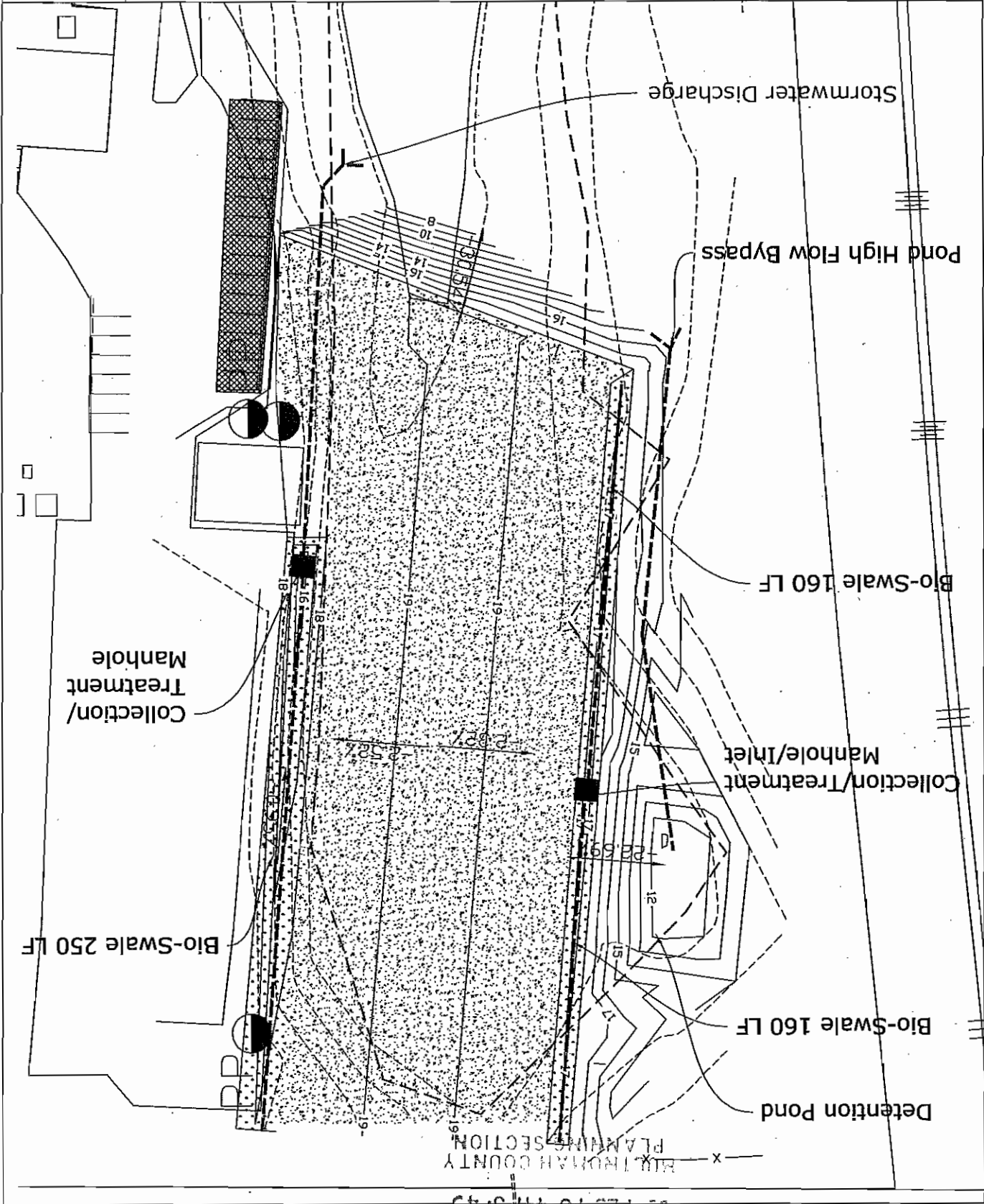
RECEIVED




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MULTNOMAH COUNTY PLANNING SECTION

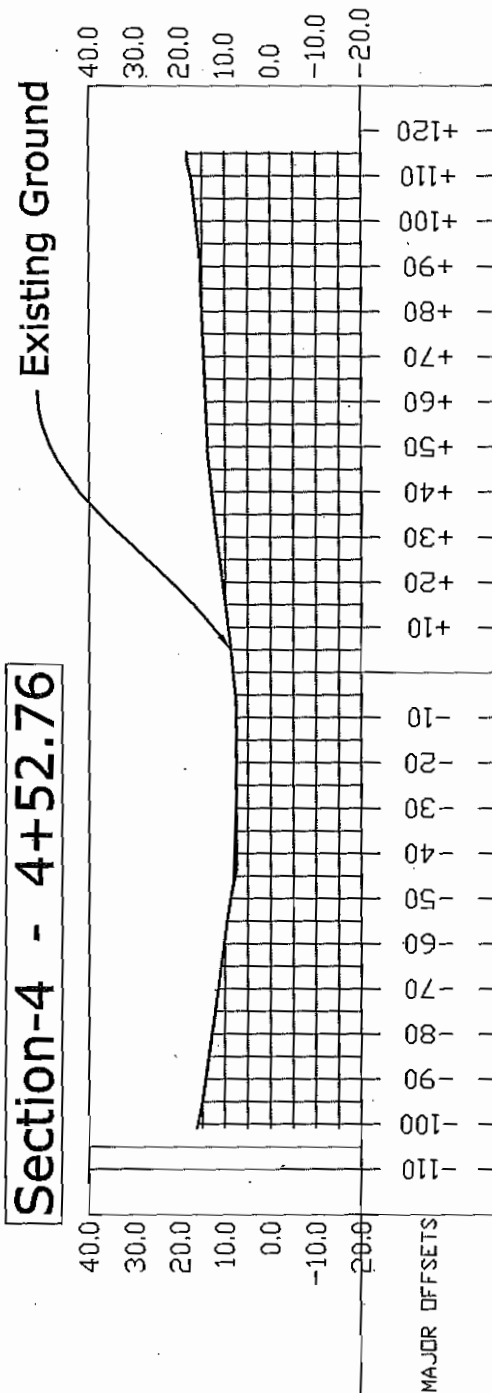
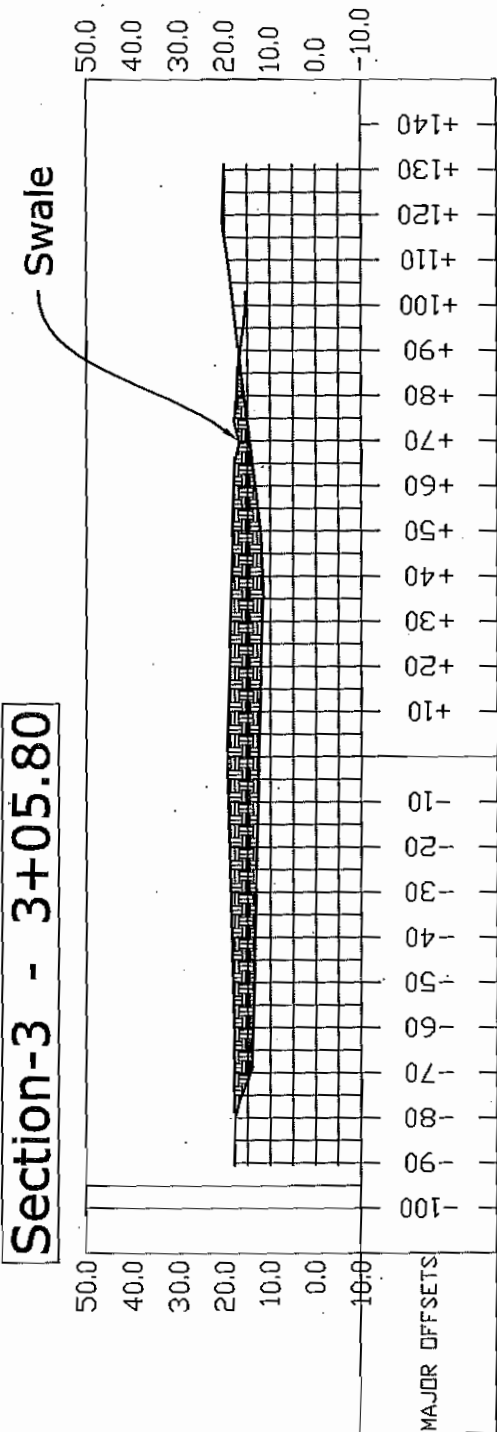


DATE: 12/08/08		TITLE: WORK YARD EXPANSION STORM AND POLLUTANT CONTROL SYSTEM		 Flowing Solutions 3305 SW 87th Avenue Portland, OR 97225 Phone (503) 297-6311 Fax (503) 297-6053	
SHEET NO. 7		RIVER: MULTNOMAH CHANNEL DATUM: NGVD 1"=60'		ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231	

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MULTNOMAH COUNTY  
PLANNING SECTION



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Portland, OR 97225  
Phone (503) 297-6311  
Fax (503) 297-6053

TITLE: WORK YARD EXPANSION

SECTIONS

ROCKY POINT MARINA  
23586 NW ST. HELENS ROAD  
PORTLAND, OR 97231

RIVER: MULTNOMAH CHANNEL  
DATUM: NGVD 1"=40'

DATE:

12/08/08

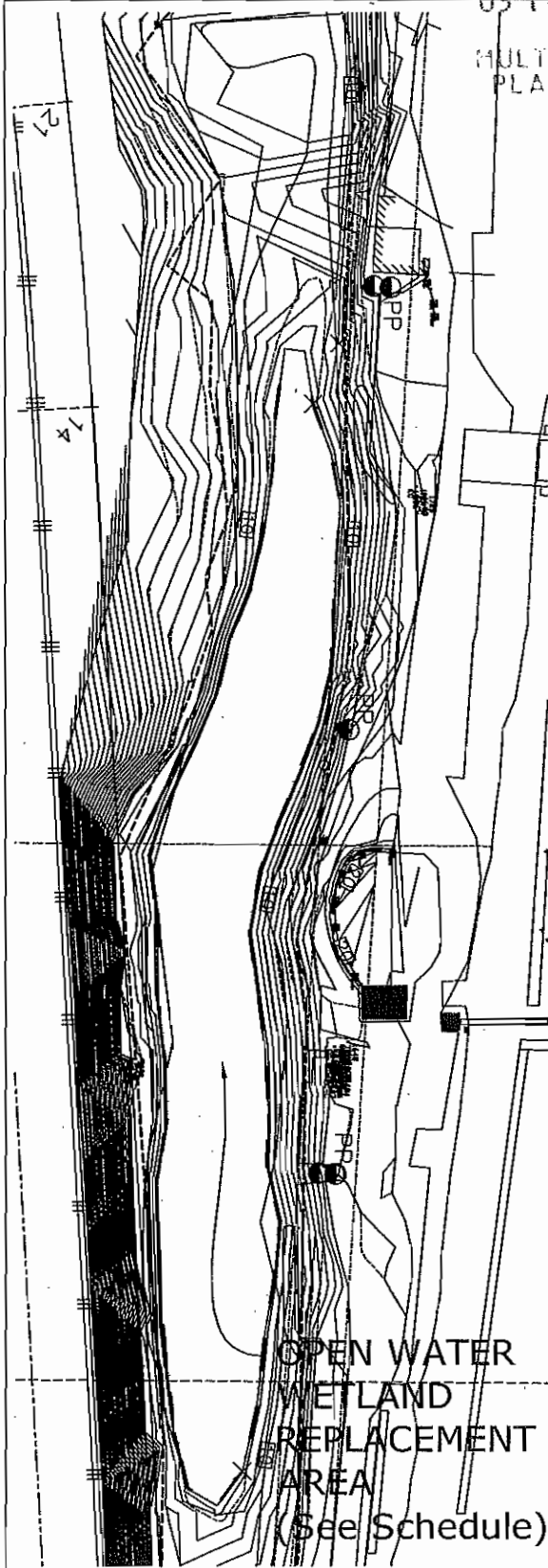
SHEET NO.

9

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MULTNOMAH COUNTY  
PLANNING Plant list for Rocky Point Mitigation Plan



<i>alisma plantago</i>	water plantain	Obl
<i>bidens cernua</i>	nodding beggartick	FacW+
<i>camassia quamash</i>	camas	FacW
<i>carex obnupta</i>	slough sedge	Obl
<i>juncus efusus</i>	soft stemmed bulrush	FacW
<i>juncus tenuis</i>	slender rush	FacW
<i>polygonum hydropiper</i>	smartweed	Obl
<i>sagittaria latifolia</i>	wapato	Obl
<i>scirpus americanus</i>	common sedge	Obl
<i>typha latifolia</i>	cattail	Obl

Two distinct plant zones will be created.  
 One dominated by cattails covering about 35 - 40 percent of the total area.

This will become almost entirely covered with cattails.  
 The other dominated by wapato randomly grouped with all other plants scattered amongst the wapato.

Flowing solutions



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 3305 SW 87th Avenue  
 Portland, OR 97225  
 Phone (503) 297-6311  
 Fax (503) 297-6053

TITLE: WORK YARD EXPANSION  
 WETLAND REPLACEMENT AREA

ROCKY POINT MARINA  
 23586 NW ST. HELENS ROAD  
 PORTLAND, OR 97231

RIVER: MULTNOMAH CHANNEL  
 DATUM: NGVD 1"=150'

DATE:  
 12/08/08  
 SHEET NO.  
 10

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08 OCT 15 AM 11:46

MULTNOMAH COUNTY  
PLANNING SECTION

June 27, 2008  
Amended September 28, 2008

**OREGON STATE GOAL EXCEPTIONS  
STATE GOALS 11 and 14  
ROCKY POINTE MARINA**

**ADDRESS:** 23586 NW St Helens Road

**APPLICANT/OWNER:** Stan Tonneson  
Jeniece Tonneson  
Rocky Pointe Marina  
23586 NW St Helens Rd SP U7  
Portland, Oregon 97231

**APPLICANT REPRESENTATIVES:**  
**Planning Consultant:** Peter Finley Fry AICP, PHD  
2153 SW Main Street #105  
Portland, Oregon 97205  
(503) 274-2744  
(503) 274-1415 FAX

**Engineer:** Andrew Jansky  
Flowing Solutions  
3305 SW 87th Avenue  
Portland, Oregon 97225  
(503) 297-6311  
(503) 297-6053 FAX

**PROPERTY IDENTIFICATION:**  
T3N, R2W, Section 36A: Tax lot 400 & T3N, R2W, Section 36D, Tax lot  
100.

**APPLICABLE ZONES:** Multiple Use Agriculture-20 (MUA-20), Willamette  
River Greenway (WRG), and 100-year Flood Plain.

**SPECIFIC APPLICATION:** COMPREHENSIVE PLAN TEXT (Rural Area Plan  
Policy 26) AND MAP CHANGE TO INCLUDE EXCEPTIONS TO GOAL 11 AND  
GOAL 14 FOR THE ROCKY POINTE MARINA

EXHIBIT  
18

<b>Table of Content:</b>		<b>Page #</b>
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3.	Findings: Justifying Exceptions to Goal 11, Public Facilities and Services Physically Developed (OAR 660-004-0025) Irrevocably Committed (OAR 660-004- 0028)	6
4.	Findings: Justifying Exception to Goal 14, Urbanization Physically Developed and Irrevocable Committed (OAR 660-014-0030)	13
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## 1. DEVELOPMENT HISTORY AND PROPOSAL

The existing Rocky Pointe Marina site was founded in the late 1920's/early 1930's.<sup>1</sup> The original floating home and office/fuel building are still in the same use today. Rocky Pointe has been a moorage, boat repair and fueling station since that time. Rocky Pointe is now one of Oregon's largest marinas and floating home communities, providing over 200 temporary and permanent spaces with existing amenities that include showers, washers/dryers, portable pump-outs and public on the water sewage disposal. The marina has an existing boat yard that provides full service professional repairs, refits, and upgrades in fiberglass, wood, and metal. The marina also includes a Marina Store, public fueling station, and on-shore parking. In 2006, Rocky Pointe Marina became the first certified "Clean Marina" by the Oregon State Marine Board (Exhibit 1).

The application seeks approval of a "physically developed" and "irrevocably committed" exception to Goals 11 and 14, in order to allow for additional development within the existing facility and for the expansion of the marina to the south. The project proposed to install a new 520 foot +/- dock on the upstream side of the existing marina between the existing marina and the adjacent marina upstream and expansion of the boat yard. The overall concept is to locate boat slips on the bank side and house boats on the stream side (see map). This accomplishes several goals; reduces the impact of shade on the areas close to shore; protects the boats from wake; protects the boats from vandalism; gives the house boats access to sun and views; and presents to the public a neighborhood. Improvements within the "physically developed" exception area will consist of (northern/downstream):

- 21 new houseboats to replace boat slips for a total of 61 houseboats
- Marina is allowed up to 150 boat slips, with 30 to be relocated to the new dock
- Floating home repair building (dry dock)
- Add 73 new parking spaces to the already existing 166 parking spaces

Improvements within the "irrevocably committed" exception area consist of (northern/downstream):

- Expansion of an acre boat yard up to two and a half acres.

Improvements within the "irrevocably committed" exception area consist of (southern/upstream):

- Extending dock to accommodate additional houseboats and boats

---

<sup>1</sup> Source: Aerial photographs from the Oregon Map Library.

- 15 new houseboats
- Relocate 30 existing boat slips to the bank side to a new dock

As stated, improvements include extending the existing up stream dock an additional 520 feet +/- to accommodate 21 floating homes on the outside of the existing dock with 10 new boat slips on the bank side of the dock along with the displaced outside boat slips of 20 from the existing dock to 30 slips on the bank side. The addition of 520 additional feet of dock using modern materials and techniques will not adversely impact the environment, and will provide safer conditions for users and a more functional facility.

The new marina area will consist of floating docks extended from a new/safer five foot ramp replacing the existing four foot main ramp and utility services. The existing four foot ramp will be used as a single emergency only gangway for emergency access to shore, and 40 steel pilings up to 20 inches in diameter will be placed to secure the dock extension. The existing upriver docks and new dock will be increased from 5 feet to 8 feet wide (6 feet of wood decking and 2 feet of grating for utility access) to provide greater safety.

The results will be 76 houseboats (40 existing and 36 new), 150 boat slips (134 front in slips and 16 side slips); 7 boat houses, and 239 parking spaces (166 existing and 73 new).

The proposed work includes restoration and native re-vegetation designed to improve the existing natural resources. A maintenance plan will provide methods and guideline to protect the resource and landscaped areas. An interpretive trail is proposed for construction along the bank and lake.

In 1993, an exception to Goal 4 was approved for the terrestrial land area zoned MUA-20 and the marina facility itself. The exception to Goal 4 obtained acknowledgment from LCDC in 1993.

Rocky Pointe was originally approved by Multnomah County in 1993 as a conditional use. The marina was approved for 40 houseboats, 150 boat slips, seven boathouse spaces, and 166 parking spaces.

In 1997, Multnomah County adopted a streamlined land use review known as Policy 10 that legalized existing moorages. Rocky Pointe was inventoried, but not forced to participate, as it was a legally established moorage under a 1993 conditional use approval. Since 1993, improvements have been made to the moorage including state mandated improvements and safety and environmental quality systems.



## 2. NEED FOR EXCEPTIONS

Statewide Planning Goal 11: Goal 11 and related rule limits urban levels of services outside urban growth boundaries and unincorporated communities. An urban level of service includes the extension or establishment of a sewer system outside an urban growth boundary or unincorporated community boundary. A "sewer system" is defined as a system that serves more than one lot or parcel (OAR 660-011-0060(1)(f)).

A "**Physically Developed**" and "**Irrevocably Committed**" exception to Goal 11, as outlined OAR 660-004-0025 and OAR 660-004-0028, is being proposed for the marina.

Statewide Planning Goal 14: Although the channel itself was not included in this original exception to Goal 4, the moorages and the facilities supporting the houseboats (located on both sides of the channel) were part of this exception. The Multnomah County code considers houseboats and floating homes as single family dwellings. State rules specifies that the county shall not allow more than one dwelling to be placed on a lot or parcel in the MUA-20 zone (OAR 660-004-0040(7)(f)).

A "**Physically Developed**" exception to Goal 14 is being taken for the existing developed areas of the marina, and an "**Irrevocably Committed**" exception to Goal 14 is being taken for the undeveloped portion of the marina proposed for expansion (See Exhibit One showing boundaries of exceptions). The criteria for these exceptions are outlined in OAR 660-014-0030.

### 3. FINDINGS JUSTIFYING EXCEPTION TO GOAL 11, PUBLIC FACILITIES AND SERVICES

**Exception Requirements for Land Physically Developed to Other Uses (OAR 660-004-0025):**

(1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.

**Finding:** Rocky Pointe Marina has its own on site waste disposal facility that is permitted with the Oregon Department of Environmental Quality (DEQ) for both a level 1 treatment and level 1 collection for domestic waste water utilizing an activated sludge process. As required under permit in accordance with OAR, Chapter 340, Division 49, a certified supervisor manages the systems and reports to DEQ monthly. This disposal system services the floating homeowners, public restrooms, and public boat dump stations, which are all non-terrestrial. The boat repair facility is the only upland facility hooked up to the sewer. The existing DEQ permit allows for up to 6,500 gallons of effluent per day. Current levels are about 5000 gallons per day. Application is being filed with DEQ to increase volume to meet needs of additional homes proposed.

(2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

**Finding:** The sewer system on the uplands at Rocky Pointe Marina consists of 3 large underground collecting vaults (approximately 500 gallons each). One each located near each of the 3 ramps. These vaults are connected by underground pipes to the final two underground vaults prior to entering the sewage plant. The plant itself consists of tanks with a capacity of 10,000 gallons. When complete, the liquid is discharged into an evaporation pond approximately 100 feet in diameter. The plant and pond are enclosed by a 6 foot cyclone fence. The fence area is buffered by landscaping – over 100 laurel shrubs.

**Exception Requirements for Land Irrevocably Committed to Other Uses (OAR 660-004-0028)**

(1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable

(a) "committed exception" is taken in accordance with ORS 197.732(1) (b), Goal 2 Part II (b), and with the provisions of this rule;

**Finding:** The applicant has applied for a committed exception.

(b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception is taken;

**Finding:** The applicant has applied for a committed exception for the developed areas.

(c) An "applicable goal," as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.

**Finding:** The applicant has presented factual findings to each relevant goal to establish compatibility or no adverse impact related to the goal's purpose.

(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

(a) The characteristics of the exception area;

**Finding:** Rocky Pointe Marina occupies a long narrow strip of waterfront land 3,150 ft long to less than twenty feet at the southern end and increasing in width to just over 400 feet at the northern end with a total of 16.22 acres of which approximately 10 acres along the water are fully developed with road, parking, boatyard and support facilities. The remaining land is a lake, wetlands, natural areas, and landscaping that lay between the marina road and the railroad. The land itself is primarily basalt rock.

The sewer lines are approximately 3,700 feet along all walkways connecting to floating homes, floating restrooms, laundry, showers and pump out stations. These serve 40 floating homes and four restrooms facilities with showers and laundry. The sewer line also serves the public boat pump out station located at the fuel dock along with the three portable pump out units provided for people living on their boats and the traveling public. Each home and facility has its own "honey pot" that collects sewage and pumps into the main lines. These pump into a floating vault (larger honey pot) which pumps in to the next vault/station on land and then to the plant. The sewage processing plant is an air activated sludge processing system that has a capacity of 10,000 gallons per day. It was built and designed by DAVCO Engineering and installed in 1994.

(b) The characteristics of the adjacent lands;

**Finding:** On the water side, Rocky Pointe Marina leases 10.76 acres of submerged land from the Department of State Lands. On the backside of the property, the rocky terrain is sloped upward to the railroad tracks and continued upward slope to Hwy 30. The ground is primarily basalt rock.

Directly south, Happy Rock Marina has their own air activated sludge processing plant that disposes of their final clear liquid into a drain field to the south of their property.

To the north, there are four marinas connected to a single air activated sludge plant with drain field. The marinas, in order started by the closest, are McCuddy's Big Oak, Pirate's Cove, Casselman's, and Riverbend. The sewage plant is located at Casselmans, about  $\frac{3}{4}$  to 1 mile from Rocky Pointe.

(c) The relationship between the exception area and the lands adjacent to it;

**Finding:** The sewage plant at Rocky Pointe is located near midpoint of the existing marina, a minimum of 1,000 feet from either property line to the north and south. On the west side, the plant is buffered from the property line by a 5 acre lake (not evaporating pond). On the west side (riverside), there is a large driveway.

(d) The other relevant factors set forth in OAR 660-004-0028(6)

**Finding:** The sewer system is located on the resource zoned terrestrial land to remove waste from the residential houseboats, boats, and traveling public consistent with the legal and policy mission of the DEQ. The sewer system is specifically designed to divert waste from the river in an ecological and efficient manner.

**215.203(3)** Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1) (b), in Goal 2, Part II (b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:

(a) Farm use as defined in ORS 215.203.

**Finding:** Individual sewage treatment systems or holding tanks is not practical, efficient, or ecologically sound. There are no services available to pump out holding tanks in the floating homes. Floating home tenants only rent dock space and do not own land to create a disposal area. Multiple disposal areas would not be efficient and would damage the ecology of the river. The single sewage collection and treatment system is under daily care of professional management, minimizes the impact on the river, and reports monthly to the DEQ.

(b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120

**Finding:** Not relevant in the context of this exception to Goal 11.

(c) Forest operations or forest practices as specified in OAR 660-006-0025(2) (a)

**Finding:** Not relevant in the context of this exception to Goal 11.

(4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons

explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.

**Finding:** The applicant has presented factual findings to each criterion that assert the area committed to a sewer system because of the extent and location of the existing system and the marina it serves..

- (5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.

**Finding:** All land asserted as irrevocably committed to a sewer system is based on the extent of the existing system and service it provides to the marina.

- (6) Findings of fact for a committed exception shall address the following factors  
(a) Existing adjacent uses;

**Finding:** On the water side, Rocky Pointe Marina leases 10.76 acres of submerged land from the Oregon Department of State Lands (DSL). On the backside of the property, the rocky terrain is sloped upward to the railroad tracks and continued upward slope to Hwy 30. The ground is primarily basalt rock.

Adjacent, Happy Rock Marina has their own air activated sludge processing plant that disposes of their final clear liquid into a drain field to the property's south.

To the north, there are four marinas connected to a single air activated sludge plant with drain field. The marinas, in order started by the closest, are McCuddy's Big Oak, Pirate's Cove, Casselman's, and Riverbend. The sewage plant is located at Casselmans, about ¾ to 1 mile from Rocky Pointe.

- (b) Existing public facilities and services (water and sewer lines, etc.);

**Finding:** All services and utilities exist on the site. Rocky Pointe Marina provides its own DEQ certified sewage collection and processing system and has its own water well, treatment and storage facility.

- (c) Parcel size and ownership patterns of the exception area and adjacent lands;

**Finding:** There are currently 7 parcels of land that are owned by Stan Tonneson LLC and leased to Rocky Pointe Marina Portland LLC. These lots have been consolidated to one lot of record in conjunction with the land use application. The existing lot numbers and sizes are listed below from North to South, see map for additional detail

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Previous Tax Lots		Consolidated Tax Lots		Proposed Lot of Record	
Existing Lots of Record					
TL400	8.5 acres	TL400	8.73 acres	1 lot	16.22 acres
TL100	8.17	TL100	7.49		
TL200	.33				
TL300	.39				
TL400	.12				
TL500	.20				
TL600	.09				
<b>TOTAL*</b>	<b>17.8 acres</b>		<b>16.22 acres</b>		<b>16.22 acres</b>

\* Square footage was corrected when Multnomah County combined the tax lots.

The land to the west is the railroad and then State Hwy 30. To the south is Happy Rock Marina owned by Ginger Curtis and to the north is Big Oak Marina owned by the McCuddy family.

The sewer system serves the floating homes, pump out stations for tenant and public boats, and the five restrooms (four floating and one at the boat yard) on the site.

(A) Consideration of parcel size and ownership patterns under subsection (6) (c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goal were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors makes unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and non-resource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining these parcels;

**Finding:** The current configuration of Rocky Pointe Marina was permitted by Multnomah County in 1993 as a Community Service/Conditional use. The existing roads and services date back to the 1940's were upgraded at that time. These include a paved roadway the entire length of the property.

Underground water lines, underground sewer lines, underground telephone lines, on site waste water processing and on site water well, treatment and storage to all 3 access ramps to the marina docks and to the boat repair facility at the north end. An overhead power line and easement runs the length of the property for the benefit of Columbia Public Utility District.

The parcels of land to the south, TL 400, TL500 and TL600 were acquired in 2002 and added to Rocky Pointe Marina property. There is an existing road on this land that is continuous with the Rocky Pointe roadway. This roadway leads to the marina to the south, Happy Rock Marina, for which they have a permanent easement over Rocky Pointe's property

The proposed expansion will be serviced and accessed by the existing gangway ramp.

(B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the lands actual uses. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.

**Finding:** Rocky Pointe Marina was 7 lots of record and has been consolidated into one lot of record.

(d) Neighborhood and regional characteristics;

**Finding:** Rocky Pointe Marina is located on the Multnomah Channel about seven miles downstream of the Willamette River and about three miles south of the small but growing community of Scappoose. The Channel has become the "other" boating facility area as an alternative option to Hayden Island at Jantzen Beach. Multnomah Channel has over 200 floating homes and boat moorage for about 2,000 boats along its 21 mile length from Linnton to St Helens.

(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;

**Finding:** Rocky Pointe Marina is a long narrow strip of waterfront land that is bound by Multnomah Channel and on the other side by the railroad tracks and then State Hwy 30 beyond the railroad. There is a power line easement for high voltage lines down the center of the property. There is a continuous roadway and parking from one end to the other. There are mitigated wetlands.

(f) Physical development according to OAR 660-004-0025 and

**Finding:** The sewer lines are approximately 3,700 feet along all walkways connecting to floating homes, floating restrooms, laundry, showers and pump out stations. These serve 40 floating homes and four restrooms facilities with showers and laundry. It also serves the public boat pump out station located at



the fuel dock along with the three portable pump out units provided for people living on their boats and the traveling public. Each home and facility has its own "honey pot" that collects sewage and pumps into the main lines. These pump into a floating vault (larger honey pot) which in turn pumps in to the next vault/station on land and then to the plant. The sewage processing plant is an air activated sludge processing system that has a capacity of 10,000 gallons per day. It was built and designed by DAVCO Engineering and installed in 1994. (see exhibit 2)

**(g) Other relevant factors.**

**Finding:** The sewer system is located on the resource zoned terrestrial land to remove waste from the residential houseboats, boats, and traveling public consistent with the legal and policy mission of the DEQ. The sewer system is specifically designed to divert waste from the river in an ecologically and efficient manner.

**(7)** The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section **(6)** of this rule shall be shown on the map or aerial photograph.

**Finding:** The applicant has provided an aerial photograph.

**(8)** The requirement for a map or aerial photograph in section **(7)** of this rule only applies to the following committed exceptions:

(a) Those adopted or amended as required by a Continuance Order dated after the effective date of section **7** of this rule; and

(b) Those adopted or amended after the effective date of section **(7)** of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.

**Finding:** The applicant has provided maps showing the boundaries of the exception area.

**CONCLUSION FOR EXCEPTION TO GOAL 11:**

The sewer system exists and has been permitted by DEQ. The sewer system performs important ecological and public health functions. Individual systems are not practical or desirable.

## 4. FINDINGS JUSTIFYING AN EXCEPTION TO GOAL 14, URBANIZATION

### Rural Lands Irrevocably Committed to Urban Levels of Development (OAR 660-014-0030)

(1) A conclusion, supported by reasons and facts, that rural land is irrevocably committed to urban levels of development can satisfy the Goal 2 exceptions standards (e.g., that it is not appropriate to apply Goal's 14 requirement prohibiting the establishment of urban uses on rural land). If a conclusion that land is irrevocably committed to urban levels of development is supported, the 4 factors in Goal 2 and OAR 660-004-0020(2) need not be addressed.

**Finding:** Rocky Pointe Marina has been on a developed site since the late 1930's. The original shop/office/fuel dock and caretaker home are still on site and in use. There has been boat repair and fueling on site since the 1950's. Aerial photographs confirm the marina existence in 1938. The current marina was permitted by Multnomah County in 1993 as a Community Service Conditional Use. The area is 16.22 acres. The approval allowed for 40 floating home, 150 boat slips, 7 boatsheds and 166 auto parking spaces. Zoning for the property is Multiple Use Agriculture-20 with zoning overlays for the 100-year floodplain, the Willamette River Greenway, Sauvie Island riparian area, and for wetlands designated on the National Wetlands Inventory.

The shape of the property is a narrow triangle 3,150 feet long along the water and ranging in width from 18 feet at the southern end and 500 feet at the northern end. There is a road running the entire length of the property with a boat repair facility at the northern end. Parking is on either side of the road. There is a lake on the west side of the road. The existing road, parking and upland facilities occupy approximately 10 acres of all previously disturbed land. The balance of land is landscaping and natural areas intermixed within the property. The proposed expansion is within the existing developed property.

The conclusion is that this property is irrevocably committed to an urban level of development as it has been developed and in use for almost 80 years. The property, mostly rock, is completely built out as a marina along the shoreline with all facilities in place. The area of expansion has had docks and piers and a house in the past. The house was removed many years ago, docks were removed several years ago, and the piers remain. The piers will be removed as a result of this project and new environmentally sound piers and docks will be constructed.

(2) A decision that land has been built upon at urban densities or irrevocably committed to urban levels of development depends on the situation at the specific site. The exact nature and extent of the areas found to be irrevocably committed to urban levels of development should be clearly set forth in the justification for the exception. The area proposed as land that is built upon at urban densities or irrevocably committed to urban levels of development must be shown on a map or otherwise described and keyed to the appropriate findings of fact.

**Finding:** The following facilities and structures exist on the property and with water lease. See attached map keyed to the following list;

Upland

- A- roadway: approximately 2,800 feet long by 20 to 30 feet wide
- B- water well house, storage and treatment
- C- recycling/garbage/mail center upper ramp/marina
- D- recycling/garbage station middle ramp/marina
- E- recycling/garbage station lower ramp/marina
- F- security gate
- G- parking – 166 spaces
- H- trailer storage
- I- boat yard restroom
- J- sewage treatment plant
- K- evaporation pond
- L- boatyard shop/office – 3,500 square feet
- M- boat haul out pier
- N- boat wash down pad and building – 2,000 square feet
- O- boatyard – 40,000 square feet
- P- power- Columbia River PUD
- Q- telephone- CenturyTel
- R- fuel storage tanks, above ground – 6,000 gallons

On the Water

- 1-docks – 3,700 feet of primary walkways – 3 ramps
- 2-marina office/store – 1,500 square feet
- 3-fuel dock – 100 foot landing with two gas and one diesel pump
- 4- marine sewer pump out
- 5-restrooms/laundry – 4 sets of floating buildings each two toilets, two showers; washer and dryer.

(3) A decision that is committed to urban levels of development shall be based on findings of fact, supported by substantial evidence in the record of the local preceding, that address the following:

- (a) size and extent of commercial and industrial uses

**Finding:** The marina contains a store, office, gas dock, and public restrooms including pumpouts to the traveling public to maintain clean rivers. The marina provides a full service repair and maintenance facility.

- (b) location, number and density of residential dwellings;

**Finding:** There are 40 floating homes. The average float size is 30ft wide by 50ft deep with the house size being smaller than the float. The houses are all moored on the outside docks facing the river and are intermixed with the 150 boat slips. (See attached map.)

(c) location of urban levels of facilities and services; including at least public water and sewer facilities;

**Finding:** All necessary utilities currently exist. See attached map for water well/storage, waste water collection and processing, power lines, phones lines, and propane lines.

(d) parcel sizes and ownership patterns

**Finding:** There were 7 parcels of land owned by Stan Tonneson LLC and leased to Rocky Pointe Marina Portland LLC. They have been consolidated into a single lot of record. The previous lot numbers and sizes are listed below from North to South, see map for additional detail

Previous Tax Lots Existing Lots of Record		Consolidated Tax Lots	Proposed Lot of Record
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TL400	.12		
TL500	.20		
TL600	.09		
Total	17.8	16.22 acres	16.22 acres

(4) A conclusion that rural land is irrevocably committed to urban development shall be based on all of the factors listed in section (3) of this rule. The conclusion shall be supported by a statement of reasons explaining why the facts found support the conclusion that the land in question is committed to urban uses and urban development rather than a rural level of development.

**Finding:** Rocky Pointe Marina was established in the 1930's and has been in existence on the same site providing boat moorage, floating home moorage, boat repair, boat fueling station, boathouse construction, public boat ramp, public restrooms and floating general store. There is a paved road the entire length of the property parallel to the water's edge making the waterfront land accessible. The northern part of the road is a driveway on the Rocky Pointe Marina. The southern part, south of the County's road, is an easement across the Rocky Pointe property to the Happy Rock Marina (south), upstream from Rocky Point. The remainder of land is either lake, wetlands, natural or landscape areas.

(5) More detailed findings and reasons must be provided to demonstrate that land is committed to urban development than would be required if the land is currently built upon at urban densities.

**Finding:** Rocky Pointe Marina is built to urban densities.

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\*OAR 660-004-0040(7) (f)

"A local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in a rural residential zone."

The Multiple Use Agriculture-20 zone that is considered a type of rural residential zone.

**Finding:** The applicant requests a goal exception for this provision.

**CONCLUSION FOR EXCEPTION TO GOAL 14:**

The primary residential activity is on the waterway; a navigable waterway under the jurisdiction of the federal government. The residential use crosses the State jurisdictions with gangways and boat ramps. The use of terrestrial zoned land is limited to parking, boat yard, walking, loading, mail, and waste services.

The development is infill, filling a small stretch of currently unused waterway between the existing Rocky Pointe Marina and Happy Rock Marina upstream. No additional expansion is possible. The expansion will not result in additional restrooms, expansion of the store, or any other "urban use"

## 5. FINDINGS FOR GENERAL GOAL (1-15) COMPLIANCE

### OREGON STATE PLANNING GOALS

*Goal 2 -(land use planning), section lib, the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the goal impracticable.*

**Finding:** This land has been used as a public marina since the 1940's. Both the south and north waterfront adjoining properties have been marinas for similar periods of time. The land is a narrow strip of waterfront land that is bounded by the railroad and Hwy 30 on the west boundary. The terrain is mostly basalt rock and steeply sloped after the first couple hundred feet inland. A lake occupies most of the open level property. The rest of the land along the shoreline is improved with a driveway and parking running parallel to the water and a boat repair facility at the north end of the property. Underground water, sewer, and phone lines parallel the road.

**Goal 5 – To protect natural resources and conserve scenic and historic areas and open spaces.**

**Finding:** The marina expansion infills an existing DSL leasehold. The expansion takes place between the existing marina and adjacent marina directly upstream. A landscape maintenance plan restores and protects natural resources. The development process involves approvals by the Division of State Lands and the Army Corp of Engineers. These approvals require scientific analysis of the resources, mitigation and restoration. The infill area has been developed for years and is currently not used with old pilings and other relicts of the past. The marina use is benign in relationship to the environmental uses, unlike a typical urban development. The vast majority of the property remains natural. On the bank is parking, a work area, and natural areas; lake, forest, grasslands, etc. The majority of use is on the water. The banks are natural with thin gangways transferring across the bank in specific areas to reach the docks where the activity is. These natural areas will be cleaned up and restored as a result of this process. The site is not historic nor is it designated scenic. The marina adds to the scenic quality and interest of the waterway.

**Goal 12 Transportation – To provide and encourage a safe, convenient and economical transportation system.**

**Finding:** The marina exists on Highway 30 with direct access to Scappoose and Portland, Oregon. The highway has a center turn lane to provide safe accessibility. There is an automated gated rail protection at the railroad crossing. Regular scheduled public transportation is available by Columbia County Rider that connects to Tri-Met.



Goal 15 Willamette River Greenway- to protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economical and recreational qualities of lands along the Willamette River as the Willamette River: to implement the County's responsibilities under ORS 390.310 to 390.368 to establish Greenway Compatibility Review Areas; and to establish criteria, standards and procedures for the intensification of uses, changes of uses, or the development of lands within the Greenway.

34.5855 Greenway Design Plan

The elements of the Greenway Design Plan are:

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

**Finding:** The site plan illustrates that the existing parking and driveway areas are weaved into the landscape to minimize the disturbance of the bank, water features, and natural vegetation. All of the developed structures are built on land that the 1993 conditional use allowed to be disturbed. The proposed expansion of houseboats will not disturb any further land, landscape, or natural areas other than a small concrete pad to land the emergency ramp next to the roadway. Other conditional uses permitted by state law may expand in the future with proper permits. The additional parking spaces will be intermixed within the existing parking areas. A boat storage area that is currently grassed is proposed to be paved to provide additional parking and boat storage. The site retains over five acres of landscaping and natural areas which includes a lake representing 70% of that area.

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

**Finding:** The project's purpose is to provide the public with safe access to the river in an area already dominated by marine uses.

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

**Finding:** The proposed moorages are river dependant use. Parking and other accessory uses are directed away from the river as much as feasible given the rocky bank and rail line.

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

**Finding:** The property cannot be used for agriculture given the basalt rock. It is not agricultural land.

- (E) The harvesting of timber, beyond the vegetation 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.

**Finding:** This application does not propose harvesting of timber.

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

**Finding:** The project's purpose is to provide recreational benefits in a location that has an existing marina. The new improvements and facility shall provide safe and modern boat slips and houseboat dockage.

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

**Finding:** The construction is designed to minimize any impacts on fish and wildlife. Construction will occur within approved windows allowed for development on the rivers. The project will require approval of both federal and state agencies.

A biological assessment was conducted for the Rocky Pointe expansion by Ellis Ecological Services for the US Army Corps of Engineers, National Marine Services, and the US Fish and Wildlife Services. The assessment found that incidental "take" (i.e. harm or harassment) during the proposed project is unlikely to occur. All work would occur during the Oregon Department of Fish and Wildlife in-water work periods for Multnomah Channel. The project is not expected to significantly detain or adversely affect fish that migrate upstream through the channel. The construction will affect fish through noise vibration. Efforts will be taken to minimize these affects. No significant long-term adverse impacts are anticipated. The removal of the existing creosote-treated wood piling is expected to improve habitat. The proposed project is expected to have no effect on listed plant or wildlife species of their habitat.

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

**Finding:** The proposed houseboat development is within a developed area. The placement of parking, re-vegetation and restoration will actually cause existing facility to be less noticeable by embracing natural areas and consolidation of development impacts.

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

**Finding:** The improvements include many measures to improve safety and better protect the tenants and neighbors. The new floating homes will all be built to the new City of Portland Title 28 building codes. The in-fill of floating homes into the existing marina will create enough space for existing floating homes to be spaced further to meet or exceed the more stringent fire spacing code for new homes. The entire electrical supply service will have safety upgrades included shore side circuit shut offs in the existing marina and "The Marina Guard" marina ground fault detection systems will be installed in the entire marina to detect stray electricity in the water that causes electrocution drowning The parking lot gate

will be relocated to provide secured parking for all tenants' vehicles and an updated access system will be installed along with more lights and additional security cameras near the gate and parking area. The current 4' wide main ramp will be replaced with a wider 5' ramp with much better traction. Part of the existing marina main docks will be widened from 5' to 8' wide. The new docks will also be 8' wide. An emergency escape ramp will be located midway along the new docks but will not allow shore side access providing security to the tenants. Updated lighting will be installed at all access ramps. A revised set of safety rules and regulations will be developed as part of the expansion which will include mandatory fire safety drills for all floating home tenants and people living on their boats. A safer and more secure area will be designed for tenant mail by installing standard postal lockboxes.

(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.

**Finding:** The proposed development is within a developed area. The re-vegetation and restoration shall cause the existing facility to be less noticeable.

(K) Extraction of known aggregate deposits may be permitted, pursuant to the provisions of MCC 34.63 00 4.6535, 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.

**Finding:** Mining is not proposed

(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.

**Finding:** The improvements are engineered to address all aspects of the water impact both from the stream and upland. The moorage has operated in this area for many years with good knowledge and strategies to address typical and unforeseen circumstances.

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

**Finding:** Wetland areas are will not be developed without permission and mitigation. No wetland area will be disturbed due to houseboat expansion.

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

**Finding:** The site is disturbed. Undeveloped areas are not proposed for new houseboat development. The proposed area has had docks in the past and currently contains creosote pilings that will be removed. This currently unused area is where the dock expansion is proposed.

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

**Finding:** All work will be conducted under permits and review in a manner that protect the river from erosion.

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

**Finding:** The quality of air, water and land resources will be preserved by the modern slips and docks with modern services constructed.

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

**Finding:** The structures developed are in direct response to community and state standards to improve the environmental quality of the existing operations. These structures are specifically designed to improve the quality of the use. The emergency ramp, docks, and boat slips are water dependant uses.

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

**Finding:** The proposal is being reviewed through greenway and design review.

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

**Finding:** See conditional use criteria G (34.6010.G). The comprehensive plan acknowledges the importance of river utilization and economic vitality particularly when done in an ecological sound manner and results in environmental improvements.

#### 34.5865 Significant Wetlands

Significant wetlands consist of those areas designated as Significant on aerial photographs of a scale of 1"=200' made a part of the supporting documentation of the Comprehensive Framework Plan. Any proposed activity or use requiring a WRG permit which would impact those wetlands shall demonstrate that the proposal:

(1) Is water-dependent or requires access to the wetland as a central element of its basic design function, or is not water dependent but has no practicable alternative as described in subsection(C) below;

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

(3) Will not cause significant degradation of groundwater or surface-water quality;

(4) Will provide a buffer area of not less than 50 feet between the wetland boundary and upland

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activities for the portions of regulated activities that need not be conducted in the wetland areas. This Mitigation Plan shall meet the standards of subsection (D).

**Finding:** Wetlands are not impacted by the houseboat development. Wetland delineation has been completed for the site and mitigation was approved and constructed through a previous land use approval. No new houseboat development will be developed outside the areas already disturbed except for the emergency use gangway over the rocky shoreline to the new boat slip and dock area. The moorages are a water dependant use. All disturbed areas are setback at least fifty feet from the water shoreline except water dependent and water related uses.

ORS 197.732(1)(b) Goal Exceptions- the land subject to the exception is irrevocably committed as described by LCDC rule to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable.

**Finding:** The criteria described by LCDC is met below under OAR 660-004-0028.

#### **CONCLUSION FOR GENERAL GOAL (1-15) COMPLIANCE:**

Rocky Pointe is an existing community that has been located on this site for almost fifty years. The proposed development is an infill development between an existing marina upstream and Rocky Pointe's existing development. The new development will utilize existing services.

## 6. FINDINGS FOR MULTNOMAH COUNTY COMPREHENSIVE PLAN AND RURAL AREA PLAN POLICIES AND CODE COMPLIANCE

### Multnomah County Policy 10

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

- A. Generally agricultural in nature, with soils, slope and other physical factors indicative of past or present small scale farm use;
- B. Parcelized to a degree where the average lot size, separate ownerships, and non-farm uses are not conducive to commercial agricultural use;
- C. Provided with a higher level of services than a commercial agricultural area has: or,
- D. In agricultural or microclimates, which reduce, the growing season or affect plant growth in a detrimental manner (flooding, frost etc.).

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

**Finding:** The property is designated multiple use agriculture, however, due to the steepness of the slopes; the basalt rock terrain; wet areas; and proximity of Multnomah Channel, agricultural use is not practical or productive.

### Multnomah County Policy 26- Houseboats

#### Introduction

Houseboats have been a housing option in Multnomah County for nearly a hundred years. Once little more than floating shacks, houseboats today are often substantial structures with all the amenities of traditional houses, and are home to middle and upper income citizens.

Moorage sites are limited in the County, and demand for moorage space is high. Local moorages are all at or near capacity. However, demand for houseboat space should not be equated with need. Houseboats were not considered in Multnomah County's housing needs inventory, nor are they required to fulfill the County's housing obligation. Projected housing demand to the year 2000 can be met with lands already zoned for residential development. Therefore, houseboats may be considered a desired housing choice, but not a needed one.

The demand for houseboat space conflicts with other legitimate demands on the finite amount of available public waterways in the County. A houseboat location policy must attempt to reconcile the conflicting interests of houseboat owners, recreational boaters, conservationists, industrial developers, and the general public. It must ensure the protection of houseboat residents from the inherent hazards of waterway life and also provide for protection of the general public from possible negative impacts of houseboat development.

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

- A. The applicable policies in this plan, including Policies 2 (Off-Site Effects), 13 (Air, Water, Noise), 15 (Significant Environmental Concern), 16 (Natural Resource), 21 (Housing Choice), 24 (Housing Location), 32 (Capital Improvements), 34 (Trafficways), 36 (Transportation System Development), 37 (Utilities), And 38 (Facilities).
- B. Any other applicable federal, state or local policies that regulate waterway area development.
- C. The following criteria for locating or expanding a houseboat moorage:



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1. The mean low water line exceeds five feet;
2. The moorage area should be protected from siltation problems which might require costly dredging to achieve the proper water depth;
3. The moorage is adequately protected from the adverse effects of wind, wave action, icy conditions, and other hazards;
4. Adequate land area exists to accommodate parking and any accessory building requirements;
5. The proper maintenance and operation of dikes, as determined by the army corps of engineers is not adversely affected by the moorage;
6. The upland area adjacent to the moorage does not have unique recreational, ecological or wildlife habitat value; and
7. The upland area adjacent to the moorage is not zoned for exclusive agricultural use.

The following areas are designated as suitable for houseboats:

8. Multnomah Channel (west side).
  - a. (a) From Rocky Point Moorage, or from an area 1650 feet north of the southern boundary of Section 36, T3N, R2W, known as Rocky Point, north to the Columbia County boundary.
  - b. From the City of Portland corporate limits north to 1/2 mile north of the Sauvie Island Bridge.

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

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

**Strategies**

- I. As part of the continuing planning program, the County should consider the provision of commercial accessories and/or community service uses as a condition of moorage development, in order to mitigate the impacts of moorage populations.
- J. The Zoning Ordinance should be amended to:
  1. Allow for the location and expansion of houseboat moorages within designated areas.
  2. Include safety and fire protection standards to provide a safe living environment for houseboat dwellers.
  3. Provide standards, which minimize the adverse effects of houseboat development on surrounding areas.

**Finding:** Rocky Pointe Marina is in the area identified as being appropriate for houseboats; in fact, Rocky Pointe Marina is specifically identified in the adopted policy.

Sauvie Island/Multnomah Channel Rural Area Plan (adopted 10/30/1997)  
Multnomah Channel Land and Water Use Policies

**RURAL AREA PLAN POLICY 5:** Assist METRO in development of a regional hiking, equestrian, and bicycle trail along Multnomah Channel south of Burlington Bottoms connecting to the Cornelius Pass rails-to-trails potential conversion, which runs in upland areas in the vicinity of Highway 30 and the existing Burlington Northern Railroad, and minimizes impacts to existing waterfront uses.

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

**Finding:** Rocky Pointe Marina actively cooperates with Multnomah County river patrol and the Oregon State Marine Board and requires all boats to be properly registered and insured.

**RURAL AREA PLAN POLICY 9:** Multnomah County should begin studying the noise impacts of motorized watercraft in order to establish base levels of noise pollution in the Channel.

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

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

**Finding:** Rocky Pointe strongly discourages loud boats; particularly to protect the existing residents.

**RURAL AREA PLAN POLICY 10:** For the purposes of establishing a procedure for which Multnomah County will determine the status of existing moorage/marina use, the Multnomah County Comprehensive Framework Plan Policy 26 should be amended and rewritten to include the following:

1. That moorages and marinas will only be permitted within the boundaries identified by Policy 26.
2. That the area occupied by Happy Rock Moorage, Sauvie Island Moorage, Parker Moorage, and Mayfair Moorage be included within the area where houseboats are currently permitted under Policy 26.
3. That the moorages within policy 26 and the existing Happy Rock, Sauvie Island, Parker and Mayfair moorages sites are to be treated as permitted (permitting continuation of the use and level of intensity in existence as of the Multnomah County Moorage Report Listing of Float houses and Watercraft as of July 1, 1997 produced by the Department of Assessment and Taxation and reconciled through supplemental information provided by the moorage owner) if:
  1. Proof that permits, where applicable, from the Division of State Lands, Army Corps of Engineers, Department of Environmental Quality, the State Health Department and the appropriate fire authority were obtained prior to July 1, 1997. Proof that permits from the Public Utility Commission, the Oregon Department of Transportation, County Right of Way, where applicable, have been applied for prior to December 1, 1997. Those permits that were not issued prior to July 1, 1997 shall be approved by either the Public Utility Commission, the Oregon Department of Transportation or the County Right of Way prior to the County issuance of a Willamette River Greenway Permit under this policy. All permits must have been issued for the same density and the same use requested in the Policy #10 process. If there are discrepancies in the Army Corps of Engineers or Division of State Land Permits between what the permit was issued for and the density/use the moorage owner is having reviewed by the County as part of this process, the moorage owner shall provide current documentation from the agency that the proposed use/density is still consistent with the agency's requirements. The proof must then be given to the County Division of Transportation and Land Use Planning for review; and
  2. Multnomah County approves a Willamette River Greenway permit for the moorage.
4. That an inventory of each moorage identified in Section 3 above is to be undertaken within 120 days of the effective date of the adoption of the Sauvie Island Multnomah Channel Rural Area Plan amending Policy 26. This inventory may be performed by the County, or prepared

**Finding:** Rocky Pointe's property has trails on it and a paved driveway for hiking and biking.

**RURAL AREA PLAN POLICY 6:** The County should participate in educational information and programs to better educate Channel users on safety issues and required laws including no wake and buffer zones.

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

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

**Finding:** Rocky Pointe aggressively educates boaters regarding marina laws; prohibits any inappropriate activity on its facilities; provides educational materials; and loans out child safety vests. The repair and maintenance facility complies with all best management practices and allows potentially damaging activities to be performed in environmentally safe areas.

**RURAL AREA PLAN POLICY 7:** The County should recommend to the State Marine Board that all boaters be required to obtain licenses through the State prior to operating motorized marine craft over 25 horsepower including personal watercraft.

**Discussion:** Boat operators are not required at this time to meet any guidelines or qualifications prior to operating watercraft. Multnomah County should value the importance of safe conditions in the Channel and work through the Marine Board in establishing minimum criteria for boat operators. The amount of horsepower was chosen to include personal watercraft and exclude canoes and very small boats.

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

**Finding:** All operators who operate within the Rocky Pointe water leasehold are required to have state licenses.

**RURAL AREA PLAN POLICY 8:**

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

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

**Discussion:** The lack of Sheriff's presence in the Channel presents a problem with regard to law enforcement. The County should prioritize enforcing the existing laws in place in the Channel and maintain a presence to enforce the laws. The County should also consider prioritizing zoning enforcement.

**STRATEGY:** Multnomah County shall consider these issues when allocating funding and budgeting proposals and integrate a performance program within the framework of a strategic plan to successfully carry out this policy.

by each moorage and verified by the County. Through this inventory, the County will:

1. Determine the level of existing development to be considered as a permitted use (number of existing dwelling units as determined using the Multnomah County Moorage Report Listing of Float houses and Watercraft as of July 1, 1997 and reconciled through supplemental information provided by the moorage owner); and
2. Receive proof that the non-County permits have been obtained.

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

5. That if any moorage is subsequently in violation of any non-County permit, of County zoning codes enacted after the effective date of amended Policy 26 and implementing measures, then that moorage must meet all applicable zoning codes in effect at that time, which would include the provisions of the Special Planning Area once the zoning code revisions have been made and are in effect.
6. That if those moorages that are deemed permitted subsequently seek a modification of alteration of their inventoried use, they must meet all applicable zoning codes in effect at that time. Alteration or modification does not include a reduction in the number of structures/dwellings within a moorage.
7. All moorages applying for a Willamette River Greenway Permit required pursuant to Policy #10, shall be exempted from the Design Review Process and criteria.
8. That this action does not set a precedent for acceptance of any unauthorized land use in the jurisdiction of Multnomah County. That this action by the board is done in the context of the adoption and speedy, practical implementation of the Sauvie Island/Multnomah Channel Rural Area Plan.

Discussion: Policy 26 currently does not include the developed marina or moorage sites listed above, allowing them to continue as existing non-conforming uses with no ability to expand or reconfigure their sites. These uses are long-term substantial facilities, which are an integral part of the Multnomah Channel environment. They should be allowed the same opportunities for change in land and water use afforded to the marinas and moorages, which currently fall within the boundaries of Policy 26. This action, along with the inclusion of marinas into the Policy 26 framework, will convert Policy 26 into a statement of where marine related development is allowed on Multnomah Channel, vs. marine conservation areas outside of the Policy 26 boundaries.

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

**Finding:** Rocky Pointe Marina voluntarily participated in this process; however, Rocky Pointe was the only marina in this area to actually have an approved conditional use land use decision and therefore did not need the assistance of Policy 10.

RURAL AREA PLAN POLICY 11: The County should develop and maintain a current inventory of all marinas and moorages.

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

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

**Finding:** Rocky Pointe Marina is an active participant in the Waterfront Owners Organization who maintains an inventory of all marinas and moorages.

**RURAL AREA PLAN POLICY 12:** The County Zoning Code should be consistent with the County Assessor and the State regarding the definitions of houseboats, boathouses and combos. For purposes of density calculations, "houseboats" shall be defined as 1) any houseboat, and 2) any boathouse or combo which is used as a residence (occupied 7 or more days per month).

**Discussion:** There has been a problem with regards to the numbers of units allowed and permitted under existing approvals depending on the definition of dwelling the County uses. There have also been recent revisions to the Assessor's definitions that may be even more of a problem. The County Zoning Code decides whether a structure is a dwelling based on information regarding kitchen and restroom facilities. The County Assessor makes the determination based on different information, as does the State of Oregon. The issue becomes a problem when the County Staff uses the Assessor's information to determine the number of dwellings existing within a moorage/marina and consistency becomes an issue of real importance to the moorage owners.

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

**Finding:** Rocky Pointe's inventory of current users and proposed users are based on these definitions.

**RURAL AREA PLAN POLICY 13:** Multnomah County should adopt procedures to allow existing moorage/marina to become a 'special plan area' under MCC 11.15.6600 at the initiation of the property owner, to determine uses and densities allowed for each moorage on the channel. The special plan area designation would be allowed when the property owner requests an expansion or alteration, or for any new marina/moorage developments. The provisions of the existing Conditional Use criteria would still be in place in addition to the new special planning area procedure.

**Discussion:** Each moorage/marina shall be allowed to enter into a special plan area (an existing part of the Multnomah County Zoning Code, which needs some minor amendments to fit the Multnomah Channel situation) procedure with Multnomah County to adopt essentially a master plan or comprehensive plan for each moorage/marina. As an attempt to take all issues into consideration, special plans can determine by looking at each existing or proposed moorage/marina on a case-by-case basis regarding the density, service levels and legal status of the property. At the County's initiation (no application fees), each individual marina/moorage could receive a special plan area designation which would be an overlay designation for each moorage and marina on the Channel. The special plan area will help reduce duplication of efforts by considering the Willamette River Greenway concepts concurrently with other code criteria.

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

**Finding:** The result of this exception would be to make Rocky Pointe a Special Plan Area.

**RURAL AREA PLAN POLICY 14:** The overall density for each existing moorage/marina that chooses to go through the special planning area process shall not exceed the existing levels as measured by factors such as area and length of docks and number of slips (existing in the Multnomah County

OREGON STATE GOAL EXCEPTIONS  
ROCKY POINTE MARINA  
23586 NW St Helens Road

Amended September 28, 2008

Moorage Report Listing of Float houses and Watercraft as of July 1, 1997 and reconciled through supplemental information provided by the moorage owner). The actual number of slips for each moorage/marina shall be determined at the time a special plan area is approved for the moorage/marina. The specific plan will look at such things as 'legally existing' issues, non-conforming status and carrying capacity of the land to determine the number of dwellings and other uses allowed in each marina/moorage.

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

**Finding:** Rocky Pointe Marina will also be reviewed through a conditional use process and, as proposed, complies with all dimensional standards.

**RURAL AREA PLAN POLICY 15:** Development on Multnomah Channel within Special Plan Areas shall be judged upon the following criteria.

**Water Environmental**

*River Bank Protection* - Development which protects the river bank from erosion caused by boat traffic.

*Water Quality* - Development which contributes to or does not significantly degrade water quality.

*Septic tanks/Sewage* - Development which is more amenable to safe and sanitary sewage disposal, along with adequate upland facilities for disposal of sewage.

*Fish and Wildlife* - Development which contributes to or does not have a significant detrimental impact to the fish and wildlife in the water.

**Land Environmental**

*Development in Wetland* - Development which does not impact wetlands.

*Traffic Increase* - Development which minimizes increases in traffic on moorage access roads, on railroad crossings, and onto Highway 30.

*Parking* - Development which minimizes the amount of parking area necessary.

*Ground Water Quality* - Development which minimizes impacts to ground water quality.

*Need for Restroom Facilities* - Development which minimizes the need for additional communal restroom facilities to serve the proposed uses.

*Land Wildlife* - Development which minimizes impacts to land wildlife.

*Necessary Utilities* - Development which requires fewer utilities to serve proposed uses.

*Floodplain Development* - Development which minimizes placement of permanent structures and uses in the floodplain.

*Accessory Structures* - Development which minimizes the need for accessory on-land structures to serve proposed uses.

**Aesthetic**

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

*Visibility of Shore* - Development which minimizes changes to natural shoreline features.

*Massing and Scale* - Development which has a human scale or architectural quality to it.

*Diversity/Rural character* - Development which maintains the existing diversity and rural character of Multnomah Channel.

*Lighting* - Development which minimizes night lighting of uses.

*Vegetation/landscape on Water* - Development which minimizes its visibility from the Multnomah Channel waterway.

**Safety**

*Contribution to Channel Traffic* - Development which minimizes Channel traffic.

*Residential Link* - Development with a permanent residence component which provides a human presence to both report emergencies and violations on Multnomah Channel.

*Fire Hazard* - Development which minimizes fire hazard. *Emergency Services* - Development which minimizes the need for emergency services.



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**Economic**

Development which provides economic value to Multnomah County in the form of assessment value and reduced need for public services.

**Recreation**

*Contribution to Public Recreation* - Development which contributes to public recreation opportunities on Multnomah Channel.

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

**Cumulative Impacts**

The cumulative impacts of the proposed development on the overall carrying capacity of Multnomah Channel shall be considered and minimized.

The criteria listed shall be weighed and balanced by the hearing body considering each Special Plan Area so as to determine the most appropriate intensity and type of development allowed within each of these areas.

In reviewing each Special Plan Area, Multnomah County shall consult with other relevant local, state, and federal agencies, including but not limited to the following agencies:

Division of State Lands

Oregon Department of Fish and Wildlife

Oregon Parks and Recreation Department

Oregon State Marine Board

U.S. Army Corps of Engineers

Metro Parks and Greenspaces

**Discussion:** It is not intended that each proposed use strictly meet each of the criteria listed above, but rather the criteria be used by the hearing body to weigh the appropriateness of different potential uses. It is assumed that each site within the boundaries of Policy 26 is appropriate for some sort of marine related development unless a single criteria weighs so strongly upon the site that it precludes all or some of the potential marine development uses.

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

**Finding:** Rocky Pointe Marina has submitted a conditional use, site/design review and greenway request that will test its proposal against these criteria.

**RURAL AREA PLAN POLICY 16:** Implement code language within the special plan area criteria that incorporates the more specialized ideas in these policies. This concept should be carried out with input from citizens on the channel and should include guidelines regarding lighting, landscaping and architectural design within the special plan areas for development.

**Discussion:** Currently the WRG guidelines have vague language in them that make enforcement of them inconsistent. The County should look at adopting a set of design guidelines that the Planning Section can use to help interpret the WRG guidelines. This will allow for consistency in interpretation of the existing guidelines. These guidelines should specifically address the guidelines on lighting, landscaping and architectural design. The Citizens' Advisory Committee was very concerned about maintaining the character of the area of the channel and avoiding urban type marinas and moorages in the area.

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

**Finding:** Rocky Pointe Marina has submitted a conditional use and greenway request that will test its proposal against these criteria.

**RURAL AREA PLAN POLICY 17:** Multnomah County should promote responsible recreational uses in the channel by allowing public access or boat launches to occur as part of any redevelopment or development of public recreation facilities.

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

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

- (1) 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 under this subsection. The existence of home occupations shall not be used as justification for a zone *change*.

**Finding:** No mistakes were made. Proposed expansion is consistent with all of Multnomah County's Comprehensive Plan.

#### Multnomah County Comprehensive Plan

**Comprehensive Plan Policy 2 (off-site impacts):** The county's policy is to apply conditions to its approval of land use actions where it is necessary to:

- A. Protect the public from the potentially deleterious effects of the proposed use; or
- B. Fulfill the need for public service demands created by the proposed use.

**Finding:** The marina is fenced and self-contained. A rail road line and highway exists to the west before any other uses are confronted. The area on the north is fenced and separated by natural areas from other uses. The area to the east is the slough. The marina has strict regulations and is regularly inspected to ensure that nothing unnatural is discharged to the water. The regulation requires all sewage discharge at the Marina to be put into the sewer treatment system.

**Comprehensive Plan Policy 10 (MUA-20):** The purpose of the Multiple Use Area Classification is to conserve those lands agricultural in character which have been heavily impacted by non-farm uses are not predominantly Agricultural Land as defined in Statewide Planning Goal 3. This conservation is necessary to protect adjacent exclusive farm uses and in some cases, the fragile nature of the lands themselves. These lands are conserved for diversified agricultural uses and other uses such as outdoor recreation, open space, residential development, and forestry when these uses are shown to be compatible with the natural resource base, character of the area, and to other applicable policies.

**Finding:** The marina's activities are directed riverward and do not impact farm activities. The rocky banks are not conducive to farming. A highway and railroad separate the marina from farming activities upland. An adjacent marina exists at either end.

**Comprehensive Plan Policy 13 (Air, Water, Noise):** Multnomah County, recognizing that the health, safety, welfare, and quality of life of its citizens may be adversely affected by air, water and noise pollution, supports efforts to improve air and water quality and to reduce noise levels. Therefore, if a land use proposal is a noise sensitive use and is located in a noise impacted area, or if the proposed

use is a noise generator, the following shall be incorporated into the site plan:

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

**Finding:** The marina has strict operating policies and is regularly inspected to ensure that there are no impacts to air and water. The houseboat population values and enforces quiet.

**Comprehensive Plan Policy 14 (Development Limitations):** The County's policy is to direct development and land form alterations away from areas with development limitations except upon showing that design and construction techniques can mitigate any public harm or associated public cost and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:

a-slopes exceeding 20%

b- Severe soil erosion

c -land within the 100 year flood plain

d- A high seasonal water table within 0-24 inches of the surface for 3 or more weeks per year

e- A fragipan less than 30 inches

F-land subject to slumping, earth slides or movement.

**Finding:** The proposed project is primarily water based. Landward development includes paving of parking areas and flow through work structures and water proof utilities.

**Comprehensive Plan 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.

**Finding:** The majority of the property remains in natural condition. The bank is protected and impacted in relatively few locations; essentially only where the gangways and boat ramps are. A biological assessment reviewed the natural situation, assessed impacts, and dictated specific practices. The project requires permission from the Army Corp of Engineers and Department of Fish and Wildlife and the federal; level and the Oregon State Department of State Lands.

**Comprehensive Plan Policy 16-A: Open Space:** It is the County's policy to conserve open space resources and protect open spaces from incompatible and conflicting land uses.

**Finding:** The property is not designated open space nor is it near property designated open space.

**Comprehensive Plan Policy 16-B: Mineral And Aggregate Resources:** It is the County's policy to protect and ensure appropriate use of mineral and aggregate resources of the County, and minimize conflict between surface mining activities and surrounding land uses.

**Finding:** The property can not be mined due to the proximity to the Multnomah Channel. The site is separated from any possible mining area by Highway 30 and the railroad line.

**Comprehensive Plan Policy 16-C: Energy Sources:** It is the County's policy to protect sites required for generation of energy.

**Finding:** The property is not on or near a viable source of regional energy.

**Comprehensive Plan Policy 16-D: Fish And Wildlife Habitat:** It is the County's policy to protect significant fish and wildlife habitat, and to specifically limit conflicting uses within natural ecosystems within the rural portions of the County and sensitive big game winter habitat areas.

**Comprehensive Plan Policy 16-D: Natural Areas:** It is the County's policy to protect natural areas from incompatible development and to specifically limit those uses which would irreparably damage the natural area values of the site.

**Finding:** The site has been developed as a marina and related water dependant activities since the 1930's. The development minimizes impacts on the natural surroundings. The majority of development is on the water and upland from the bank. The banks are virtually untouched except for gangways and boat ramps.

**Comprehensive Plan Policy 16-F: Scenic Views And Sites:** It is the County's policy to conserve scenic resources and protect their aesthetic appearance for the enjoyment of future generations.

**Finding:** The site is not on or near scenic resources. Views of mountains are maintained from the parking area and views from water witness the marina. The marina's views are of a natural bank and the mountains.

**Comprehensive Plan Policy 16-G: Water Resources And Wetlands:** It is the County's policy to protect and, where appropriate, designate as areas of significant environmental concern, those water areas, streams, wetlands, watersheds, and groundwater resources having special public value in terms of the following:

- A. Economic value;
- B. Recreation value;
- C. Educational research value (ecologically and scientifically significant lands);
- D. Public safety, (municipal water supply watersheds, water quality, flood water storage areas, vegetation necessary to stabilize river banks and slopes);
- E. Natural area value, (areas valued for their fragile character as habitats for plant, animal or aquatic life, or having endangered plant or animal species).

Protected Waterways

Multnomah Channel (reach outside Portland)

**Finding:** The discharge of waste, sewer, and other containments is strictly prohibited. The marina has containment equipment readily available. A biological assessment reviewed the natural situation, assessed impacts, and dictated specific procedures. The project requires permission from the Army Corp of Engineers, Department of Fish and Wildlife and the Oregon State Department of State Lands.

**Comprehensive Plan Policy 16-I: Historic Resources:** It is the County's policy to recognize significant historic resources, and to apply appropriate historic preservation measures to all designated historic sites.

**Finding:** The site is not on or near historic resources.

**Comprehensive Plan Policy 16-J: Cultural Areas:** It is the County's policy to protect cultural areas and archeological resources, and to prevent conflicting uses from disrupting the scientific value of known sites.

**Finding:** A cultural inventory was conducted and representatives from the affected Native American tribe were contacted and interviewed. No historic or prehistoric cultural were found.

**Comprehensive Plan Policy 16-K: Recreation Trails** It is the County's policy to recognize the following trails as potential state recreation trails:

- Columbia Gorge Trail
- Sandy River Trail
- Portland to the Coast Trail
- Northwest Oregon Loop Bicycle Route

**Finding:** The site is not on or near a potential state recreation trail.

**Comprehensive Plan Policy 16-L: Wild And Scenic Waterways:** It is the County's policy to protect all state or federal designated scenic waterways from incompatible development and to prevent the establishment of conflicting uses within scenic waterways.

**Finding:** The site is not on or near a state or federal designated scenic waterway.

**Comprehensive Plan Policy 20 (Arrangement of Lands)** The County's policy is to support higher densities and mixed land uses within the framework of scale, location and design standards which:

1. Assure a complementary blend of uses:
2. Reinforce community identity:
3. Create a sense of pride and belonging; and
4. Maintain or create neighborhood long term stability.

**Finding:** The expansion by adding more houseboats will create much higher density within the same footprint of land and will utilize all existing services. Additional homeowners within the moorage will allow for more social interaction.

**Comprehensive Plan Policy 21 (Housing Choice):** The County's policy is to support and assist in the provision of an adequate number of housing units at price ranges and rent levels affordable to the region's households and to allow for variety in housing location, type and density, the County will:

- A. Encourage the provision of housing affordable to residents of all incomes.
- B. Support the provision of housing for the elderly, including low maintenance, small units within existing communities.
- C. Support the provision of housing in sizes and styles which suit the needs of smaller households including single adults and couples withOut children.
- D. Encourage more efficient utilization of housing in communities to eliminate over-housing of the elderly and under-housing of large families.
- E. Maintain a non-exclusionary housing policy.
- F. Re-evaluate its regulations and, where possible, streamline or eliminate requirements to reduce development costs.
- G. Take a direct role in conserving the existing housing stock.

- H. Accommodate innovative housing construction techniques which decrease development costs.
- I. Cooperate with the private sector to expand the supply of housing which is affordable to low and moderate income residents.

**Finding:** The marina expansion provides a special and unique form of housing to the County allowing people to live on the water.

Comprehensive Plan Policy 24 (Housing Location) The County's policy is to accommodate the location of a broad range of housing types in accordance with the applicable policies in this plan and the locational criteria applicable to project scale and standards.

**Finding:** The marina provides houseboat spaces which are an affordable type of housing and adds to the diversity of the County's housing stock.

Comprehensive Plan Policy 26 (Houseboats) The County, in order to provide a broad range of housing opportunities for its citizens, recognizes houseboats as a housing option. Therefore, it is the County's policy to provide for the location of houseboats in a manner which accords with the applicable policies in this plan, including Policies 2 (Off-Site Effects), 13(Air, Water, Noise, 15 Significant Environmental Concern), 16 (Natural Resource), 21 (Housing Choice), 24( Housing Location), And 38 (Facilities), any other applicable federal, state or local policies that regulate waterway area development.

The following criteria for locating or expanding a houseboat moorage:

1. Encourage the provision of housing affordable to residents of all incomes
2. Support the provision of housing for the elderly, including low maintenance, small units within existing communities.
3. Support the provision of housing in sizes which suit the needs of smaller households including single adults and couples without children.
4. Encourage more efficient utilization of housing communities to eliminate over-housing of the elderly and under-housing of large families.
5. Maintain a non-exclusionary housing policy
6. Re-evaluate its regulations and, where possible, streamline or eliminate requirements to reduce development costs.
7. Take a direct role in conserving the existing housing stock.
8. Accommodate innovative housing construction techniques which decrease development costs.
9. Cooperate with the private sector to expand the supply of housing which is affordable to low and moderate income residents. The following areas are designated as suitable for houseboats;

B- From Rocky Pointe Moorage, or from an area 1650 feet north of the southern boundary of Section 36, T3N, R2W, known as Rocky Pointe, north to the Columbia County line.

**Finding:** The marina expansion is located at Rocky Pointe Marina in an area designated by the County as suitable for houseboats. The mean low water line exceeds five feet; the area is an existing moorage area without siltation problems; protected from all adverse environmental impacts; with ample land for parking and boat repair; the marina is on a rocky bank opposite Sauvie Island dike; with no unique ecological values; and all commercial forest and farm activities are separated from the marina by a state highway and railroad line.

The housing provided at Rocky Pointe is modest and affordable and all ages are welcome to buy a houseboat. A variety of sizes are provided with the opportunity for custom built homes.



**Comprehensive Plan Policy 32 (Capital Improvements)**

**Finding:** The site is fully served by utilities and streets.

**Comprehensive Plan Policy 34 (Trafficways):** The purpose of this Policy is to direct the County to develop the existing trafficway system to maximize efficiency, and to consider the mobility of pedestrians by providing safe crossings.

**Finding:** The site is served by a paved road over a secured gated railroad crossing to a state highway. A conditional use permit is required to further develop the marina. Impact on traffic will be assessed at that time.

**Comprehensive Plan Policy 36 (Transportation System Development)**

**Finding:** The site is served by a paved road over a secured gated railroad crossing to a state highway. No new roads are required.

**Comprehensive Plan Policy 37 (Utilities)**

**Water and Disposal Systems**

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

**Finding:** Rocky Pointe Marina existing water and sewage facilities are adequate for the increased volume from 36 floating homes. Rocky Pointe has applied to DEQ for permission to increase volume. The existing equipment is sufficiently sized. The artesian well is a deep well and provides adequate volume.

**Drainage**

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

**Finding:** Storm water from the site is directed toward grassy shoulders along the paved areas and toward swales for treatment. A large constructed lake receives portions of the site water, the remaining water is filtered along the riverbank in the existing vegetation. In general, the water is not concentrated in pipes. Due to the sites linear characteristics, contaminants are not concentrated and do not adversely affect water quality.

**Energy and Communications**

- (h) There shall be an adequate energy supply to handle the needs of the proposal and the development level projected by the plan; and
- (i) Communication facilities are available

**Finding:** Existing utilities are in place and are underground. New electrical service for the new moorage may be overhead.

Comprehensive Plan Policy 38 (Facilities) It is the County's Policy to coordinate and encourage involvement of applicable agencies and jurisdiction in the land use process to ensure:

Public Service Provider Comments

Transportation (ODOT)

Sewer (DEQ)

Water,

Fire

Police

Schools

**Finding:** As a part of the conditional use requirements; Rocky Pointe acquired service comment letters of no objection from affected public service providers. Rocky Pointe marina shall comply with any conditions imposed by Multnomah County Transportation or ODOT as a result of the conditional use.

**CONCLUSION FOR MULTNOMAH COUNTY COMPREHENSIVE PLAN AND RURAL AREA POLICIES AND CODE COMPLIANCE:**

Multnomah County's acknowledged Comprehensive Plan specifically identifies the Rocky Pointe location as where marinas are intended to go. The plan actually specifies Rocky Pointe marina. The development does not adversely impact farm or forest uses, nor would it impact other surrounding uses. The Marina's existence predates the Comprehensive Plan. The conditional use process ensures that new development is consistent with current regulations and the process reexamines all existing development for compliance.

## 7. FINDINGS FOR ZONING AND RULE COMPLIANCE

### Planning and Zoning for Exception Areas (OAR 66-004-0018)

(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

**Finding:** The applicant is proposing physically developed and irrevocably committed exceptions to Goal 11 and 14 that is intended to recognize existing marina development and sewer system.

(2) For "physically developed" and "irrevocably committed" exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those:

(a) That are the same as the existing land uses on the exception site;

(b) That meet the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-004-0028; and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;

(c) For which the uses, density, and public facilities and services are consistent with OAR 660-022-0030, "Planning and Zoning of Unincorporated Communities", if applicable, or

(d) That are industrial development uses, and accessory uses subordinate to the industrial development, in buildings of any size and type, provided the exception area was planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

**Finding:** The zoning limits the uses, density and public facilities on the subject property and marina to those that are the same as the existing land uses on the exception site/marina pursuant to OAR 660-004-0018(2)(a).

(3) Uses, density, and public facilities and services not meeting section (2) of this rule may be approved only under provisions for a reasons exception as outlined in section (4) of the rule and OAR 660-004-0020 through 660-004-0022.

**Finding:** This rule is not applicable because the uses, density and public facilities and services meet section (2) of this rule.

(4) "Reasons" Exceptions:

(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;

(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required;

(c) When a local government includes land within an unincorporated community for which an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, which ever is more stringent.

**Findings:** No "reasons" exception is being proposed, and therefore, this rule is not applicable.

**Multnomah County Code 37.0705- Type IV Quasi-judicial Plan and Zone Changes**

(B) Quasi-judicial Plan review Revision. The burden of proof is upon the person initiating a quasi-judicial plan revision. That burden shall be to persuade that the following standards are met:

1) The plan revision is consistent with the standards of OARS 197.732 if a goal exception is required, including any OAR's adopted pursuant to these statutes;

**Finding:** The applicant has applied for two state goal exceptions through Multnomah County.

2) 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:

**Finding:** The proposed houseboat expansion is a residential use.

And

3) The uses allowed by the proposed changes will:  
(a) Not destabilize the land use pattern in the vicinity;

**Finding:** The surrounding land uses are very stable with marinas upstream and downstream; and a railroad and state highway between the marina and upland properties that grade steeply up into heavily forested mountains. The proposed expansion is an in-fill on the water lease. Additional land will not be disturbed.

(b) Not conflict with existing or planned uses on adjacent lands;

**Finding:** The marina is isolated from any properties where there could be a conflict.

(b) That necessary public services are or will be available to serve allowed uses.

**Finding:** All utilities are currently in place

(3) 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 under this subsection.

**Finding:** There are no errors or mistakes in planning. Multnomah County has clearly identified Rocky Pointe Marina in an area for floating homes as outlined in both the Sauvie Island Plan and the Multnomah County Comprehensive Plan Policy 26 which is part of the county's adopted and acknowledged comprehensive plan.

(C) Quasi-Judicial Zone Change. The burden of proof is upon the person initiating a zone change request. That burden shall be to persuade that:

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

**Finding:** The public benefits from a diversity of housing types; stewardship of the river; river access; and the provision of an efficient waste treatment system.

(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;

**Finding:** The site is committed to the proposed use for over fifty years. The exception is to allow additional houseboats and continued improvements to the existing sewer system. The area is developed as a marina and the location is designated by Multnomah County's Comprehensive Plan as appropriate for houseboats. The only location available for this type of exception is along the waterfront. This location is one of the few, if not the only, location where an expansion can occur between two existing marinas in an area that has been developed with docks in the past.

(3) The proposed action fully accords with the applicable elements of the Comprehensive Plan;

**Finding:** The applicant submitted findings in support of each applicable element of Multnomah County's Comprehensive Plan.

### **CONCLUSION FOR ZONING AND RULE COMPLIANCE:**

The conditional use and greenway review process ensures that the proposed development complies with the zoning; or the development will not be allowed.

### **OVERALL SUMMARY:**

The marina has existed at this site for almost fifty years. Multnomah County's Comprehensive Plan acknowledges that this area is appropriate for Marinas. The proposed development is infill development between an existing marina upstream and Rocky Pointe Marina. The sewer system is permitted and monitored by the DEQ. The sewer system protects the river's ecology from human waste and provides a practical and environmentally sound method to retrieve and process the waste. The conditional use process, design review, and greenway review ensured that all proposed and existing development complies with Multnomah County's rules and regulations.

## Stormwater Narrative

The proposed expansion to the work yard includes the addition of approximately 17,800 sf of new impervious area (0.41Ac). In order to estimate the increased runoff due to the proposed development the 10-yr, 24-hr storm was analyzed using the Santa Barbara Unit Hydrograph for the existing site conditions as well as the proposed expansion. The results of this analysis show an increased flow of 0.15cfs and an increased volume of approximately 1900cf. The preliminary grading plan shows adequate room for treatment and storage of this volume of water.

As the soil type and high groundwater make infiltration of the runoff impractical, a treatment chain of swales and mechanical systems will be used to treat the runoff with a pond for storage. The overflow from this pond will be discharged into the existing pond on the site. Discharge from the pond and swales can be controlled through the use of an orifice or weir to restrict the flow rates to existing rates.

While these calculations are preliminary and final design of the site has not been completed, it is clear that it is feasible to maintain runoff rates to those seen under the existing conditions.

The existing areas site includes repaving and adding additional parking spaces. These spaces generally exist and include gravel or grass overflow parking zones. The additional areas are generally small, however one section includes 14,000 sf of parking. The stormwater for the smaller areas can be treated by shed draining to a small grass diffusion strip. The larger area will required the use of pervious pavement or a collection and treatment system using bio-swales. Sufficient area exists adjacent to the proposed parking area to accommodate this type of stormwater treatment.

Andrew Jansky, PE.  
Flowing Solutions, LLC  
Portland, OR

EXHIBIT  
19



September 29, 2008

Adam Barber, Senior Planner  
Multnomah County Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Avenue  
Portland, OR 97233

RE: Application for a Zone Change and revision to the Comprehensive Plan associated with a request for an Exception to Statewide Planning Goals 11 and 14 at the Rocky Pointe Marina (Case #T4-08-001).

Please accept these comments in response to your letter of August 1, 2008. We have attached an amended narrative to reflect these comments.

- Page Four has been corrected.
- We operate under the assumption, based on Department of Land Conservation and Development and Multnomah County staff, that the exception process results in a new zone being applied to the property eliminating the 50 feet of waterfront regulation if found appropriate.
- We look forward to the county transportation planning group's comments. We understand that these will be addressed in the conditional use process.
- We have initiated the consolidation on our own behalf to simplify the site planning.
- The narrative and maps will correctly reflect the width at the very southern tip that ranges from 16-23 feet.
- The entire property has been developed for many years. The small southern portion is currently vacant as an old moorage was hauled away several years. Piles remain which will be removed when the new dock is constructed.
- The portion of the road that we would use for emergency access is completely on our property. The remaining road that extends by easement to Happy Rock Marina which we do not use may not be entirely on our property. This road is an easement across our property to the benefit of Happy Rock and we would assume that all necessary easements are in place.
- The maps will be amended to clearly show the property lines.
- Please see earlier comment. The entire property has been developed; although portions may remain unused for periods of time.
- We will show the footprint of the power easement and provide copies of the easement to Multnomah County.
- We will amend the narrative to further explain why the exception protects natural resources, conserves scenic and historic areas and open spaces.
- The marina rents moorage spaces to the public and allows the public to use the boat ramp for a fee. The Marina is not a private club and is available to any member of the public for a fee.

MULTNOMAH COUNTY  
PLANNING SECTION

08 SEP 30 AM 7:42

RECEIVED

EXHIBIT  
20

**Peter Finley Fry AICP**  
**Adam Barber, Senior Planner**  
**Rocky Pointe Marina (Case #T4-08-001).**

**September 29, 2008**

- The narrative has been amended to address how we minimize impacts to fish and wildlife habitat. These issues are also being reviewed by federal and state agencies who have the jurisdiction to grant permits if appropriate.
- The narrative has been amended to explain further how we minimize criminal activity.
- The terminology used was misleading and the application has been amended to clearly state that the proposed development is to occur in an underutilized area.
- The number of boat slip will remain the same as those previously approved. Some will be relocated.
- The additional Comprehensive Plan policies are addressed in the amended application.
- Service provider letters from the Department of Environmental Quality, Department of Water Resources, and the appropriate school district are attached.
- An engineer letter asserting that the upland site will have adequate capacity to handle storm-water runoff from the 10-year, 24-hour storm event is attached.

Please do not hesitate if you have additional questions.

Sincerely,



Peter Finley Fry

June 27, 2008  
Amended September 28, 2008

**OREGON STATE GOAL EXCEPTIONS  
STATE GOALS 11 and 14  
ROCKY POINTE MARINA**

**ADDRESS:** 23586 NW St Helens Road

**APPLICANT/OWNER:**

Stan Tonneson  
Jeniece Tonneson  
Rocky Pointe Marina  
23586 NW St Helens Rd SP U7  
Portland, Oregon 97231

**APPLICANT REPRESENTATIVES:**

**Planning Consultant:**

Peter Finley Fry AICP, PHd  
2153 SW Main Street #105  
Portland, Oregon 97205  
(503) 274-2744  
(503) 274-1415 FAX

**Engineer:**

Andrew Jansky  
Flowing Solutions  
3305 SW 87th Avenue  
Portland, Oregon 97225  
(503) 297-6311  
(503) 297-6053 FAX

**PROPERTY IDENTIFICATION:**

T3N, R2W, Section 36A: Tax lot 400 & T3N, R2W, Section 36D, Tax lot 100.

**APPLICABLE ZONES:**

Multiple Use Agriculture-20 (MUA-20), Willamette River Greenway (WRG), and 100-year Flood Plain.

**SPECIFIC APPLICATION:** COMPREHENSIVE PLAN TEXT (Rural Area Plan Policy 26) AND MAP CHANGE TO INCLUDE EXCEPTIONS TO GOAL 11 AND GOAL 14 FOR THE ROCKY POINTE MARINA

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## 1. DEVELOPMENT HISTORY AND PROPOSAL

The existing Rocky Pointe Marina site was founded in the late 1920's/early 1930's.<sup>1</sup> The original floating home and office/fuel building are still in the same use today. Rocky Pointe has been a moorage, boat repair and fueling station since that time. Rocky Pointe is now one of Oregon's largest marinas and floating home communities, providing over 200 temporary and permanent spaces with existing amenities that include showers, washers/dryers, portable pump-outs and public on the water sewage disposal. The marina has an existing boat yard that provides full service professional repairs, refits, and upgrades in fiberglass, wood, and metal. The marina also includes a Marina Store, public fueling station, and on-shore parking. In 2006, Rocky Pointe Marina became the first certified "Clean Marina" by the Oregon State Marine Board (Exhibit 1).

The application seeks approval of a "physically developed" and "irrevocably committed" exception to Goals 11 and 14, in order to allow for additional development within the existing facility and for the expansion of the marina to the south. The project proposed to install a new 520 foot +/- dock on the upstream side of the existing marina between the existing marina and the adjacent marina upstream and expansion of the boat yard. The overall concept is to locate boat slips on the bank side and house boats on the stream side (see map). This accomplishes several goals; reduces the impact of shade on the areas close to shore; protects the boats from wake; protects the boats from vandalism; gives the house boats access to sun and views; and presents to the public a neighborhood. Improvements within the "physically developed" exception area will consist of (northern/downstream):

- 21 new houseboats to replace boat slips for a total of 61 houseboats
- Marina is allowed up to 150 boat slips, with 30 to be relocated to the new dock
- Floating home repair building (dry dock)
- Add 73 new parking spaces to the already existing 166 parking spaces

Improvements within the "irrevocably committed" exception area consist of (northern/downstream):

- Expansion of an acre boat yard up to two and a half acres.

Improvements within the "irrevocably committed" exception area consist of (southern/upstream):

- Extending dock to accommodate additional houseboats and boats

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<sup>1</sup> Source: Aerial photographs from the Oregon Map Library.

- 15 new houseboats
- Relocate 30 existing boat slips to the bank side to a new dock

As stated, improvements include extending the existing up stream dock an additional 520 feet +/- to accommodate 21 floating homes on the outside of the existing dock with 10 new boat slips on the bank side of the dock along with the displaced outside boat slips of 20 from the existing dock to 30 slips on the bank side. The addition of 520 additional feet of dock using modern materials and techniques will not adversely impact the environment, and will provide safer conditions for users and a more functional facility.

The new marina area will consist of floating docks extended from a new/safer five foot ramp replacing the existing four foot main ramp and utility services. The existing four foot ramp will be used as a single emergency only gangway for emergency access to shore, and 40 steel pilings up to 20 inches in diameter will be placed to secure the dock extension. The existing upriver docks and new dock will be increased from 5 feet to 8 feet wide (6 feet of wood decking and 2 feet of grating for utility access) to provide greater safety.

The results will be 76 houseboats (40 existing and 36 new), 150 boat slips (134 front in slips and 16 side slips); 7 boat houses, and 239 parking spaces (166 existing and 73 new).

The proposed work includes restoration and native re-vegetation designed to improve the existing natural resources. A maintenance plan will provide methods and guideline to protect the resource and landscaped areas. An interpretive trail is proposed for construction along the bank and lake.

In 1993, an exception to Goal 4 was approved for the terrestrial land area zoned MUA-20 and the marina facility itself. The exception to Goal 4 obtained acknowledgment from LCDC in 1993.

Rocky Pointe was originally approved by Multnomah County in 1993 as a conditional use. The marina was approved for 40 houseboats, 150 boat slips, seven boathouse spaces, and 166 parking spaces.

In 1997, Multnomah County adopted a streamlined land use review known as Policy 10 that legalized existing moorages. Rocky Pointe was inventoried, but not forced to participate, as it was a legally established moorage under a 1993 conditional use approval. Since 1993, improvements have been made to the moorage including state mandated improvements and safety and environmental quality systems.



## 2. NEED FOR EXCEPTIONS

Statewide Planning Goal 11: Goal 11 and related rule limits urban levels of services outside urban growth boundaries and unincorporated communities. An urban level of service includes the extension or establishment of a sewer system outside an urban growth boundary or unincorporated community boundary. A “sewer system” is defined as a system that serves more than one lot or parcel (OAR 660-011-0060(1)(f)).

A “**Physically Developed**” and “**Irrevocably Committed**” exception to Goal 11, as outlined OAR 660-004-0025 and OAR 660-004-0028, is being proposed for the marina.

Statewide Planning Goal 14: Although the channel itself was not included in this original exception to Goal 4, the moorages and the facilities supporting the houseboats (located on both sides of the channel) were part of this exception. The Multnomah County code considers houseboats and floating homes as single family dwellings. State rules specifies that the county shall not allow more than one dwelling to be placed on a lot or parcel in the MUA-20 zone (OAR 660-004-0040(7)(f)).

A “**Physically Developed**” exception to Goal 14 is being taken for the existing developed areas of the marina, and an “**Irrevocably Committed**” exception to Goal 14 is being taken for the undeveloped portion of the marina proposed for expansion (See Exhibit One showing boundaries of exceptions). The criteria for these exceptions are outlined in OAR 660-014-0030.

### 3. FINDINGS JUSTIFYING EXCEPTION TO GOAL 11, PUBLIC FACILITIES AND SERVICES

**Exception Requirements for Land Physically Developed to Other Uses (OAR 660-004-0025):**

(1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.

**Finding:** Rocky Pointe Marina has its own on site waste disposal facility that is permitted with the Oregon Department of Environmental Quality (DEQ) for both a level 1 treatment and level 1 collection for domestic waste water utilizing an activated sludge process. As required under permit in accordance with OAR, Chapter 340, Division 49, a certified supervisor manages the systems and reports to DEQ monthly. This disposal system services the floating homeowners, public restrooms, and public boat dump stations, which are all non-terrestrial. The boat repair facility is the only upland facility hooked up to the sewer. The existing DEQ permit allows for up to 6,500 gallons of effluent per day. Current levels are about 5000 gallons per day. Application is being filed with DEQ to increase volume to meet needs of additional homes proposed.

(2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

**Finding:** The sewer system on the uplands at Rocky Pointe Marina consists of 3 large underground collecting vaults (approximately 500 gallons each). One each located near each of the 3 ramps. These vaults are connected by underground pipes to the final two underground vaults prior to entering the sewage plant. The plant itself consists of tanks with a capacity of 10,000 gallons. When complete, the liquid is discharged into an evaporation pond approximately 100 feet in diameter. The plant and pond are enclosed by a 6 foot cyclone fence. The fence area is buffered by landscaping – over 100 laurel shrubs.

**Exception Requirements for Land Irrevocably Committed to Other Uses (OAR 660-004-0028)**

(1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable

(a) "committed exception" is taken in accordance with ORS 197.732(1) (b), Goal 2 Part II (b), and with the provisions of this rule;

**Finding:** The applicant has applied for a committed exception.

(b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception is taken;

**Finding:** The applicant has applied for a committed exception for the developed areas.

(c) An "applicable goal," as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.

**Finding:** The applicant has presented factual findings to each relevant goal to establish compatibility or no adverse impact related to the goal's purpose.

(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

(a) The characteristics of the exception area;

**Finding:** Rocky Pointe Marina occupies a long narrow strip of waterfront land 3,150 ft long to less than twenty feet at the southern end and increasing in width to just over 400 feet at the northern end with a total of 16.22 acres of which approximately 10 acres along the water are fully developed with road, parking, boatyard and support facilities. The remaining land is a lake, wetlands, natural areas, and landscaping that lay between the marina road and the railroad. The land itself is primarily basalt rock.

The sewer lines are approximately 3,700 feet along all walkways connecting to floating homes, floating restrooms, laundry, showers and pump out stations. These serve 40 floating homes and four restrooms facilities with showers and laundry. The sewer line also serves the public boat pump out station located at the fuel dock along with the three portable pump out units provided for people living on their boats and the traveling public. Each home and facility has its own "honey pot" that collects sewage and pumps into the main lines. These pump into a floating vault (larger honey pot) which pumps in to the next vault/station on land and then to the plant. The sewage processing plant is an air activated sludge processing system that has a capacity of 10,000 gallons per day. It was built and designed by DAVCO Engineering and installed in 1994.

(b) The characteristics of the adjacent lands;

**Finding:** On the water side, Rocky Pointe Marina leases 10.76 acres of submerged land from the Department of State Lands. On the backside of the property, the rocky terrain is sloped upward to the railroad tracks and continued upward slope to Hwy 30. The ground is primarily basalt rock.

Directly south, Happy Rock Marina has their own air activated sludge processing plant that disposes of their final clear liquid into a drain field to the south of their property.

To the north, there are four marinas connected to a single air activated sludge plant with drain field. The marinas, in order started by the closest, are McCuddy's Big Oak, Pirate's Cove, Casselman's, and Riverbend. The sewage plant is located at Casselmans, about ¾ to 1 mile from Rocky Pointe.

(c) The relationship between the exception area and the lands adjacent to it;

**Finding:** The sewage plant at Rocky Pointe is located near midpoint of the existing marina, a minimum of 1,000 feet from either property line to the north and south. On the west side, the plant is buffered from the property line by a 5 acre lake (not evaporating pond). On the west side (riverside), there is a large driveway.

(d) The other relevant factors set forth in OAR 660-004-0028(6)

**Finding:** The sewer system is located on the resource zoned terrestrial land to remove waste from the residential houseboats, boats, and traveling public consistent with the legal and policy mission of the DEQ. The sewer system is specifically designed to divert waste from the river in an ecological and efficient manner.

**215.203(3)** Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1) (b), in Goal 2, Part II (b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:

(a) Farm use as defined in ORS 215.203.

**Finding:** Individual sewage treatment systems or holding tanks is not practical, efficient, or ecologically sound. There are no services available to pump out holding tanks in the floating homes. Floating home tenants only rent dock space and do not own land to create a disposal area. Multiple disposal areas would not be efficient and would damage the ecology of the river. The single sewage collection and treatment system is under daily care of professional management, minimizes the impact on the river, and reports monthly to the DEQ.

(b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120

**Finding:** Not relevant in the context of this exception to Goal 11.

(c) Forest operations or forest practices as specified in OAR 660-006-0025(2) (a)

**Finding:** Not relevant in the context of this exception to Goal 11.

(4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons

explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.

**Finding:** The applicant has presented factual findings to each criterion that assert the area committed to a sewer system because of the extent and location of the existing system and the marina it serves..

- (5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.

**Finding:** All land asserted as irrevocably committed to a sewer system is based on the extent of the existing system and service it provides to the marina.

- (6) Findings of fact for a committed exception shall address the following factors  
(a) Existing adjacent uses;

**Finding:** On the water side, Rocky Pointe Marina leases 10.76 acres of submerged land from the Oregon Department of State Lands (DSL). On the backside of the property, the rocky terrain is sloped upward to the railroad tracks and continued upward slope to Hwy 30. The ground is primarily basalt rock.

Adjacent, Happy Rock Marina has their own air activated sludge processing plant that disposes of their final clear liquid into a drain field to the property's south.

To the north, there are four marinas connected to a single air activated sludge plant with drain field. The marinas, in order started by the closest, are McCuddy's Big Oak, Pirate's Cove, Casselman's, and Riverbend. The sewage plant is located at Casselmans, about  $\frac{3}{4}$  to 1 mile from Rocky Pointe.

- (b) Existing public facilities and services (water and sewer lines, etc.);

**Finding:** All services and utilities exist on the site. Rocky Pointe Marina provides its own DEQ certified sewage collection and processing system and has its own water well, treatment and storage facility.

- (c) Parcel size and ownership patterns of the exception area and adjacent lands;

**Finding:** There are currently 7 parcels of land that are owned by Stan Tonneson LLC and leased to Rocky Pointe Marina Portland LLC. These lots have been consolidated to one lot of record in conjunction with the land use application. The existing lot numbers and sizes are listed below from North to South, see map for additional detail

OREGON STATE GOAL EXCEPTIONS  
 ROCKY POINTE MARINA  
 23586 NW St Helens Road

Amended September 28, 2008

Previous Tax Lots		Consolidated Tax Lots		Proposed	
Existing Lots of Record				Lot of Record	
TL400	8.5 acres	TL400	8.73 acres	1 lot	16.22 acres
TL100	8.17	TL100	7.49		
TL200	.33				
TL300	.39				
TL400	.12				
TL500	.20				
TL600	.09				
<b>TOTAL*</b>	<b>17.8 acres</b>		<b>16.22 acres</b>		<b>16.22 acres</b>

\* Square footage was corrected when Multnomah County combined the tax lots.

The land to the west is the railroad and then State Hwy 30. To the south is Happy Rock Marina owned by Ginger Curtis and to the north is Big Oak Marina owned by the McCuddy family.

The sewer system serves the floating homes, pump out stations for tenant and public boats, and the five restrooms (four floating and one at the boat yard) on the site.

(A) Consideration of parcel size and ownership patterns under subsection (6) (c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goal were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors makes unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and non-resource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining these parcels;

**Finding:** The current configuration of Rocky Pointe Marina was permitted by Multnomah County in 1993 as a Community Service/Conditional use. The existing roads and services date back to the 1940's were upgraded at that time. These include a paved roadway the entire length of the property.

Underground water lines, underground sewer lines, underground telephone lines, on site waste water processing and on site water well, treatment and storage to all 3 access ramps to the marina docks and to the boat repair facility at the north end. An overhead power line and easement runs the length of the property for the benefit of Columbia Public Utility District.



The parcels of land to the south, TL 400, TL500 and TL600 were acquired in 2002 and added to Rocky Pointe Marina property. There is an existing road on this land that is continuous with the Rocky Pointe roadway. This roadway leads to the marina to the south, Happy Rock Marina, for which they have a permanent easement over Rocky Pointe's property

The proposed expansion will be serviced and accessed by the existing gangway ramp.

(B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the lands actual uses. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.

**Finding:** Rocky Pointe Marina was 7 lots of record and has been consolidated into one lot of record.

(d) Neighborhood and regional characteristics;

**Finding:** Rocky Pointe Marina is located on the Multnomah Channel about seven miles downstream of the Willamette River and about three miles south of the small but growing community of Scappoose. The Channel has become the "other" boating facility area as an alternative option to Hayden Island at Jantzen Beach. Multnomah Channel has over 200 floating homes and boat moorage for about 2,000 boats along its 21 mile length from Linnton to St Helens.

(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;

**Finding:** Rocky Pointe Marina is a long narrow strip of waterfront land that is bound by Multnomah Channel and on the other side by the railroad tracks and then State Hwy 30 beyond the railroad. There is a power line easement for high voltage lines down the center of the property. There is a continuous roadway and parking from one end to the other. There are mitigated wetlands.

(f) Physical development according to OAR 660-004-0025 and

**Finding:** The sewer lines are approximately 3,700 feet along all walkways connecting to floating homes, floating restrooms, laundry, showers and pump out stations. These serve 40 floating homes and four restrooms facilities with showers and laundry. It also serves the public boat pump out station located at

the fuel dock along with the three portable pump out units provided for people living on their boats and the traveling public. Each home and facility has its own "honey pot" that collects sewage and pumps into the main lines. These pump into a floating vault (larger honey pot) which in turn pumps in to the next vault/station on land and then to the plant. The sewage processing plant is an air activated sludge processing system that has a capacity of 10,000 gallons per day. It was built and designed by DAVCO Engineering and installed in 1994. (see exhibit 2)

**(g) Other relevant factors.**

**Finding:** The sewer system is located on the resource zoned terrestrial land to remove waste from the residential houseboats, boats, and traveling public consistent with the legal and policy mission of the DEQ. The sewer system is specifically designed to divert waste from the river in an ecologically and efficient manner.

**(7) The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.**

**Finding:** The applicant has provided an aerial photograph.

**(8) The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exceptions:**

**(a) Those adopted or amended as required by a Continuance Order dated after the effective date of section 7 of this rule; and**

**(b) Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.**

**Finding:** The applicant has provided maps showing the boundaries of the exception area.

**CONCLUSION FOR EXCEPTION TO GOAL 11:**

The sewer system exists and has been permitted by DEQ. The sewer system performs important ecological and public health functions. Individual systems are not practical or desirable.

## 4. FINDINGS JUSTIFYING AN EXCEPTION TO GOAL 14, URBANIZATION

### Rural Lands Irrevocably Committed to Urban Levels of Development (OAR 660-014-0030)

(1) A conclusion, supported by reasons and facts, that rural land is irrevocably committed to urban levels of development can satisfy the Goal 2 exceptions standards (e.g., that it is not appropriate to apply Goal's 14 requirement prohibiting the establishment of urban uses on rural land). If a conclusion that land is irrevocably committed to urban levels of development is supported, the 4 factors in Goal 2 and OAR 660-004-0020(2) need not be addressed.

**Finding:** Rocky Pointe Marina has been on a developed site since the late 1930's. The original shop/office/fuel dock and caretaker home are still on site and in use. There has been boat repair and fueling on site since the 1950's. Aerial photographs confirm the marina existence in 1938. The current marina was permitted by Multnomah County in 1993 as a Community Service Conditional Use. The area is 16.22 acres. The approval allowed for 40 floating home, 150 boat slips, 7 boatsheds and 166 auto parking spaces. Zoning for the property is Multiple Use Agriculture-20 with zoning overlays for the 100-year floodplain, the Willamette River Greenway, Sauvie Island riparian area, and for wetlands designated on the National Wetlands Inventory.

The shape of the property is a narrow triangle 3,150 feet long along the water and ranging in width from 18 feet at the southern end and 500 feet at the northern end. There is a road running the entire length of the property with a boat repair facility at the northern end. Parking is on either side of the road. There is a lake on the west side of the road. The existing road, parking and upland facilities occupy approximately 10 acres of all previously disturbed land. The balance of land is landscaping and natural areas intermixed within the property. The proposed expansion is within the existing developed property.

The conclusion is that this property is irrevocably committed to an urban level of development as it has been developed and in use for almost 80 years. The property, mostly rock, is completely built out as a marina along the shoreline with all facilities in place. The area of expansion has had docks and piers and a house in the past. The house was removed many years ago, docks were removed several years ago, and the piers remain. The piers will be removed as a result of this project and new environmentally sound piers and docks will be constructed.

(2) A decision that land has been built upon at urban densities or irrevocably committed to urban levels of development depends on the situation at the specific site. The exact nature and extent of the areas found to be irrevocably committed to urban levels of development should be clearly set forth in the justification for the exception. The area proposed as land that is built upon at urban densities or irrevocably committed to urban levels of development must be shown on a map or otherwise described and keyed to the appropriate findings of fact.

**Finding:** The following facilities and structures exist on the property and with water lease. See attached map keyed to the following list;

Upland

- A- roadway: approximately 2,800 feet long by 20 to 30 feet wide
- B- water well house, storage and treatment
- C- recycling/garbage/mail center upper ramp/marina
- D- recycling/garbage station middle ramp/marina
- E- recycling/garbage station lower ramp/marina
- F- security gate
- G- parking – 166 spaces
- H- trailer storage
- I- boat yard restroom
- J- sewage treatment plant
- K- evaporation pond
- L- boatyard shop/office – 3,500 square feet
- M- boat haul out pier
- N- boat wash down pad and building – 2,000 square feet
- O- boatyard – 40,000 square feet
- P- power- Columbia River PUD
- Q- telephone- CenturyTel
- R- fuel storage tanks, above ground – 6,000 gallons

On the Water

- 1-docks – 3,700 feet of primary walkways – 3 ramps
- 2-marina office/store – 1,500 square feet
- 3-fuel dock – 100 foot landing with two gas and one diesel pump
- 4- marine sewer pump out
- 5-restrooms/laundry – 4 sets of floating buildings each two toilets, two showers; washer and dryer.

**(3) A decision that is committed to urban levels of development shall be based on findings of fact, supported by substantial evidence in the record of the local preceding, that address the following:**

- (a) size and extent of commercial and industrial uses

**Finding:** The marina contains a store, office, gas dock, and public restrooms including pumpouts to the traveling public to maintain clean rivers. The marina provides a full service repair and maintenance facility.

- (b) location, number and density of residential dwellings;

**Finding:** There are 40 floating homes. The average float size is 30ft wide by 50ft deep with the house size being smaller than the float. The houses are all moored on the outside docks facing the river and are intermixed with the 150 boat slips. (See attached map.)

(c) location of urban levels of facilities and services; including at least public water and sewer facilities;

**Finding:** All necessary utilities currently exist. See attached map for water well/storage, waste water collection and processing, power lines, phones lines, and propane lines.

(d) parcel sizes and ownership patterns

**Finding:** There were 7 parcels of land owned by Stan Tonneson LLC and leased to Rocky Pointe Marina Portland LLC. They have been consolidated into a single lot of record. The previous lot numbers and sizes are listed below from North to South, see map for additional detail

Previous Tax Lots		Consolidated Tax Lots		Proposed Lot of Record	
Existing Lots of Record					
TL400	8.5 acres	TL400	8.73 acres	1 lot	16.22 acres
TL100	8.17	TL100	7.49		
TL200	.33				
TL300	.39				
TL400	.12				
TL500	.20				
TL600	.09				
Total	17.8		16.22 acres		16.22 acres

(4) A conclusion that rural land is irrevocably committed to urban development shall be based on all of the factors listed in section (3) of this rule. The conclusion shall be supported by a statement of reasons explaining why the facts found support the conclusion that the land in question is committed to urban uses and urban development rather than a rural level of development.

**Finding:** Rocky Pointe Marina was established in the 1930's and has been in existence on the same site providing boat moorage, floating home moorage, boat repair, boat fueling station, boathouse construction, public boat ramp, public restrooms and floating general store. There is a paved road the entire length of the property parallel to the water's edge making the waterfront land accessible. The northern part of the road is a driveway on the Rocky Pointe Marina. The southern part, south of the County's road, is an easement across the Rocky Pointe property to the Happy Rock Marina (south), upstream from Rocky Point. The remainder of land is either lake, wetlands, natural or landscape areas.

(5) More detailed findings and reasons must be provided to demonstrate that land is committed to urban development than would be required if the land is currently built upon at urban densities.

**Finding:** Rocky Pointe Marina is built to urban densities.

**OAR 660-004-0028 Exception Requirements for Land Irrevocably Committed to Other Uses  
Relating to the Goal 11 exception request**

(1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable

(a) "committed exception" is taken in accordance with ORS 197.732(1) (b), Goal 2 Part II (b), and with the provisions of this rule;

**Finding:** The applicant has applied for a committed exception.

(b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception is taken;

**Finding:** The applicant has applied for a committed exception for the developed areas.

(c) An "applicable goal," as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.

**Finding:** The applicant has presented factual findings to each relevant goal to establish compatibility or no adverse impact related to the goal's purpose.

(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

(a) The characteristics of the exception area;

**Finding:** Rocky Pointe Marina occupies a long narrow strip of waterfront land 3,150 ft long by approximately 16 feet wide at the southern end and increasing in width to just over 400 feet at the northern end with a total of 16.22 acres of which approximately 10 acres along the water are fully developed with road, parking, boatyard and support facilities. The remaining land is a lake, wetlands, natural areas, and landscaping that lay between the marina road and the railroad. The land itself is primarily basalt rock.

(b) The characteristics of the adjacent lands;

**Finding:** On the water side, Rocky Pointe Marina leases 10.76 acres of submerged land from the DSL. On the backside of the property, the rocky terrain is sloped upward to the railroad tracks and continued upward slope to Hwy 30. The ground is primarily basalt rock.

(c) The relationship between the exception area and the lands adjacent to it;

**Finding:** Rocky Pointe Marina's moorages are a water dependant use. The railroad and State Hwy 30 separate the property from forest and farmlands. On either end (upstream and downstream) are similar commercial marinas



(d) The other relevant factors set forth in OAR 660-004-0028(6)

**Finding:** The primary residential activity is on the waterway; a navigable waterway under the jurisdiction of the federal government. The use crosses the DSL jurisdiction with gangways and boat ramps. The residential use of terrestrial zoned land is limited to parking, boat yard, walking, loading, mail, and waste services.

(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1) (b), in Goal 2, Part II (b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:

(a) Farm use as defined in ORS 215.203

**Finding:** The exception area is basalt rock, wet, steeply sloped, or developed.

(b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120

**Finding:** No logging or commercial forestry is practical. Land is either wet, basalt rock, or steeply sloped.

(c) Forest operations or forest practices as specified in OAR 660-006-0025(2) (a)

**Finding:** No commercial forest operation is proposed or practical.

(4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.

**Finding:** The applicant presents factual findings to each criterion that assert the area devoted for houseboat and sewer development is irrevocably committed to urban use.

(5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.

**Finding:** All land asserted is developed. The exception requests include both land that is physically developed and land irrevocably committed to urban development. The area of expansion is into an area that is currently vacant. The vacant area had a dock, house, and piers. The house was removed many years ago, the dock removed several years ago, and the piers remain. The piers will be replaced as a result of this project.

(6) Findings of fact for a committed exception shall address the following factors

(a) Existing adjacent uses;

**Finding:** Rocky Pointe Marina is a long narrow waterfront facility. The backside slopes upward and borders the railroad tracks and further up the hill is Hwy 30. At either end of the property are similar marinas, Happy Rock Moorage at the south, and Big Oak Marina on the north

(b) Existing public facilities and services (water and sewer lines, etc.);

**Finding:** All services and utilities exist on the site. Rocky Pointe Marina provides its own DEQ certified sewage collection and processing system and has its own water well, treatment and storage facility.

(c) Parcel size and ownership patterns of the exception area and adjacent lands;

**Finding:** There were 7 parcels of land owned by Stan Tonneson LLC and leased to Rocky Pointe Marina Portland LLC. These lots have been consolidated into one lot of record.

Previous Tax Lots		Consolidated Tax Lots		Proposed Lot of Record	
Existing Lots of Record				Lot of Record	
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<b>Total</b>	<b>17.8 acres</b>		<b>16.22 acres</b>		<b>16.22 acres</b>

The land to the west is the railroad and then State Hwy 30. To the south is Happy Rock Marina owned by Ginger Curtis and to the north is Big Oak Marina owned by the McCuddy family

(A) Consideration of parcel size and ownership patterns under subsection (6) (c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goal were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors makes unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and non-resource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining these parcels;

**Finding:** The current configuration of Rocky Pointe Marina was permitted by Multnomah County in 1993 as a Community Service Conditional use. The existing roads and services date back to the 1940's and were upgraded at that time. These include a paved driveway the entire length of the property.

Underground water lines, sewer lines, telephone lines, on site waste water processing and on site water well, treatment and storage to all 3 access ramps to the marina docks and to the boat repair facility at the north end. An Portland General Electric overhead power line and easement runs the length of the property for the benefit of Columbia Public Utility District.

The parcels of land to the south; TL 400, TL500 and TL600, were acquired in 2002 and added to Rocky Pointe Marina property. There is an existing road on this land that is continuous with the Rocky Pointe driveway. This driveway leads to the marina to the south, Happy Rock Marina, for which they have a permanent easement over Rocky Pointe's property

The proposed expansion will be serviced and accessed by a new five foot gangway ramp.

In 2006, Statewide Planning Goal 14 administrative rule came into effect and limited permanent single-family structures to one per tax parcel outside of an Urban Growth Boundary.

**(B)** Existing parcel sizes and contiguous ownerships shall be considered together in relation to the lands actual uses. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.

**Finding:** Rocky Pointe Marina was 7 lots of record that has been consolidated into a single lot of record.

**(d) Neighborhood and regional characteristics;**

**Finding:** Rocky Pointe Marina is located on the Multnomah Channel about seven miles downstream of the Willamette River and about three miles south of the small but growing community of Scappoose. The Channel has become the "other" boating facility area providing an alternative option to Hayden Island at Jantzen Beach. Multnomah Channel has over 200 floating homes and boat moorage for about 2,000 boats along its 21 mile length from Linnton to St Helens.

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(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;

**Finding:** Rocky Pointe Marina is a long narrow strip of waterfront land that is bound by Multnomah Channel and on the other side by the railroad tracks and then State Hwy 30 beyond the railroad. There is a power line easement for high voltage lines down the center of the property. There is a continuous roadway and parking from one end to the other. There are mitigated wetlands.

(f) Physical development according to OAR 660-004-0025 and

**Finding:** Rocky Pointe Marina is physically developed with roads, underground utilities, commercial buildings and related facilities to the extent that farming and forestry are not practical if not impossible considering the terrain, soil, size and location.

(g) Other relevant factors.

**Finding:** The primary residential activity is on the waterway; a navigable waterway under the jurisdiction of the federal government. The residential use crosses the State jurisdictions with gangways and boat ramps. The residential use of terrestrial zoned land is limited to parking, boat yard, walking, loading, mail, and waste services.

(7) The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.

**Finding:** The applicant has provided an aerial photograph.

(8) The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exceptions:

(a) Those adopted or amended as required by a Continuance Order dated after the effective date of section 7 of this rule; and

**Finding:** A continuance order is not in effect.

(b) Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.

**Finding:** Multnomah County's Comprehensive Plan specifically allows and supports houseboats in this area as a conditional use. The plan was acknowledged by the State.

\*OAR 660-004-0040(7) (f)

"A local government shall not allow more than one permanent single-family dwelling to be placed on

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a lot or parcel in a rural residential zone.”

The Multiple Use Agriculture-20 zone that is considered a type of rural residential zone.

**Finding:** The applicant requests a goal exception for this provision.

**CONCLUSION FOR EXCEPTION TO GOAL 14:**

The primary residential activity is on the waterway; a navigable waterway under the jurisdiction of the federal government. The residential use crosses the State jurisdictions with gangways and boat ramps. The use of terrestrial zoned land is limited to parking, boat yard, walking, loading, mail, and waste services.

The development is infill, filling a small stretch of currently unused waterway between the existing Rocky Pointe Marina and Happy Rock Marina upstream. No additional expansion is possible. The expansion will not result in additional restrooms, expansion of the store, or any other “urban use”

## 5. FINDINGS FOR GENERAL GOAL (1-15) COMPLIANCE

### OREGON STATE PLANNING GOALS

*Goal 2 -(land use planning), section lib, the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the goal impracticable.*

**Finding:** This land has been used as a public marina since the 1940's. Both the south and north waterfront adjoining properties have been marinas for similar periods of time. The land is a narrow strip of waterfront land that is bounded by the railroad and Hwy 30 on the west boundary. The terrain is mostly basalt rock and steeply sloped after the first couple hundred feet inland. A lake occupies most of the open level property. The rest of the land along the shoreline is improved with a driveway and parking running parallel to the water and a boat repair facility at the north end of the property. Underground water, sewer, and phone lines parallel the road.

**Goal 5 – To protect natural resources and conserve scenic and historic areas and open spaces.**

**Finding:** The marina expansion infills an existing DSL leasehold. The expansion takes place between the existing marina and adjacent marina directly upstream. A landscape maintenance plan restores and protects natural resources. The development process involves approvals by the Division of State Lands and the Army Corp of Engineers. These approvals require scientific analysis of the resources, mitigation and restoration. The infill area has been developed for years and is currently not used with old pilings and other relicts of the past. The marina use is benign in relationship to the environmental uses, unlike a typical urban development. The vast majority of the property remains natural. On the bank is parking, a work area, and natural areas; lake, forest, grasslands, etc. The majority of use is on the water. The banks are natural with thin gangways transferring across the bank in specific areas to reach the docks where the activity is. These natural areas will be cleaned up and restored as a result of this process. The site is not historic nor is it designated scenic. The marina adds to the scenic quality and interest of the waterway.

**Goal 12 Transportation – To provide and encourage a safe, convenient and economical transportation system.**

**Finding:** The marina exists on Highway 30 with direct access to Scappoose and Portland, Oregon. The highway has a center turn lane to provide safe accessibility. There is an automated gated rail protection at the railroad crossing. Regular scheduled public transportation is available by Columbia County Rider that connects to Tri-Met.



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**Goal 15 Willamette River Greenway-** to protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economical and recreational qualities of lands along the Willamette River as the Willamette River: to implement the County's responsibilities under ORS 390.310 to 390.368 to establish Greenway Compatibility Review Areas; and to establish criteria, standards and procedures for the intensification of uses, changes of uses, or the development of lands within the Greenway.

**34.5855 Greenway Design Plan**

The elements of the Greenway Design Plan are:

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

**Finding:** The site plan illustrates that the existing parking and driveway areas are weaved into the landscape to minimize the disturbance of the bank, water features, and natural vegetation. All of the developed structures are built on land that the 1993 conditional use allowed to be disturbed. The proposed expansion of houseboats will not disturb any further land, landscape, or natural areas other than a small concrete pad to land the emergency ramp next to the roadway. Other conditional uses permitted by state law may expand in the future with proper permits. The additional parking spaces will be intermixed within the existing parking areas. A boat storage area that is currently grassed is proposed to be paved to provide additional parking and boat storage. The site retains over five acres of landscaping and natural areas which includes a lake representing 70% of that area.

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

**Finding:** The project's purpose is to provide the public with safe access to the river in an area already dominated by marine uses.

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

**Finding:** The proposed moorages are river dependant use. Parking and other accessory uses are directed away from the river as much as feasible given the rocky bank and rail line.

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

**Finding:** The property cannot be used for agriculture given the basalt rock. It is not agricultural land.

- (E) The harvesting of timber, beyond the vegetation 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.

**Finding:** This application does not propose harvesting of timber.

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

**Finding:** The project's purpose is to provide recreational benefits in a location that has an existing marina. The new improvements and facility shall provide safe and modern boat slips and houseboat dockage.

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

**Finding:** The construction is designed to minimize any impacts on fish and wildlife. Construction will occur within approved windows allowed for development on the rivers. The project will require approval of both federal and state agencies.

A biological assessment was conducted for the Rocky Pointe expansion by Ellis Ecological Services for the US Army Corps of Engineers, National Marine Services, and the US Fish and Wildlife Services. The assessment found that incidental "take" (i.e. harm or harassment) during the proposed project is unlikely to occur. All work would occur during the Oregon Department of Fish and Wildlife in-water work periods for Multnomah Channel. The project is not expected to significantly detain or adversely affect fish that migrate upstream through the channel. The construction will affect fish through noise vibration. Efforts will be taken to minimize these affects. No significant long-term adverse impacts are anticipated. The removal of the existing creosote-treated wood piling is expected to improve habitat. The proposed project is expected to have no effect on listed plant or wildlife species of their habitat.

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

**Finding:** The proposed houseboat development is within a developed area. The placement of parking, re-vegetation and restoration will actually cause existing facility to be less noticeable by embracing natural areas and consolidation of development impacts.

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

**Finding:** The improvements include many measures to improve safety and better protect the tenants and neighbors. The new floating homes will all be built to the new City of Portland Title 28 building codes. The in-fill of floating homes into the existing marina will create enough space for existing floating homes to be spaced further to meet or exceed the more stringent fire spacing code for new homes. The entire electrical supply service will have safety upgrades included shore side circuit shut offs in the existing marina and "The Marina Guard" marina ground fault detection systems will be installed in the entire marina to detect stray electricity in the water that causes electrocution drowning The parking lot gate

will be relocated to provide secured parking for all tenants' vehicles and an updated access system will be installed along with more lights and additional security cameras near the gate and parking area. The current 4' wide main ramp will be replaced with a wider 5' ramp with much better traction. Part of the existing marina main docks will be widened from 5' to 8' wide. The new docks will also be 8' wide. An emergency escape ramp will be located midway along the new docks but will not allow shore side access providing security to the tenants. Updated lighting will be installed at all access ramps. A revised set of safety rules and regulations will be developed as part of the expansion which will include mandatory fire safety drills for all floating home tenants and people living on their boats. A safer and more secure area will be designed for tenant mail by installing standard postal lockboxes.

(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.

**Finding:** The proposed development is within a developed area. The re-vegetation and restoration shall cause the existing facility to be less noticeable.

(K) Extraction of known aggregate deposits may be permitted, pursuant to the provisions of MCC 34.63 00 4.6535, 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.

**Finding:** Mining is not proposed

(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.

**Finding:** The improvements are engineered to address all aspects of the water impact both from the stream and upland. The moorage has operated in this area for many years with good knowledge and strategies to address typical and unforeseen circumstances.

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

**Finding:** Wetland areas are will not be developed without permission and mitigation. No wetland area will be disturbed due to houseboat expansion.

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

**Finding:** The site is disturbed. Undeveloped areas are not proposed for new houseboat development. The proposed area has had docks in the past and currently contains creosote pilings that will be removed. This currently unused area is where the dock expansion is proposed.

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

**Finding:** All work will be conducted under permits and review in a manner that protect the river from erosion.

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

**Finding:** The quality of air, water and land resources will be preserved by the modern slips and docks with modern services constructed.

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

**Finding:** The structures developed are in direct response to community and state standards to improve the environmental quality of the existing operations. These structures are specifically designed to improve the quality of the use. The emergency ramp, docks, and boat slips are water dependant uses.

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

**Finding:** The proposal is being reviewed through greenway and design review.

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

**Finding:** See conditional use criteria G (34.6010.G). The comprehensive plan acknowledges the importance of river utilization and economic vitality particularly when done in an ecological sound manner and results in environmental improvements.

#### 34.5865 Significant Wetlands

Significant wetlands consist of those areas designated as Significant on aerial photographs of a scale of 1"=200' made a part of the supporting documentation of the Comprehensive Framework Plan. Any proposed activity or use requiring a WRG permit which would impact those wetlands shall demonstrate that the proposal:

(1) Is water-dependent or requires access to the wetland as a central element of its basic design function, or is not water dependent but has no practicable alternative as described in subsection(C) below;

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

(3) Will not cause significant degradation of groundwater or surface-water quality;

(4) Will provide a buffer area of not less than 50 feet between the wetland boundary and upland

activities for the portions of regulated activities that need not be conducted in the wetland areas. This Mitigation Plan shall meet the standards of subsection (D).

**Finding:** Wetlands are not impacted by the houseboat development. Wetland delineation has been completed for the site and mitigation was approved and constructed through a previous land use approval. No new houseboat development will be developed outside the areas already disturbed except for the emergency use gangway over the rocky shoreline to the new boat slip and dock area. The moorages are a water dependant use. All disturbed areas are setback at least fifty feet from the water shoreline except water dependent and water related uses.

ORS 197.732(1)(b) Goal Exceptions- the land subject to the exception is irrevocably committed as described by LCDC rule to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable.

**Finding:** The criteria described by LCDC is met below under OAR 660-004-0028.

#### **CONCLUSION FOR GENERAL GOAL (1-15) COMPLIANCE:**

Rocky Pointe is an existing community that has been located on this site for almost fifty years. The proposed development is an infill development between an existing marina upstream and Rocky Pointe's existing development. The new development will utilize existing services.

## 6. FINDINGS FOR MULTNOMAH COUNTY COMPREHENSIVE PLAN AND RURAL AREA PLAN POLICIES AND CODE COMPLIANCE

### Multnomah County Policy 10

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

- A. Generally agricultural in nature, with soils, slope and other physical factors indicative of past or present small scale farm use;
- B. Parcelized to a degree where the average lot size, separate ownerships, and non-farm uses are not conducive to commercial agricultural use;
- C. Provided with a higher level of services than a commercial agricultural area has; or,
- D. In agricultural or microclimates, which reduce, the growing season or affect plant growth in a detrimental manner (flooding, frost etc.).

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

**Finding:** The property is designated multiple use agriculture, however, due to the steepness of the slopes; the basalt rock terrain; wet areas; and proximity of Multnomah Channel, agricultural use is not practical or productive.

### Multnomah County Policy 26- Houseboats

#### Introduction

Houseboats have been a housing option in Multnomah County for nearly a hundred years. Once little more than floating shacks, houseboats today are often substantial structures with all the amenities of traditional houses, and are home to middle and upper income citizens.

Moorage sites are limited in the County, and demand for moorage space is high. Local moorages are all at or near capacity. However, demand for houseboat space should not be equated with need. Houseboats were not considered in Multnomah County's housing needs inventory, nor are they required to fulfill the County's housing obligation. Projected housing demand to the year 2000 can be met with lands already zoned for residential development. Therefore, houseboats may be considered a desired housing choice, but not a needed one.

The demand for houseboat space conflicts with other legitimate demands on the finite amount of available public waterways in the County. A houseboat location policy must attempt to reconcile the conflicting interests of houseboat owners, recreational boaters, conservationists, industrial developers, and the general public. It must ensure the protection of houseboat residents from the inherent hazards of waterway life and also provide for protection of the general public from possible negative impacts of houseboat development.

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

- A. The applicable policies in this plan, including Policies 2 (Off-Site Effects), 13 (Air, Water, Noise), 15 Significant Environmental Concern, 16 (Natural Resource), 21 (Housing Choice), 24 (Housing Location), 32 Capital Improvements, 34 (Trafficways), 36 (Transportation System Development), 37 (Utilities), And 38 (Facilities).
- B. Any other applicable federal, state or local policies that regulate waterway area development.
- C. The following criteria for locating or expanding a houseboat moorage:



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1. The mean low water line exceeds five feet;
2. The moorage area should be protected from siltation problems which might require costly dredging to achieve the proper water depth;
3. The moorage is adequately protected from the adverse effects of wind, wave action, icy conditions, and other hazards;
4. Adequate land area exists to accommodate parking and any accessory building requirements;
5. The proper maintenance and operation of dikes, as determined by the army corps of engineers is not adversely affected by the moorage;
6. The upland area adjacent to the moorage does not have unique recreational, ecological or wildlife habitat value; and
7. The upland area adjacent to the moorage is not zoned for exclusive agricultural use.

The following areas are designated as suitable for houseboats:

8. Multnomah Channel (west side).
  - a. (a) From Rocky Point Moorage, or from an area 1650 feet north of the southern boundary of Section 36, T3N, R2W, known as Rocky Point, north to the Columbia County boundary.
  - b. From the City of Portland corporate limits north to 1/2 mile north of the Sauvie Island Bridge.

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

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

**Strategies**

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

J. The Zoning Ordinance should be amended to:

1. Allow for the location and expansion of houseboat moorages within designated areas.
2. Include safety and fire protection standards to provide a safe living environment for houseboat dwellers.
3. Provide standards, which minimize the adverse effects of houseboat development on surrounding areas.

**Finding:** Rocky Pointe Marina is in the area identified as being appropriate for houseboats; in fact, Rocky Pointe Marina is specifically identified in the adopted policy.

Sauvie Island/Multnomah Channel Rural Area Plan (adopted 10/30/1997)  
Multnomah Channel Land and Water Use Policies

**RURAL AREA PLAN POLICY 5:** Assist METRO in development of a regional hiking, equestrian, and bicycle trail along Multnomah Channel south of Burlington Bottoms connecting to the Cornelius Pass rails-to-trails potential conversion, which runs in upland areas in the vicinity of Highway 30 and the existing Burlington Northern Railroad, and minimizes impacts to existing waterfront uses.

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

**Finding:** Rocky Pointe's property has trails on it and a paved driveway for hiking and biking.

**RURAL AREA PLAN POLICY 6:** The County should participate in educational information and programs to better educate Channel users on safety issues and required laws including no wake and buffer zones.

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

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

**Finding:** Rocky Pointe aggressively educates boaters regarding marina laws; prohibits any inappropriate activity on its facilities; provides educational materials; and loans out child safety vests. The repair and maintenance facility complies with all best management practices and allows potentially damaging activities to be performed in environmentally safe areas.

**RURAL AREA PLAN POLICY 7:** The County should recommend to the State Marine Board that all boaters be required to obtain licenses through the State prior to operating motorized marine craft over 25 horsepower including personal watercraft.

**Discussion:** Boat operators are not required at this time to meet any guidelines or qualifications prior to operating watercraft. Multnomah County should value the importance of safe conditions in the Channel and work through the Marine Board in establishing minimum criteria for boat operators. The amount of horsepower was chosen to include personal watercraft and exclude canoes and very small boats.

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

**Finding:** All operators who operate within the Rocky Pointe water leasehold are required to have state licenses.

**RURAL AREA PLAN POLICY 8:**

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

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

**Discussion:** The lack of Sheriff's presence in the Channel presents a problem with regard to law enforcement. The County should prioritize enforcing the existing laws in place in the Channel and maintain a presence to enforce the laws. The County should also consider prioritizing zoning enforcement.

**STRATEGY:** Multnomah County shall consider these issues when allocating funding and budgeting proposals and integrate a performance program within the framework of a strategic plan to successfully carry out this policy.

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**Finding:** Rocky Pointe Marina actively cooperates with Multnomah County river patrol and the Oregon State Marine Board and requires all boats to be properly registered and insured.

**RURAL AREA PLAN POLICY 9:** Multnomah County should begin studying the noise impacts of motorized watercraft in order to establish base levels of noise pollution in the Channel.

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

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

**Finding:** Rocky Pointe strongly discourages loud boats; particularly to protect the existing residents.

**RURAL AREA PLAN POLICY 10:** For the purposes of establishing a procedure for which Multnomah County will determine the status of existing moorage/marina use, the Multnomah County Comprehensive Framework Plan Policy 26 should be amended and rewritten to include the following:

1. That moorages and marinas will only be permitted within the boundaries identified by Policy 26.
2. That the area occupied by Happy Rock Moorage, Sauvie Island Moorage, Parker Moorage, and Mayfair Moorage be included within the area where houseboats are currently permitted under Policy 26.
3. That the moorages within policy 26 and the existing Happy Rock, Sauvie Island, Parker and Mayfair moorages sites are to be treated as permitted (permitting continuation of the use and level of intensity in existence as of the Multnomah County Moorage Report Listing of Float houses and Watercraft as of July 1, 1997 produced by the Department of Assessment and Taxation and reconciled through supplemental information provided by the moorage owner) if:
  1. Proof that permits, where applicable, from the Division of State Lands, Army Corps of Engineers, Department of Environmental Quality, the State Health Department and the appropriate fire authority were obtained prior to July 1, 1997. Proof that permits from the Public Utility Commission, the Oregon Department of Transportation, County Right of Way, where applicable, have been applied for prior to December 1, 1997. Those permits that were not issued prior to July 1, 1997 shall be approved by either the Public Utility Commission, the Oregon Department of Transportation or the County Right of Way prior to the County issuance of a Willamette River Greenway Permit under this policy. All permits must have been issued for the same density and the same use requested in the Policy #10 process. If there are discrepancies in the Army Corps of Engineers or Division of State Land Permits between what the permit was issued for and the density/use the moorage owner is having reviewed by the County as part of this process, the moorage owner shall provide current documentation from the agency that the proposed use/density is still consistent with the agency's requirements. The proof must then be given to the County Division of Transportation and Land Use Planning for review; and
  2. Multnomah County approves a Willamette River Greenway permit for the moorage.
4. That an inventory of each moorage identified in Section 3 above is to be undertaken within 120 days of the effective date of the adoption of the Sauvie Island Multnomah Channel Rural Area Plan amending Policy 26. This inventory may be performed by the County, or prepared

by each moorage and verified by the County. Through this inventory, the County will:

1. Determine the level of existing development to be considered as a permitted use (number of existing dwelling units as determined using the Multnomah County Moorage Report Listing of Float houses and Watercraft as of July 1, 1997 and reconciled through supplemental information provided by the moorage owner); and
2. Receive proof that the non-County permits have been obtained.

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

5. That if any moorage is subsequently in violation of any non-County permit, of County zoning codes enacted after the effective date of amended Policy 26 and implementing measures, then that moorage must meet all applicable zoning codes in effect at that time, which would include the provisions of the Special Planning Area once the zoning code revisions have been made and are in effect.
6. That if those moorages that are deemed permitted subsequently seek a modification of alteration of their inventoried use, they must meet all applicable zoning codes in effect at that time. Alteration or modification does not include a reduction in the number of structures/dwellings within a moorage.
7. All moorages applying for a Willamette River Greenway Permit required pursuant to Policy #10, shall be exempted from the Design Review Process and criteria.
8. That this action does not set a precedent for acceptance of any unauthorized land use in the jurisdiction of Multnomah County. That this action by the board is done in the context of the adoption and speedy, practical implementation of the Sauvie Island/Multnomah Channel Rural Area Plan.

**Discussion:** Policy 26 currently does not include the developed marina or moorage sites listed above, allowing them to continue as existing non-conforming uses with no ability to expand or reconfigure their sites. These uses are long-term substantial facilities, which are an integral part of the Multnomah Channel environment. They should be allowed the same opportunities for change in land and water use afforded to the marinas and moorages, which currently fall within the boundaries of Policy 26. This action, along with the inclusion of marinas into the Policy 26 framework, will convert Policy 26 into a statement of where marine related development is allowed on Multnomah Channel, vs. marine conservation areas outside of the Policy 26 boundaries.

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

**Finding:** Rocky Pointe Marina voluntarily participated in this process; however, Rocky Pointe was the only marina in this area to actually have an approved conditional use land use decision and therefore did not need the assistance of Policy 10.

**RURAL AREA PLAN POLICY 11:** The County should develop and maintain a current inventory of all marinas and moorages.

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

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

**Finding:** Rocky Pointe Marina is an active participant in the Waterfront Owners Organization who maintains an inventory of all marinas and moorages.

**RURAL AREA PLAN POLICY 12:** The County Zoning Code should be consistent with the County Assessor and the State regarding the definitions of houseboats, boathouses and combos. For purposes of density calculations, "houseboats" shall be defined as 1) any houseboat, and 2) any boathouse or combo which is used as a residence (occupied 7 or more days per month).

**Discussion:** There has been a problem with regards to the numbers of units allowed and permitted under existing approvals depending on the definition of dwelling the County uses. There have also been recent revisions to the Assessor's definitions that may be even more of a problem. The County Zoning Code decides whether a structure is a dwelling based on information regarding kitchen and restroom facilities. The County Assessor makes the determination based on different information, as does the State of Oregon. The issue becomes a problem when the County Staff uses the Assessor's information to determine the number of dwellings existing within a moorage/marina and consistency becomes an issue of real importance to the moorage owners.

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

**Finding:** Rocky Pointe's inventory of current users and proposed users are based on these definitions.

**RURAL AREA PLAN POLICY 13:** Multnomah County should adopt procedures to allow existing moorage/marina to become a 'special plan area' under MCC 11.15.6600 at the initiation of the property owner, to determine uses and densities allowed for each moorage on the channel. The special plan area designation would be allowed when the property owner requests an expansion or alteration, or for any new marina/moorage developments. The provisions of the existing Conditional Use criteria would still be in place in addition to the new special planning area procedure.

**Discussion:** Each moorage/marina shall be allowed to enter into a special plan area (an existing part of the Multnomah County Zoning Code, which needs some minor amendments to fit the Multnomah Channel situation) procedure with Multnomah County to adopt essentially a master plan or comprehensive plan for each moorage/marina. As an attempt to take all issues into consideration, special plans can determine by looking at each existing or proposed moorage/marina on a case-by-case basis regarding the density, service levels and legal status of the property. At the County's initiation (no application fees), each individual marina/moorage could receive a special plan area designation which would be an overlay designation for each moorage and marina on the Channel. The special plan area will help reduce duplication of efforts by considering the Willamette River Greenway concepts concurrently with other code criteria.

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

**Finding:** The result of this exception would be to make Rocky Pointe a Special Plan Area.

**RURAL AREA PLAN POLICY 14:** The overall density for each existing moorage/marina that chooses to go through the special planning area process shall not exceed the existing levels as measured by factors such as area and length of docks and number of slips (existing in the Multnomah County

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Moorage Report Listing of Float houses and Watercraft as of July 1, 1997 and reconciled through supplemental information provided by the moorage owner). The actual number of slips for each moorage/marina shall be determined at the time a special plan area is approved for the moorage/marina. The specific plan will look at such things as 'legally existing' issues, non-conforming status and carrying capacity of the land to determine the number of dwellings and other uses allowed in each marina/moorage.

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

**Finding:** Rocky Pointe Marina will also be reviewed through a conditional use process and, as proposed, complies with all dimensional standards.

**RURAL AREA PLAN POLICY 15:** Development on Multnomah Channel within Special Plan Areas shall be judged upon the following criteria.

**Water Environmental**

**River Bank Protection** - Development which protects the river bank from erosion caused by boat traffic.

**Water Quality** - Development which contributes to or does not significantly degrade water quality.

**Septic tanks/Sewage** - Development which is more amenable to safe and sanitary sewage disposal, along with adequate upland facilities for disposal of sewage.

**Fish and Wildlife** - Development which contributes to or does not have a significant detrimental impact to the fish and wildlife in the water.

**Land Environmental**

**Development in Wetland** - Development which does not impact wetlands.

**Traffic Increase** - Development which minimizes increases in traffic on moorage access roads, on railroad crossings, and onto Highway 30.

**Parking** - Development which minimizes the amount of parking area necessary.

**Ground Water Quality** - Development which minimizes impacts to ground water quality.

**Need for Restroom Facilities** - Development which minimizes the need for additional communal restroom facilities to serve the proposed uses.

**Land Wildlife** - Development which minimizes impacts to land wildlife.

**Necessary Utilities** - Development which requires fewer utilities to serve proposed uses.

**Floodplain Development** - Development which minimizes placement of permanent structures and uses in the floodplain.

**Accessory Structures** - Development which minimizes the need for accessory on-land structures to serve proposed uses.

**Aesthetic**

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

**Visibility of Shore** - Development which minimizes changes to natural shoreline features.

**Massing and Scale** - Development which has a human scale or architectural quality to it.

**Diversity/Rural character** - Development which maintains the existing diversity and rural character of Multnomah Channel.

**Lighting** - Development which minimizes night lighting of uses.

**Vegetation/landscape on Water** - Development which minimizes its visibility from the Multnomah Channel waterway.

**Safety**

**Contribution to Channel Traffic** - Development which minimizes Channel traffic.

**Residential Link** - Development with a permanent residence component which provides a human presence to both report emergencies and violations on Multnomah Channel.

**Fire Hazard** - Development which minimizes fire hazard. **Emergency Services** - Development which minimizes the need for emergency services.



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**Economic**

Development which provides economic value to Multnomah County in the form of assessment value and reduced need for public services.

**Recreation**

*Contribution to Public Recreation* - Development which contributes to public recreation opportunities on Multnomah Channel.

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

**Cumulative Impacts**

The cumulative impacts of the proposed development on the overall carrying capacity of Multnomah Channel shall be considered and minimized.

The criteria listed shall be weighed and balanced by the hearing body considering each Special Plan Area so as to determine the most appropriate intensity and type of development allowed within each of these areas.

In reviewing each Special Plan Area, Multnomah County shall consult with other relevant local, state, and federal agencies, including but not limited to the following agencies:

Division of State Lands  
Oregon Department of Fish and Wildlife  
Oregon Parks and Recreation Department  
Oregon State Marine Board  
U.S. Army Corps of Engineers  
Metro Parks and Greenspaces

**Discussion:** It is not intended that each proposed use strictly meet each of the criteria listed above, but rather the criteria be used by the hearing body to weigh the appropriateness of different potential uses. It is assumed that each site within the boundaries of Policy 26 is appropriate for some sort of marine related development unless a single criteria weighs so strongly upon the site that it precludes all or some of the potential marine development uses.

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

**Finding:** Rocky Pointe Marina has submitted a conditional use, site/design review and greenway request that will test its proposal against these criteria.

**RURAL AREA PLAN POLICY 16:** Implement code language within the special plan area criteria that incorporates the more specialized ideas in these policies. This concept should be carried out with input from citizens on the channel and should include guidelines regarding lighting, landscaping and architectural design within the special plan areas for development.

**Discussion:** Currently the WRG guidelines have vague language in them that make enforcement of them inconsistent. The County should look at adopting a set of design guidelines that the Planning Section can use to help interpret the WRG guidelines. This will allow for consistency in interpretation of the existing guidelines. These guidelines should specifically address the guidelines on lighting, landscaping and architectural design. The Citizens' Advisory Committee was very concerned about maintaining the character of the area of the channel and avoiding urban type marinas and moorages in the area.

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

**Finding:** Rocky Pointe Marina has submitted a conditional use and greenway request that will test its proposal against these criteria.

**RURAL AREA PLAN POLICY 17:** Multnomah County should promote responsible recreational uses in the channel by allowing public access or boat launches to occur as part of any redevelopment or development of public recreation facilities.

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

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

- (1) 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 under this subsection. The existence of home occupations shall not be used as justification for a zone change.

**Finding:** No mistakes were made. Proposed expansion is consistent with all of Multnomah County's Comprehensive Plan.

#### Multnomah County Comprehensive Plan

**Comprehensive Plan Policy 2 (off-site impacts):** The county's policy is to apply conditions to its approval of land use actions where it is necessary to:

- A. Protect the public from the potentially deleterious effects of the proposed use; or
- B. Fulfill the need for public service demands created by the proposed use.

**Finding:** The marina is fenced and self-contained. A rail road line and highway exists to the west before any other uses are confronted. The area on the north is fenced and separated by natural areas from other uses. The area to the east is the slough. The marina has strict regulations and is regularly inspected to ensure that nothing unnatural is discharged to the water. The regulation requires all sewage discharge at the Marina to be put into the sewer treatment system.

**Comprehensive Plan Policy 10 (MUA-20):** The purpose of the Multiple Use Area Classification is to conserve those lands agricultural in character which have been heavily impacted by non-farm uses are not predominantly Agricultural Land as defined in Statewide Planning Goal 3. This conservation is necessary to protect adjacent exclusive farm uses and in some cases, the fragile nature of the lands themselves. These lands are conserved for diversified agricultural uses and other uses such as outdoor recreation, open space, residential development, and forestry when these uses are shown to be compatible with the natural resource base, character of the area, and to other applicable policies.

**Finding:** The marina's activities are directed riverward and do not impact farm activities. The rocky banks are not conducive to farming. A highway and railroad separate the marina from farming activities upland. An adjacent marina exists at either end.

**Comprehensive Plan Policy 13 (Air, Water, Noise):** Multnomah County, recognizing that the health, safety, welfare, and quality of life of its citizens may be adversely affected by air, water and noise pollution, supports efforts to improve air and water quality and to reduce noise levels. Therefore, if a land use proposal is a noise sensitive use and is located in a noise impacted area, or if the proposed

use is a noise generator, the following shall be incorporated into the site plan:

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

**Finding:** The marina has strict operating policies and is regularly inspected to ensure that there are no impacts to air and water. The houseboat population values and enforces quiet.

**Comprehensive Plan Policy 14 (Development Limitations):** The County's policy is to direct development and land form alterations away from areas with development limitations except upon showing that design and construction techniques can mitigate any public harm or associated public cost and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:

a- slopes exceeding 20%

b- Severe soil erosion

c -land within the 100 year flood plain

d- A high seasonal water table within 0-24 inches of the surface for 3 or more weeks per year

e- A fragipan less than 30 inches

F-land subject to slumping, earth slides or movement.

**Finding:** The proposed project is primarily water based. Landward development includes paving of parking areas and flow through work structures and water proof utilities.

**Comprehensive Plan 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.

**Finding:** The majority of the property remains in natural condition. The bank is protected and impacted in relatively few locations; essentially only where the gangways and boat ramps are. A biological assessment reviewed the natural situation, assessed impacts, and dictated specific practices. The project requires permission from the Army Corp of Engineers and Department of Fish and Wildlife and the federal; level and the Oregon State Department of State Lands.

**Comprehensive Plan Policy 16-A: Open Space:** It is the County's policy to conserve open space resources and protect open spaces from incompatible and conflicting land uses.

**Finding:** The property is not designated open space nor is it near property designated open space.

**Comprehensive Plan Policy 16-B: Mineral And Aggregate Resources:** It is the County's policy to protect and ensure appropriate use of mineral and aggregate resources of the County, and minimize conflict between surface mining activities and surrounding land uses.

**Finding:** The property can not be mined due to the proximity to the Multnomah Channel. The site is separated from any possible mining area by Highway 30 and the railroad line.

**Comprehensive Plan Policy 16-C: Energy Sources:** It is the County's policy to protect sites required for generation of energy.

**Finding:** The property is not on or near a viable source of regional energy.

**Comprehensive Plan Policy 16-D: Fish And Wildlife Habitat:** It is the County's policy to protect significant fish and wildlife habitat, and to specifically limit conflicting uses within natural ecosystems within the rural portions of the County and sensitive big game winter habitat areas.

**Comprehensive Plan Policy 16-D: Natural Areas:** It is the County's policy to protect natural areas from incompatible development and to specifically limit those uses which would irreparably damage the natural area values of the site.

**Finding:** The site has been developed as a marina and related water dependant activities since the 1930's. The development minimizes impacts on the natural surroundings. The majority of development is on the water and upland from the bank. The banks are virtually untouched except for gangways and boat ramps.

**Comprehensive Plan Policy 16-F: Scenic Views And Sites:** It is the County's policy to conserve scenic resources and protect their aesthetic appearance for the enjoyment of future generations.

**Finding:** The site is not on or near scenic resources. Views of mountains are maintained from the parking area and views from water witness the marina. The marina's views are of a natural bank and the mountains.

**Comprehensive Plan Policy 16-G: Water Resources And Wetlands:** It is the County's policy to protect and, where appropriate, designate as areas of significant environmental concern, those water areas, streams, wetlands, watersheds, and groundwater resources having special public value in terms of the following:

- A. Economic value;
- B. Recreation value;
- C. Educational research value (ecologically and scientifically significant lands);
- D. Public safety, (municipal water supply watersheds, water quality, flood water storage areas, vegetation necessary to stabilize river banks and slopes);
- E. Natural area value, (areas valued for their fragile character as habitats for plant, animal or aquatic life, or having endangered plant or animal species).

**Protected Waterways**

**Multnomah Channel (reach outside Portland)**

**Finding:** The discharge of waste, sewer, and other containments is strictly prohibited. The marina has containment equipment readily available. A biological assessment reviewed the natural situation, assessed impacts, and dictated specific procedures. The project requires permission from the Army Corp of Engineers, Department of Fish and Wildlife and the Oregon State Department of State Lands.

**Comprehensive Plan Policy 16-I: Historic Resources:** It is the County's policy to recognize significant historic resources, and to apply appropriate historic preservation measures to all designated historic sites.

**Finding:** The site is not on or near historic resources.

**Comprehensive Plan Policy 16-J: Cultural Areas:** It is the County's policy to protect cultural areas and archeological resources, and to prevent conflicting uses from disrupting the scientific value of known sites.

**Finding:** A cultural inventory was conducted and representatives from the affected Native American tribe were contacted and interviewed. No historic or prehistoric cultural were found.

**Comprehensive Plan Policy 16-K: Recreation Trails** It is the County's policy to recognize the following trails as potential state recreation trails:

- Columbia Gorge Trail
- Sandy River Trail
- Portland to the Coast Trail
- Northwest Oregon Loop Bicycle Route

**Finding:** The site is not on or near a potential state recreation trail.

**Comprehensive Plan Policy 16-L: Wild And Scenic Waterways:** It is the County's policy to protect all state or federal designated scenic waterways from incompatible development and to prevent the establishment of conflicting uses within scenic waterways.

**Finding:** The site is not on or near a state or federal designated scenic waterway.

**Comprehensive Plan Policy 20 (Arrangement of Lands)** The County's policy is to support higher densities and mixed land uses within the framework of scale, location and design standards which:

1. Assure a complementary blend of uses:
2. Reinforce community identity:
3. Create a sense of pride and belonging: and
4. Maintain or create neighborhood long term stability.

**Finding:** The expansion by adding more houseboats will create much higher density within the same footprint of land and will utilize all existing services. Additional homeowners within the moorage will allow for more social interaction.

**Comprehensive Plan Policy 21 (Housing Choice):** The County's policy is to support and assist in the provision of an adequate number of housing units at price ranges and rent levels affordable to the region's households and to allow for variety in housing location, type and density, the County will:

- A. Encourage the provision of housing affordable to residents of all incomes.
- B. Support the provision of housing for the elderly, including low maintenance, small units within existing communities.
- C. Support the provision of housing in sizes and styles which suit the needs of smaller households including single adults and couples without children.
- D. Encourage more efficient utilization of housing in communities to eliminate over-housing of the elderly and under-housing of large families.
- E. Maintain a non-exclusionary housing policy.
- F. Re-evaluate its regulations and, where possible, streamline or eliminate requirements to reduce development costs.
- G. Take a direct role in conserving the existing housing stock.

- H. Accommodate innovative housing construction techniques which decrease development costs.
- I. Cooperate with the private sector to expand the supply of housing which is affordable to low and moderate income residents.

**Finding:** The marina expansion provides a special and unique form of housing to the County allowing people to live on the water.

**Comprehensive Plan Policy 24 (Housing Location)** The County's policy is to accommodate the location of a broad range of housing types in accordance with the applicable policies in this plan and the locational criteria applicable to project scale and standards.

**Finding:** The marina provides houseboat spaces which are an affordable type of housing and adds to the diversity of the County's housing stock.

**Comprehensive Plan Policy 26 (Houseboats)** The County, in order to provide a broad range of housing opportunities for its citizens, recognizes houseboats as a housing option. Therefore, it is the County's policy to provide for the location of houseboats in a manner which accords with the applicable policies in this plan, including Policies 2 (Off-Site Effects), 13(Air, Water, Noise, 15 Significant Environmental Concern), 16 (Natural Resource), 21 (Housing Choice), 24( Housing Location), And 38 (Facilities), any other applicable federal, state or local policies that regulate waterway area development.

The following criteria for locating or expanding a houseboat moorage:

- 1. Encourage the provision of housing affordable to residents of all incomes
- 2. Support the provision of housing for the elderly, including low maintenance, small units within existing communities.
- 3. Support the provision of housing in sizes which suit the needs of smaller households including single adults and couples without children.
- 4. Encourage more efficient utilization of housing communities to eliminate over-housing of the elderly and under-housing of large families.
- 5. Maintain a non-exclusionary housing policy
- 6. Re-evaluate its regulations and, where possible, streamline or eliminate requirements to reduce development costs.
- 7. Take a direct role in conserving the existing housing stock.
- 8. Accommodate innovative housing construction techniques which decrease development costs.
- 9. Cooperate with the private sector to expand the supply of housing which is affordable to low and moderate income residents. The following areas are designated as suitable for houseboats;

B- From Rocky Pointe Moorage, or from an area 1650 feet north of the southern boundary of Section 36, T3N, R2W, known as Rocky Pointe, north to the Columbia County line.

**Finding:** The marina expansion is located at Rocky Pointe Marina in an area designated by the County as suitable for houseboats. The mean low water line exceeds five feet; the area is an existing moorage area without siltation problems; protected from all adverse environmental impacts; with ample land for parking and boat repair; the marina is on a rocky bank opposite Sauvie Island dike; with no unique ecological values; and all commercial forest and farm activities are separated from the marina by a state highway and railroad line.

The housing provided at Rocky Pointe is modest and affordable and all ages are welcome to buy a houseboat. A variety of sizes are provided with the opportunity for custom built homes.



**Comprehensive Plan Policy 32 (Capital Improvements)**

**Finding:** The site is fully served by utilities and streets.

**Comprehensive Plan Policy 34 (Trafficways):** The purpose of this Policy is to direct the County to develop the existing trafficway system to maximize efficiency, and to consider the mobility of pedestrians by providing safe crossings.

**Finding:** The site is served by a paved road over a secured gated railroad crossing to a state highway. A conditional use permit is required to further develop the marina. Impact on traffic will be assessed at that time.

**Comprehensive Plan Policy 36 (Transportation System Development)**

**Finding:** The site is served by a paved road over a secured gated railroad crossing to a state highway. No new roads are required.

**Comprehensive Plan Policy 37 (Utilities)**

**Water and Disposal Systems**

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

**Finding:** Rocky Pointe Marina existing water and sewage facilities are adequate for the increased volume from 36 floating homes. Rocky Pointe has applied to DEQ for permission to increase volume. The existing equipment is sufficiently sized. The artesian well is a deep well and provides adequate volume.

**Drainage**

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

**Finding:** Storm water from the site is directed toward grassy shoulders along the paved areas and toward swales for treatment. A large constructed lake receives portions of the site water, the remaining water is filtered along the riverbank in the existing vegetation. In general, the water is not concentrated in pipes. Due to the sites linear characteristics, contaminants are not concentrated and do not adversely affect water quality.

**Energy and Communications**

- (h) There shall be an adequate energy supply to handle the needs of the proposal and the development level projected by the plan; and
- (i) Communication facilities are available

**Finding:** Existing utilities are in place and are underground. New electrical service for the new moorage may be overhead.

**Comprehensive Plan Policy 38 (Facilities)** It is the County's Policy to coordinate and encourage involvement of applicable agencies and jurisdiction in the land use process to ensure:

**Public Service Provider Comments**

Transportation (ODOT)

Sewer (DEQ)

Water,

Fire

Police

Schools

**Finding:** As a part of the conditional use requirements; Rocky Pointe acquired service comment letters of no objection from affected public service providers. Rocky Pointe marina shall comply with any conditions imposed by Multnomah County Transportation or ODOT as a result of the conditional use.

**CONCLUSION FOR MULTNOMAH COUNTY COMPREHENSIVE PLAN AND RURAL AREA POLICIES AND CODE COMPLIANCE:**

Multnomah County's acknowledged Comprehensive Plan specifically identifies the Rocky Pointe location as where marinas are intended to go. The plan actually specifies Rocky Pointe marina. The development does not adversely impact farm or forest uses, nor would it impact other surrounding uses. The Marina's existence predates the Comprehensive Plan. The conditional use process ensures that new development is consistent with current regulations and the process reexamines all existing development for compliance.

## 7. FINDINGS FOR ZONING AND RULE COMPLIANCE

### Planning and Zoning for Exception Areas (OAR 66-004-0018)

(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

**Finding:** The applicant is proposing physically developed and irrevocably committed exceptions to Goal 11 and 14 that is intended to recognize existing marina development and sewer system.

(2) For "physically developed" and "irrevocably committed" exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those:

(a) That are the same as the existing land uses on the exception site;

(b) That meet the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-004-0028; and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;

(c) For which the uses, density, and public facilities and services are consistent with OAR 660-022-0030, "Planning and Zoning of Unincorporated Communities", if applicable, or

(d) That are industrial development uses, and accessory uses subordinate to the industrial development, in buildings of any size and type, provided the exception area was planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

**Finding:** The zoning limits the uses, density and public facilities on the subject property and marina to those that are the same as the existing land uses on the exception site/marina pursuant to OAR 660-004-0018(2)(a).

(3) Uses, density, and public facilities and services not meeting section (2) of this rule may be approved only under provisions for a reasons exception as outlined in section (4) of the rule and OAR 660-004-0020 through 660-004-0022.

**Finding:** This rule is not applicable because the uses, density and public facilities and services meet section (2) of this rule.

(4) "Reasons" Exceptions:

(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;

OREGON STATE GOAL EXCEPTIONS  
ROCKY POINTE MARINA  
23586 NW St Helens Road

Amended September 28, 2008

(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required;

(c) When a local government includes land within an unincorporated community for which an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, which ever is more stringent.

**Findings:** No "reasons" exception is being proposed, and therefore, this rule is not applicable.

**Multnomah County Code 37.0705- Type IV Quasi-judicial Plan and Zone Changes**

(B) Quasi-judicial Plan review Revision. The burden of proof is upon the person initiating a quasi-judicial plan revision. That burden shall be to persuade that the following standards are met:

1) The plan revision is consistent with the standards of OARS 197.732 if a goal exception is required, including any OAR's adopted pursuant to these statutes;

**Finding:** The applicant has applied for two state goal exceptions through Multnomah County.

2) 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:

**Finding:** The proposed houseboat expansion is a residential use.

And

3) The uses allowed by the proposed changes will:  
(a) Not destabilize the land use pattern in the vicinity;

**Finding:** The surrounding land uses are very stable with marinas upstream and downstream; and a railroad and state highway between the marina and upland properties that grade steeply up into heavily forested mountains. The proposed expansion is an in-fill on the water lease. Additional land will not be disturbed.

(b) Not conflict with existing or planed uses on adjacent lands;

**Finding:** The marina is isolated from any properties where there could be a conflict.

(b) That necessary public services are or will be available to serve allowed uses.

**Finding:** All utilities are currently in place

(3) 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 under this subsection.

**Finding:** There are no errors or mistakes in planning. Multnomah County has clearly identified Rocky Pointe Marina in an area for floating homes as outlined in both the Sauvie Island Plan and the Multnomah County Comprehensive Plan Policy 26 which is part of the county's adopted and acknowledged comprehensive plan.

(C) Quasi-Judicial Zone Change. The burden of proof is upon the person initiating a zone change request. That burden shall be to persuade that:

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

**Finding:** The public benefits from a diversity of housing types; stewardship of the river; river access; and the provision of an efficient waste treatment system.

(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;

**Finding:** The site is committed to the proposed use for over fifty years. The exception is to allow additional houseboats and continued improvements to the existing sewer system. The area is developed as a marina and the location is designated by Multnomah County's Comprehensive Plan as appropriate for houseboats. The only location available for this type of exception is along the waterfront. This location is one of the few, if not the only, location where an expansion can occur between two existing marinas in an area that has been developed with docks in the past.

(3) The proposed action fully accords with the applicable elements of the Comprehensive Plan;

**Finding:** The applicant submitted findings in support of each applicable element of Multnomah County's Comprehensive Plan.

### **CONCLUSION FOR ZONING AND RULE COMPLIANCE:**

The conditional use and greenway review process ensures that the proposed development complies with the zoning; or the development will not be allowed.

### **OVERALL SUMMARY:**

The marina has existed at this site for almost fifty years. Multnomah County's Comprehensive Plan acknowledges that this area is appropriate for Marinas. The proposed development is infill development between an existing marina upstream and Rocky Pointe Marina. The sewer system is permitted and monitored by the DEQ. The sewer system protects the river's ecology from human waste and provides a practical and environmentally sound method to retrieve and process the waste. The conditional use process, design review, and greenway review ensured that all proposed and existing development complies with Multnomah County's rules and regulations.

RECEIVED

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MULTNOMAH COUNTY  
PLANNING SECTION

March 4, 2009

**Memorandum**

**TO:** Multnomah County  
**FROM:** Peter F. Fry & Stan Tonneson  
**RE:** Rocky Pointe – Houseboats

**DENSITY**

1. The property will be rezoned and therefore the 50 foot per houseboat need not apply.
2. **The Sauvie Island/Multnomah Channel Rural Area Plan Policy 15 is used to evaluate potential impacts of a Special Plan Area.**

**Traffic impact on railroad crossings and onto Highway 30:**

There will not be an increase in traffic as our plan is to eliminate the live-aboard population in the marina which will have a 35% net reduction in the residential population after factoring in the new homes. Live aboards are allowed by right. The prohibition of live aboards acts as mitigation.

**Parking impact:**

The previous approval created a pool of parking that provides more than enough parking for houseboats. As a result of this process, these existing approved parking will be specific marked and dedicated to the houseboats. Additional parking will be developed for the moorages. The result will be more than sufficient parking for the proposal. The original decision limited parking as the natural resources were poorly delineated. The applicant has hired professional experts who have accurately delineated the site and gained the concurrence of the Army Corp of Engineers and Oregon Division of state Lands as to the location of the resources. No development is proposed in resources areas.

**Maintain the rural character of the channel:**

All development proposed is infill in existing disturbed areas. The channel across the river remains natural and the banks are not disturbed by the proposed development. The houseboats exhibit a maritime presentation not an urban appearance.

**Contribution to public recreation opportunities along the channel:**

A community meeting room is proposed to be included as part of the expansion. This

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space would be for floating home tenant's gatherings as well as marine community meetings for groups like the Power Squadron who teach water safety classes, ABYC American Boat and Yacht Council; (who teach marine electrical safety) and many other similar groups. Currently there are no facilities on Multnomah Channel for group meetings such as this.

**Public need:**

**The public needs issue comes from the county's zone change approval standard - MCC 37.0705 (B)(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." Comprehensive plan policy 26 (Houseboats) clarifies that houseboats are a housing choice and should not be considered in a housing needs analysis.**

The Portland area is expected to increase substantially in the next 10 years. Floating Homes have always been a favorable option for water living and recent demands have forced old floating homes to be torn down and replaced as few, if any new floating spaces have been allowed. There are currently 1400 floating homes in Oregon which about 90% of those in the greater Metro area. Just in our marina, we have had 2 complete tear downs of old homes. There is currently only 1 area in the Metro Area that has floating spaces available. This is on Marine Drive near Troutdale. It is a windy area and the water is shallow. Rocky Pointe Marina is located within 2 miles of the growing Community of Scappoose and is an easy commute to Downtown Portland or over the hill to Beaverton. The new I-5 Bridge will displace or disturb as many as 100 floating homes and there will be a new demand created from this event.

**3. In regards to the issue of not increasing density.**

Without using the Special Plan Area (SPA), 23 additional homes are allowed utilizing the 1 home for each 50 feet of frontage. We have 3150 linear frontage equating to 63 homes. We currently have 40 floating homes. The purchase of adjoining property in 2001 has prompted an expansion. The 23 homes would be placed in this area, thus filling in the hole between Rocky Pointe Marina and Happy Rock Marina. This area has in the past been utilized as a single family houseboat moorage but has been vacated leaving 6 old wood piling which are broken and rotting. There is a river frontage private access road to Happy Rock Marina that attracts trespassers to the rivers edge to camp, fish with campfires. This is a safety and security hazard for both marinas. Completing the flow of marina docks between Happy Rock and Rocky Pointe will provide much greater security and safety while providing a visually complete Channel setting.

The additional 13 floating home spaces requested utilizing the SPA in all reality, are in fills into the existing marina. There are 13 spaces scattered throughout the marina on the riverside that currently occupy 26 boat slips of which 16 are being eliminated and the

other 10 relocated in our proposal.

By allowing these in-fills the safety of the existing floating homes will be greatly increased by creating additional spacing between homes to meet or exceed Title 28 fire code of 10 ft distance wall to wall between houses. Current code is six feet for existing homes.

The electrical service that is currently provided to the existing floating homes via floating transformers are proposed to have safety upgrades. These major safety upgrades can only be practically done and justified with this in-fill project. Additionally, floating homes will have less invasion of their privacy. When a boat is moored next to a house, the weekend boater next to them is literally inches of the living room.

The visual look and layout of the marina will not change much at all. All floating homes entering into our marina must meet Title 28 building code thus creating a visual appearance of well kept homes along the Multnomah Channel.

- A.** The actual density is not changed as the room has become larger. More spacing between floating homes is being provided and there is no stacking of homes on both sides of the dock, only on a single side
- B.** The live aboards will be removed. By reducing this population of over 100 people, the overall population of people, cars and boats will decrease by over 30%. It will reduce the traffic by the same amount.
- C.** Lineal dock length. The additional dock on the new property is consistent with the existing docks along the existing frontage. In fact, there are no access docks or ramps needed thus reducing the overall dockage per foot of land. Mooring spaces, be they boats or floating homes will be given more space, again reducing density

### **Houseboat Parking**

We do not agree with a requirement to create additional parking two feet above the 100 year flood plain for the new floating homes. We believe that we have enough previously approved parking spaces (166) that exceeds the requirement 76 homes at 2 spaces each (152). Should we add fill to create higher ground for parking, it would be an island difficult to access that would look peculiar). In a flood event, the standard practice for marinas is to move vehicles to the highest ground near the entrance or access road. There is plenty of time to prepare and move cars, usually several days, to get this done. If the land becomes flooded, tenants use their dinghies or small boats to shuttle to the shore near their cars and go to work or shopping at the store. If their car was on an island, they would not be able to move their vehicle, if the island is surrounded by water. If the water came

even higher, they would have no way to move their car to safety. Federal Emergency Management Agency (FEMA) does not require residential parking to be above the flood plain; only vehicle storage.

1. The parking approved was not tied to specific uses. The additional dock on the new property is consistent with the existing docks along the existing frontage. In fact, there are no access docks or ramps needed thus reducing the overall dockage per foot of land. Mooring spaces, be they boats or floating homes will be given more space , again reducing density
2. We are entitled to that parking and now wish to apply specific portions to be dedicated to Houseboat parking.
3. Required parking for the moorages will be developed to County code.

### **Precedence**

Our current State goal exception process is designed to be a template for future use by other marinas should they wish to add floating homes. Utilizing this path and creating a Special Plan Area could be done by other marinas.

It is our understanding that funding has been provided to Multnomah County to address the 1 home per parcel issue in the near future. When this happens, there will be no need for anyone to go through the goal exception process. Multnomah County may want to consider defining limits within the proposed new zoning created from our SPA request, i.e. the MUA-20M (m for marina) that limits the maximum housing to 1 per 40 feet. This is a realistic number as the standard floating home is 30 feet wide and current fire code adds 10 feet for spacing. By so doing, Multnomah County is allowing a modest higher density and putting a limit. It also creates an opportunity to define floating home sizes since there are currently no minimum or maximum sizes. It could allow for other opportunities to clarify floating home structure styles. The Oregon State Marina Board will issue a floating home permit for a derelict boat or even a trailer sitting on a barge. The changes would help preclude the inappropriate of unsafe habitation of marginal floating structures.

## 4.0 PROCESS DESCRIPTION - COMPONENTS

### 4.1 General Description of Plant Types

Wastewater (sewage) is normally a turbid liquid comprised of a community fouled water supply. Such fouled water contains about 0.1 percent solids by weight; both organic and inorganic, various bacteria, microscopic and macroscopic organisms and viruses. Inorganic, or "untreatable", solids are usually present in minute quantities and are of little concern in the treatment process.

An aerobic treatment process is a system in which bacteria, through biochemical reduction, change the organic matter to a relatively stable inert residue. The bacteria grown and maintained in the treatment plant are the same harmless, aerobic (able to live and grow only where free oxygen is present) type provided by nature in streams, in lakes and in soil to destroy dead plants and animals. In order to accelerate the biological destruction in a treatment plant, an ideal environment is provided for the concentrated growth of these bacteria.

When the solids mentioned in the preceding section are agitated in the presence of free oxygen they form nuclei on which biological life can build until a mass, called activated sludge, is formed. Activated sludge is a brownish floc-like substance which has the ability, due to the living organisms contained in it, to adsorb colloidal and dissolved organic matter.

The accumulation of this floc is a slow process, and the amount produced from any volume of sewage during a normal treatment period is not adequate for the rapid treatment of the sewage. Large concentrations of activated sludge are built up by collecting the sludge from each treatment cycle and re-using it to treat subsequent sewage flows. Eventually this "returned sludge" will accumulate to the point where some will have to be removed from the process. This excess activated sludge will be returned from the collection point or "clarifier" to the disposal point or "digester".

MULTNOMAH COUNTY  
PLANNING SECTION

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exhibit 2

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**COMPARTMENT SIZES:**

Aeration Compartment, 1,119 cubic feet, or 8,371 gallons capacity which equals 20 hours detention time at average daily flow.

Secondary Clarifier, 379 cubic feet, or 2,835 gallons capacity which equals 6.8 hours detention time at average flow. Effective weir length 8 feet. Weir overflow rate 1,250 gallons per linear foot of weir length per day. Surface area 64 square feet. Surface settling rate 156 gallon per square foot.

Digester Compartment, 210 cubic feet, or 1,571 gallons capacity based on 1,496 cubic feet per 100 gallons of daily flow.

Chlorine Contact Compartment, 50 cubic feet, or 374 gallons capacity which equals 54 minutes detention time at average daily flow.

**AIR DIFFUSION SYSTEM:**

The air for operation of the plant shall travel through an air distribution manifold of steel pipe with diffuser drop pipe assemblies connected to the manifold.

The drop pipe assemblies are supplied with an air regulating valve and union for ease of removal.

A sufficient quantity of diffusers are furnished to assure that an adequate supply of oxygen and a proper roll pattern will be maintained in the aeration and aerobic digester compartments.

**ELECTRIC CONTROLS:**

All control circuits to operate on 120 volt power.

All components will be controlled as required.

No conduit or wiring to be supplied by Davco

**ADDITIONAL EQUIPMENT FURNISHED:**

**Influent Equipment:**

Inlet bar screen

**Chlorination Equipment:**

Tablet type chlorinator

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**DESIGN DATA  
FACTORY BUILT TREATMENT PLANT**

**DESIGN PARAMETER:**

- A. Total daily flow = 10,000 GPD.
- B.  $Q = \text{flow in gallons per minute} = \frac{\text{GPD}}{1440} = 7.0 \text{ GPM.}$
- C. Maximum flow rate =  $2.5 \times Q = 17.0 \text{ GPM.}$
- D. Runoff period is the number of hours each day in which that day's flow is received = 24 hours.
- E. Total 5 day BOD per day = 16 pounds.
- G. Air requirements

Air requirements are based on 2,000 cubic feet per day per pound of 5 day BOD.

Aeration Compartment	22 CFM
Aerobic Digester	6 CFM
Air Lift Eductor(s)	12 CFM
Total	40 CFM at 5 PSI

H. Plant Profile

Buried  Above Ground

**GENERAL DESCRIPTION:**

The plant is composed of the following compartments and equipment:

1. Aeration and aerobic digestion zones with non-clog air diffusers.
2. Secondary clarifier with sludge and scum removal unit.
3. Chlorine contact compartment.
4. Duplex rotary blowers.
5. Central electric control panel.
6. Inlet bar screen.
7. Access ladder
8. Access walkway

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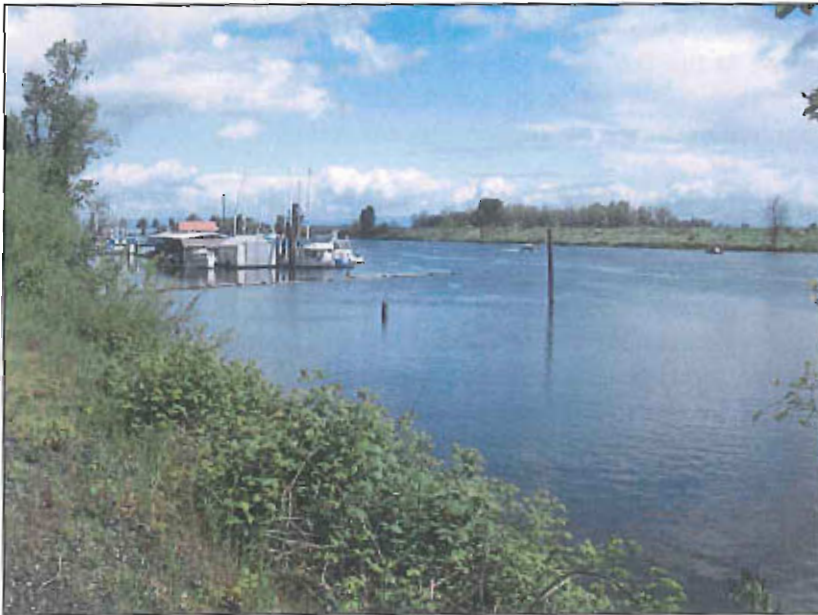
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MULTNOMAH COUNTY  
PLANNING SECTION

**BIOLOGICAL ASSESSMENT**

**ROCKY POINTE MARINA EXPANSION  
MULTNOMAH CHANNEL  
MULTNOMAH COUNTY, OREGON**

**ADDRESSING POTENTIAL IMPACTS ON FEDERALLY LISTED FISH, WILDLIFE,  
PLANTS AND THEIR HABITATS**



*Prepared for:*  
Rocky Pointe Marina Portland,  
LLC  
23586 N.W. St. Helens Hwy.  
Portland, OR 97231

*On behalf of:*  
U.S. Army Corps of Engineers

*For submittal to:*  
National Marine Fisheries  
Service

*And:*  
U.S. Fish and Wildlife Service

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January 12, 2009

EXHIBIT  
23

## EXECUTIVE SUMMARY

This Biological Assessment (BA) was prepared in accordance with Section 7(c) of the Endangered Species Act (ESA) to address the potential effects of the proposed Rocky Pointe Marina Expansion Project on federally listed fish, wildlife, and plant species and their habitats. Rocky Pointe Marina Portland, LLC is seeking a Section 10/404(b) removal/fill permit from the U.S. Army Corps of Engineers (Corps) and Oregon Department of State Lands (DSL) to upgrade and expand their existing moorage facility on the Multnomah Channel, near Scappoose, Oregon. The proposed project would add 36 houseboat moorages designed to accommodate modern floating homes. Sixteen boat slips would be decommissioned in order to accommodate the new houseboat moorages and 30 boat slips would be relocated to the proposed expansion area at the downstream end of the marina. The Project would include the removal of up to six wood piling (including one that is creosote treated) and the installation of up to 51 hollow, steel piling. This document serves, in part, as consultation with National Marine Fisheries Service (NMFS). Conservation measures are identified in the BA to avoid and minimize adverse effects of the proposed action. Also included in this document is an assessment of the Project effects on Essential Fish Habitat (EFH) as required under the Magnuson-Stevens Act (MSA).

In assessing the potential effects of the proposed Project on listed fish, wildlife, and plant species and their habitats, the environmental baseline was documented, the proposed actions were evaluated to assess the effect on the environmental baseline, and the results of these evaluations were used to arrive at a determination of effect. Emphasis in the effects analysis was placed on short-term and localized sediment disturbance, water quality effects, benthic invertebrate loss/disturbance, acoustic disturbance, and shading effects associated with piling and dock installation at the Project site. Indirect, interrelated, interdependent and cumulative effects of the various Project components were also considered.

Based on the analysis of effects and consideration of conservation measures that would be implemented to avoid and reduce effects, we determined the following:

### **Fish Species -**

The listed fish species that may occur in the vicinity of the proposed Project site include eight Evolutionarily Significant Units (ESUs) and five Distinct Population Segments (DPSs) of anadromous salmonids.

Incidental "take" (i.e. harm or harassment) of juvenile or adult listed salmonids during the proposed Project is unlikely to occur, but cannot be entirely discounted. This risk will be minimized through prudent implementation of appropriate conservation measures. By scheduling any in-water work during the preferred Oregon Department of Fish and Wildlife (ODFW) in-water work periods for Multnomah Channel (July 1 to October 31), potential impacts to juvenile salmonids will be minimized through the avoidance of vulnerable life stages and peak migration periods (ODFW 2000). The proposed Project is not expected to significantly detain or adversely affect adult salmonids that migrate upstream through the Multnomah Channel.

Potential short-term and localized adverse effects on listed fish species may include: behavioral changes associated with short-term and localized increases in turbidity and resuspension of sediment contaminants, temporary acoustic disturbances, and short-term reductions in benthic invertebrate production. The installation of piling, floating docks, and houseboat moorages would increase shading in the Multnomah Channel; these over-water and in-water structures could provide preferred habitat for salmonid predators, and therefore result in increased predation of juvenile salmonids. Shading may also cause a small reduction in aquatic vegetation (i.e. benthic algae and phytoplankton) at the Project site. The installation of piling is not expected to significantly reduce the abundance of benthic food organisms within the Project action area. No maintenance dredging is proposed as part of this Project. The Project site does not experience excessive sediment accumulation and it is not likely that maintenance dredging would be required in the future to maintain navigable depths within the expanded marina.

After evaluating the potential effects and available scientific and commercial data, we conclude that the proposed Project is *"likely to adversely affect"* the following three ESUs and two DPSs of federally listed salmonids that are likely to occur in the vicinity of the proposed action:

- Lower Columbia River Coho Salmon (*Oncorhynchus kisutch*)
- Lower Columbia River Chinook Salmon (*Oncorhynchus tshawytscha*)
- Upper Willamette River Chinook Salmon (*Oncorhynchus tshawytscha*)
- Lower Columbia River Steelhead Trout (*Oncorhynchus mykiss*)
- Upper Willamette River Steelhead Trout (*Oncorhynchus mykiss*)

This determination is primarily based on: (1) localized, short-term (hours to days) acoustic disturbances caused by pile driving that may result in sublethal effects to individual salmonids; (2) temporary disturbances (hours to weeks) to water quality and benthic food organisms that would occur during dock and piling installation in the Multnomah Channel; and (3) long-term shading effects caused by over-water and in-water structures that could result in increased salmonid predation and a reduction in primary productivity. The Project site is not considered a source of sediment contamination. The proposed construction activities are not expected to significantly increase the bioavailability of contaminants to salmonids or their prey base.

Usage of the Multnomah Channel by the remaining eight listed salmonids would be so rare an event that the likelihood of adverse effects would be negligible. Therefore, we conclude that the determination of *"may affect, not likely to adversely affect"* is appropriate for the following eight ESUs/DPSs of federally listed salmonids:

- Columbia River Chum Salmon (*Oncorhynchus keta*)
- Snake River Sockeye Salmon (*Oncorhynchus nerka*)
- Upper Columbia River Steelhead Trout (*Oncorhynchus mykiss*)
- Upper Columbia River Spring Chinook Salmon (*Oncorhynchus tshawytscha*)
- Middle Columbia River Steelhead Trout (*Oncorhynchus mykiss*)
- Snake River Spring/Summer Chinook Salmon (*Oncorhynchus tshawytscha*)
- Snake River Fall Chinook Salmon (*Oncorhynchus tshawytscha*)
- Snake River Basin Steelhead Trout (*Oncorhynchus mykiss*)



The potential short-term impacts on water quality and benthic forage are expected to be minimal. No significant long-term adverse impacts (months to years) to listed salmonids are anticipated. The removal of creosote-treated wood piling is expected to improve habitat for listed fish species in the Multnomah Channel. No significant indirect, cumulative, interrelated or interdependent effects associated with the proposed Project have been identified.

NMFS has recently established new critical habitat designations for many salmon and steelhead populations on the West Coast (70 FR 52630). Four of the 13 salmonid populations that may occur in Multnomah Channel have designated critical habitat within the Project action area. NMFS is in the process of developing new critical habitat for the Lower Columbia River Coho Salmon ESU. Based on a consideration of potential Project impacts, we conclude that the proposed action is “likely to adversely affect” designated critical habitat for the following four listed salmonids within the Project action area: Lower Columbia River chinook salmon, Upper Willamette River chinook salmon, Lower Columbia River steelhead trout, and Upper Willamette River steelhead trout. The effects of the proposed action will lower the value of water quality and forage in the action area over the short term, but will not destroy or adversely modify critical habitat over the long-term.

NMFS is also reviewing the regulatory definition of “destruction or adverse modification” for critical habitat (70 FR 52630). Under the current rule, the proposed Project would result in a “no destruction or adverse modification” of designated critical habitat for listed salmonids (*ibid*). Pending issuance of a new regulatory definition, NMFS is relying on the statutory standard, which relates critical habitat to conservation of the species (70 FR 52630). It is possible that NMFS may modify the critical habitat definition prior to implementation of the proposed Project.

#### **Wildlife and Plant Species –**

No listed plant and wildlife species are known to occur at the Project site. The proposed Project is expected to have “no effect” on listed plant or wildlife species or their habitat.

#### **Essential Fish Habitat -**

Based on consideration of the EFH requirements of the Coastal Pelagic Species (CPS) fishery, West Coast groundfish fishery, and the Pacific coast salmon fishery, the potential direct, indirect, and cumulative effects of the proposed Project actions are “likely to adversely affect” identified EFH for Pacific salmon and starry flounder in the short-term. The implementation of appropriate conservation measures would help minimize impacts to EFH for these species. No significant long-term effects to EFH are anticipated.

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## 1.0 INTRODUCTION

### 1.1 BACKGROUND

Rocky Pointe Marina has been in existence since the late 1920's. The majority of its facilities were constructed during the 1960's. The current owners, Rocky Pointe Marina Portland, LLC (RPM) provide houseboat, boathouse, boat slips and covered moorage for approximately 200 tenants. RPM is proposing to upgrade and expand the marina by reconfiguring existing facilities to provide 36 contemporary houseboat moorages, relocating 30 boatslips and eliminating 16 boatslips. The additional structures would be constructed using modern materials and techniques that have less impact to the environment, provide safer conditions for users, and provide for a more functional facility. As such, RPM is seeking a joint Section 10 removal/fill permit from the U.S. Army Corps of Engineers (Corps) and Oregon Department of State Lands (DSL) to conduct work below the ordinary high water elevation (OHWE) in navigable waters.

This Biological Assessment (BA) addresses the potential impacts of the proposed Project on listed fish, wildlife, and plant species and their habitats, in compliance with Section 7(c) of the Endangered Species Act (ESA) of 1973, as amended. Section 7 of the ESA assures that, through consultation (or conferencing for proposed species) with National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS), federal actions do not jeopardize the continued existence of any threatened, endangered, or proposed species, or result in the destruction or adverse modification of critical habitat.

The Multnomah Channel, within the Project action area, may provide rearing and migration habitat for eight Evolutionarily Significant Units (ESUs) and five Distinct Population Segments (DPSs) of listed anadromous salmonids. The yellow-billed cuckoo, a candidate species for federal listing, may also be present within the wildlife action area, though its presence has not been documented since 1977 (ORNHIC 2007). The Project action area may also support federal species of concern, including green sturgeon (*Acipenser medirostris*), Pacific lamprey (*Lampetra tridentata*), river lamprey (*Lampetra ayresi*) and Lower Columbia River coastal cutthroat trout (*Oncorhynchus clarki clarki*). Conservation measures and best management practices (BMPs) are provided in Section 8, and are expected to provide protections for a broad range of listed and non-listed species that occur within the Project action area.

The Magnuson-Stevens Act, which was reauthorized and amended in 1996, requires NMFS to recommend conservation and enhancement measures for any federal or state activity that may adversely affect Essential Fish Habitat (EFH). The Project action area provides EFH for coho and chinook salmon and starry flounder. A detailed discussion of EFH is provided in Section 11.

### 1.2 PROJECT LOCATION

The proposed Project is located on the west bank of the Multnomah Channel (RM 14.5), near Scappoose, Oregon. The geographical location is within Township 3 North, Range 2 West, Section 36 (Figure 1). The Multnomah Channel is a side channel of the Willamette River that

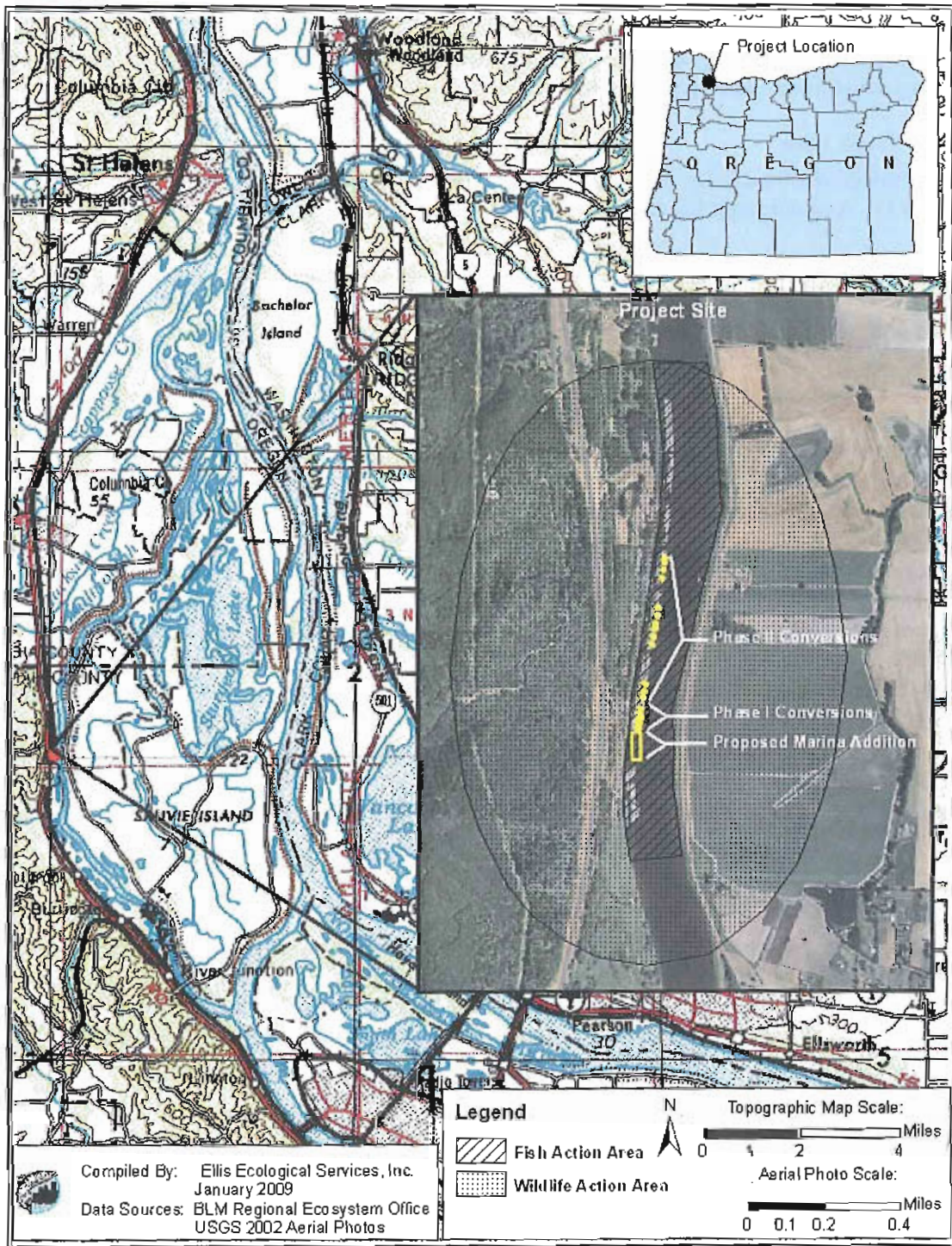


Figure 1. Location of proposed Project site and Project action areas.

connects downstream to the Columbia River (near RM 86.5) at St. Helens, Oregon. Sauvie Island lies between Multnomah Channel and the Columbia River. The Multnomah Channel supports fishing, kayaking, and other recreational activities. RPM provides moorage and marina services for residents and recreational boaters.

### 1.2.1 Project Site

The “Project site” includes the Multnomah Channel where the marina expansion is proposed (Figure 1). A photograph log of the Project site is provided in Appendix A.

### 1.2.2 Project Action Area

The “Project action area” is defined as “all areas affected directly or indirectly by the proposed action and not merely the immediate area involved in the action” (50 CFR § 402.02). “Indirect effects” are further defined, as “those that are caused by the proposed action and are later in time, but still are reasonably certain to occur” (*ibid*). For the purposes of this BA, it is assumed that the “action area” for fish species can be defined as the Multnomah Channel, approximately 0.5 miles downstream from the proposed Project site, to a point 0.25 miles upstream from the proposed Project site (Figure 1). The “action area” for fish species includes an area of approximately 117 acres. The boundaries of the action area, both upstream and downstream, were conservatively selected based on an estimated potential worst-case dispersion of turbidity and any associated contaminants during a single tidal cycle. It is expected that any turbidity increases would rapidly dissipate. The boundaries were also selected based on the potential range of acoustic effects on juvenile and adult salmonids from pile driving activities.

For wildlife species, the “action area” includes the Project site, plus the land and waterbodies within 0.5 miles of the Project site (Figure 1). The “action area” for wildlife species includes an area of approximately 847 acres. The size of the wildlife “action area” was determined to provide a worst-case estimate of the potential effects on wildlife species that could occur as a result of the proposed Project. Unless otherwise noted, the “Project action area” encompasses both the “fish action area” and “wildlife action area”.

## 1.3 PURPOSE AND NEED

The purpose of the proposed Project is to provide additional boat slips and houseboat moorage capacity to an existing facility at Rocky Pointe Marina. The existing moorage was constructed based on boat sizes common in the 1960's. Larger boat slips are needed to meet the current and future demand for larger recreational boats. Additionally, the demand for contemporary floating homes is very high and increased moorage space is needed to meet this need.

## 2.0 EVALUATION METHODS

Factors considered in evaluating potential effects of the proposed Project on listed species occurring within the Project action area included the species’ dependence on specific habitat components that may be altered by the proposed Project, the abundance and distribution of habitat, habitat components within the Project action area, distribution and population levels of listed species, the possibility of direct or indirect impact to listed species, the potential for impact to critical habitat, and the ability to compensate for any adverse effects identified. As applicable,



the methods outlined in “*Making Endangered Species Act Determinations of Effect for Individual or Grouped Actions at the Watershed Scale*” (NMFS 1996) and the “*Endangered Species Consultation Handbook*” (USFWS and NMFS 1998) were used as guides to analyze the potential Project effects on fish and wildlife resources at the Project site. The approach used in this BA consisted of determining the environmental baseline, discussing how the proposed Project would affect the environmental baseline, and then interpreting that information to arrive at a determination of effect.

### 3.0 PROJECT DESCRIPTION

RPM is proposing to expand their moorage capacity to accommodate 36 additional houseboat moorages. Sixteen boat slips currently in use will be decommissioned during the expansion, while 30 boat slips will be relocated to the new dock. No dredging would be conducted as part of the proposed Project. In-water work activities are scheduled to occur during the summer or early autumn 2009 and continue through 2010.

The proposed marina expansion Project has been redesigned to reduce impacts to listed fish species and their habitat by:

- Reducing the covered area by approximately 25,000 ft
- Reducing the length and width of dock ways by about 50%
- Moving the expansion area further off shore and largely out of shallow water habitat.

Project plan drawings are provided in Appendix B. The marina expansion Project would include converting existing boat slips to houseboat moorages and constructing 520 feet of dock at the upstream end of the property.

The first phase of the proposed **conversions**, depicted in Sheet No. 9 of Appendix B, would convert approximately 300 feet of existing boat slips to moorage for floating homes. There are currently 20 recreational boat slips, divided by 19 finger floats, on the riverside of the existing walkway. These boat slips would be relocated to the shore side of the proposed **new construction** immediately upstream. In their place, RPM proposes to create 8 houseboat moorages sized and equipped for contemporary floating homes. The moorage slots will measure between 30 ft to 50 ft wide by 55 ft deep and would have no floating dividers. The existing dock would be widened from 5 ft to 8 ft (6ft of wood decking and 2ft of grating for utility access). New construction would include a new floating dock to extend the existing facility 520ft upstream. A floating walk approximately 8 ft wide (6 ft solid wood decking and 2 ft grated), running roughly parallel to shore would accommodate 15 houseboat moorages on its riverside and 30 recreational boat slips relocated from the proposed conversions along its shore side. These are all existing single wide with 15ft x 40ft boat slips and 3ft fingers. The floating walk and anticipated houseboats would represent an increase in cover of approximately 28,500 square feet deepwater channel habitat (i.e >-20 ft CRD). While the majority of the expansion has been placed in deep water habitat some of the slips and their floating slip dividers do extend into shallow water habitat (i.e. < -20 ft CRD). Increase in permanent shading of shallow water habitat due to these 3.0ft wide finger floats has been limited to approximately 1,556 sq ft.

An emergency exit, as required by the Scappoose Fire Marshall, would be installed at the approximate midpoint of the completed expansion. An existing 4 ft by 75 ft metal ramp currently within the marina, would be refurbished, and relocated to the west bank opposite the new floating dock. No net increase in impacts to shallow water habitat is expected as a result of this relocation. The ramp will be anchored 12 ft above OHW using hinged bolts attached to a concrete abutment. A gated entrance fitted with a panic bar for emergency exit use only will prevent shore side access to the ramp. The ramp would extend perpendicular to the shore and terminate at a 6 ft by 16 ft floating dock. The floating dock would be anchored by one hollow steel or I-beam piling 50 ft from the shoreline. A fairway measuring 30 ft will separate the terminus floating dock and the shoreside end of the marina expansion. Emergency access to the escape ramp and dock will be provided via a metal ramp measuring 3 ft wide and 30 ft long installed on the dock extension opposite the shore based emergency exit. The retractable ramp would function as a floating bridge that, in case of emergency, would be deployed to bridge the 30-ft gap between the floating houseboat moorage and the emergency exit ramp leading to shore.

The docks and relocated finger floats would be composed of wood logs and pressure treated fir decking to match existing structures. Encapsulated foam floats would be installed to support the floating dock structures. The docks would be secured by up to 30, newly installed, hollow steel piling measuring 20-inches or smaller in diameter. Pile caps would be placed on top of the piling to help prevent roosting of piscivorous birds. Only four to five pilings will be driven in shallow water habitat. Up to six wooden piling would be removed to allow for RPM expansion including one possible creosote-treated piling. The removal of creosote-treated piling would reduce leaching of creosote in the Multnomah Channel and result in localized improvements in water quality.

The remodeled dock and the new construction would be contiguous. Pedestrian access to shore, as well as tenant access to electricity, sewer and water, would be provided by the existing gangway and utility infrastructure at the downstream end of the original boat slip dock.

The second phase of the proposed conversion consists of the gradual conversion of 26 existing boat slips to additional moorage for 13 houseboats. These additional conversions are not contiguous, but rather scattered along the downstream end of the moorage. They all occur in deep water habitat and would require no dredging or widening of decks. In-water work required to reconfigure the slips would be performed from a floating dereck barge. Approximately thirteen 20" pile would be vibrated into place to anchor the houseboat moorages.

No excavation would occur below the OHWE. Due to the location of the new construction, no significant impacts to the riverbank are anticipated. The contractor would likely use a small barge to place the floating docks. Installed piling would represent 150 cy of fill. Pile driving may be performed either from shore or from a barge. Conservation measures (Section 8.0) will be followed to reduce acoustic effects of pile driving on listed fish and wildlife species.

All in-water work associated with construction activities would occur during the preferred ODFW in-water work periods for the Multnomah Channel (*July 1 to October 31*). Construction activities would generally be conducted between the hours of 7:00 AM and 7:00 PM.



#### 4.0 ASSESSMENT METHODS

A search and review of the existing data related to fish and wildlife occurrence in the lower Willamette River and Multnomah Channel was conducted. Very little baseline information is available for the Multnomah Channel. However, the proposed marina expansion is located seven miles downriver from the lower Willamette River mainstem. It is expected that fish use and habitat conditions of the channel are similar to those of the lower Willamette River. As such, we have applied baseline data from the lower Willamette River to the proposed Project site, when appropriate. Fish abundance and habitat survey data were obtained from studies conducted by Ellis Ecological Services (EES) during 2001 and 2002 and Oregon Department of Fish and Wildlife (ODFW) from 2000 through 2003 in the lower Willamette River (EES 2003, ODFW 2002, 2003a, 2005). The NMFS website (<http://www.nwr.noaa.gov>) was reviewed to obtain a listing of anadromous salmonids known to occur within the Project action area. Existing fish species and environmental baseline information were obtained from the Oregon Department of Environmental Quality (DEQ), U.S. Geological Survey (USGS), ODFW and from past EES Projects in the lower Willamette River that have been updated to reflect current conditions and regulatory status.

A reconnaissance of the Project site was performed on May 4, 2007 by EES biologists. During the site visit, photographs were taken of key habitat elements, observations of habitat quality were recorded and existing conditions were evaluated. A photographic log of the Project site is provided in Appendix A. Information pertaining to threatened and endangered species that may occur within a two-mile radius of the proposed Project site was obtained from the Oregon Natural Heritage Information Center (ORNHIC) (ORNHIC 2007). The USFWS (2007) provided a list of threatened, endangered, and proposed species for Multnomah County (Appendix C).

The ORNHIC database indicates several anadromous salmonid ESU/DPSs (chinook salmon, coho salmon and steelhead trout) have been observed within two miles of the proposed Project site (ORNHIC 2007). The yellow-billed cuckoo (*Coccyzus americanus*) is a candidate species that was historically widespread in the Willamette Basin. No recent cuckoo observations have been documented within the Project action area (*ibid*).

In addition to these species, the USFWS county species list included several federally listed or candidate fish, wildlife and plant species that are either considered to be extirpated from Oregon, or are not known to occur in areas potentially affected by the proposed action (USFWS 2007). These species may utilize specific habitats within Multnomah County, but are not expected to occur at the Project site. No recent observations of rare plants in the vicinity of the proposed Project have been documented (ORNHIC 2007). As there would be *“no effect”* to these species, due to their absence from areas potentially affected by the proposed Project, no further analyses are warranted.

## 5.0 LISTED SPECIES STATUS AND OCCURRENCE

### 5.1 LISTED FISH SPECIES

Based on review of the NMFS and USFWS web sites (<http://www.nwr.noaa.gov/> and <http://www.fws.gov/>), and letters from ORNHIC and the USFWS (Appendix C), the following five anadromous salmonids are listed as threatened and may utilize the Project action area for rearing and migration:

- Lower Columbia River Coho Salmon (*Oncorhynchus kisutch*)
- Lower Columbia River Chinook Salmon (*O. tshawytscha*)
- Upper Willamette River Chinook Salmon (*O. tshawytscha*)
- Lower Columbia River Steelhead Trout (*O. mykiss*)
- Upper Willamette River Steelhead Trout (*O. mykiss*)

In addition to the salmonids listed above, there is a remote possibility that a few listed juvenile salmonids that were spawned in the Snake or Columbia River systems (upstream from the Willamette River) may migrate far enough upstream into the Willamette River to use the Multnomah Channel during their downstream migrations. Thus, the following eight listed salmonids may potentially be present within the Project action area:

- Snake River Sockeye Salmon (*O. nerka*)
- Upper Columbia River Steelhead Trout (*O. mykiss*)
- Upper Columbia River Spring Chinook Salmon (*O. tshawytscha*)
- Middle Columbia River Steelhead Trout (*O. mykiss*)
- Snake River Spring/Summer Chinook Salmon (*O. tshawytscha*)
- Snake River Fall Chinook Salmon (*O. tshawytscha*)
- Snake River Basin Steelhead Trout (*O. mykiss*)
- Columbia River Chum Salmon (*O. keta*)

We have limited our discussion of these salmonid ESUs/DPSs to a timing chart (Section 5.2) that indicates periods of the year when they could potentially be present in the Multnomah Channel. Adult salmonids migrating to spawning grounds in the Columbia and Snake River systems are not expected to migrate through the Multnomah Channel, as their homing mechanisms would not be able to detect the native streams from which they were spawned.

In addition, the USFWS has listed the Columbia River Bull Trout (*Salvelinus confluentus*) DPS as a threatened species. The boundaries of this DPS include the entire lower Columbia River and its accessible tributaries. The present distribution of bull trout in the Willamette Basin is restricted to isolated small populations in headwater streams. There are no records of bull trout in the lower Willamette River or the Multnomah Channel, and the likelihood that bull trout would be present at the Project site is extremely remote. Therefore, no further discussion of bull trout life history or use of the Project action area will be provided.

Pacific lamprey (*Lampetra tridentata*), river lamprey (*Lampreta avresi*) and green sturgeon (*Acipenser medirostris*) are categorized as "species of concern" by the USFWS and may occur

within the Project action area. While Pacific and river lamprey are known to utilize the lower river, green sturgeon are typically associated with coastal estuaries, such as the Columbia River, and are rarely found in the Willamette River. It is unlikely that green sturgeon would migrate upriver into the Project action area.

It is anticipated that the steps taken to avoid and minimize impacts to listed species also would provide benefits to these species of concern. Detailed descriptions of the listed fish species that may occur at the Project site, as identified by ORNHIC and USFWS, are provided in Section 5.2.

## 5.2 SPECIES STATUS AND MIGRATION TIMING

### 5.2.1 Lower Columbia River Chinook Salmon ESU (*Threatened*)

**Status and Range:** In March 1999, Lower Columbia River chinook salmon were listed by NMFS as threatened under the federal ESA (64 FR 14308). Threatened status was reaffirmed in June 2005 (70 FR 37160). The NMFS BRT reviewed the status of this ESU in 2003 (Good et al. 2005). A majority (71%) of the BRT concluded that the Lower Columbia River Chinook Salmon ESU is “likely to become endangered” in the near future.

Within the Project action area, this ESU includes all naturally spawned populations of chinook salmon in the Willamette River to Willamette Falls, excluding spring-run chinook salmon in the Clackamas River. This ESU is also comprised of seventeen artificial propagation programs, which are listed in 70 FR 37160. Most of the fish from this ESU that migrate past the Project action area are comprised of fall chinook that were spawned in the lower Clackamas River. Detailed life history information pertaining to this ESU is available in Myers et al. 1998.

**Critical Habitat:** Critical habitat for Lower Columbia River chinook salmon was designated on September 2, 2005, and described in detail in the Federal Register (70 FR 52630). Critical habitat includes the Project action area for fish species, and encompasses the ordinary high-water line (or bankfull width), as defined by the U.S. Army Corps of Engineers in 33 CFR 329.11. This lateral extent of critical habitat applies to all salmonids that had critical habitat redesignated in 2005.

**Use of the Project Action Area:** Although fall-run and spring-run stocks of chinook salmon are included in this ESU, it is expected that fall chinook that return to spawn in the lower Clackamas River are the most abundant population within this ESU that migrate through the Multnomah Channel and the lower Willamette River. The fall run consists of an early component that return from August through early October and spawn within a few weeks (Kostow 1995) and later components that enter over an extended period of time and spawn from late October through November. Adults migrating to the Clackamas River may be present in Multnomah Channel starting in August and continuing through November, with the peak occurring from late August through October (Table 1).

**Table 1. Timing of adult upstream migration of federally listed salmonids through the Project action area.**

Species/ESU or DPS	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
<b>Coho Salmon</b>												
Lower Columbia River												
<b>Chinook Salmon</b>												
Upper Willamette River												
Lower Columbia River												
<b>Steelhead Trout</b>												
Lower Columbia River												
Upper Willamette River												

**Table 2. Timing of juvenile downstream migration of federally listed salmonids through the Project action area.**

Species/ESU or DPS	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
<b>Coho Salmon</b>												
Lower Columbia River												
<b>Chinook Salmon</b>												
Upper Willamette River												
Lower Columbia River												
Upper Columbia River Spring												
Snake River Spring/Summer												
Snake River Fall												
<b>Steelhead Trout</b>												
Lower Columbia River												
Upper Willamette River												
Middle Columbia River												
Upper Columbia River												
Snake River Basin												
<b>Chum Salmon</b>												
Columbia River												
<b>Sockeye Salmon</b>												
Snake River												

Note: thick bars represent peak periods of migration while thin bars represent estimated total period of occurrence.

The majority of fall-run chinook salmon juveniles emigrate to the marine environment as sub-yearlings (Reimers and Loeffel 1967, Myers et al. 1998). The Clackamas River and other Willamette River tributaries below Willamette Falls may support fall chinook (StreamNet 2005). Juveniles from this ESU would be expected in the lower Willamette River starting from early March to early July, with peak outmigration occurring from mid March through May (ODFW 2003b, 2005) (Table 2).

Although no studies were located on use of the Multnomah Channel by fall subyearling chinook, radio telemetry studies conducted by ODFW (2005) have found that the channel is utilized by yearling chinook during their downstream migration. Subyearling chinook generally move more slowly and feed more frequently when migrating through the lower Columbia and Willamette rivers than yearling salmonids. The Multnomah Channel provides many off-channel habitat areas that may provide preferred rearing habitat for subyearling chinook. It is reasonable to assume that a significant percentage of the subyearling chinook that move downstream along the west side of the Portland Harbor utilize the channel during their downstream migration.

#### *5.2.2 Upper Willamette River Chinook Salmon ESU (Threatened)*

**Status:** In March 1999, NMFS listed the Upper Willamette River chinook salmon as threatened under the federal ESA (64 FR 14307). Threatened status was reaffirmed in June 2005 (70 FR 37160). In 2003, a majority (70%) of the NMFS BRT concluded that the Lower Columbia River Chinook Salmon ESU is “likely to become endangered” in the near future (Good et al. 2005).

This ESU includes all naturally spawned populations of spring-run chinook salmon in the Clackamas River and in the Willamette River, and its tributaries, above Willamette Falls. This ESU also includes seven artificial propagation programs, including the Clackamas Hatchery and several upper Willamette hatcheries (70 FR 37160). Detailed life history information pertaining to this ESU is available in Myers et al. 1998.

**Critical Habitat:** Critical habitat for Upper Willamette River chinook salmon was designated on September 2, 2005, and described in detail in the Federal Register (70 FR 52630).

**Use of the Project Action Area:** Adults from this ESU are expected to begin migrating through the Multnomah Channel and the Lower Willamette River in February, but the majority of the run ascends Willamette Falls from late March to August, with a peak in April and May (WCBRT 2003, ODFW 2003b) (Figure 1). Adults are known to migrate through the Clackamas River from January through June, with the peak occurring in April and May (Murtagh et al. 1992).

The timing of downstream migrating spring chinook smolts was monitored at the Willamette Falls Sullivan Hydroelectric Project bypass facility from 1992 through 1997 by PGE biologists (Domina 1997 & 1998). Wild spring chinook smolts typically begin passing the falls in January, peak numbers occur in March or April and by June the spring outmigration is essentially complete (Table 2). A second and smaller out-migration of wild spring chinook smolts occurs during the autumn, beginning in August, peaking in October or November, and declining to low numbers by mid-December. The timing of yearling spring chinook out-migrants from the Clackamas River is similar to that of Willamette River yearling out-migrants (Domina 1997 & 1998, ODFW 2003a).

Thus, the first out-migration of juvenile spring chinook from this ESU is expected to pass the Project action area from January through June, with a peak in April and May. The second out-migration is expected to pass through the Multnomah Channel from August through mid-December, with the peak occurring in October and November (Table 2).

Although limited studies are available on use of the Multnomah Channel by salmonids, recent radio tracking studies of juvenile salmonids conducted by ODFW have shown that 18% (16 of 89) of the radio-tagged chinook salmon that were recovered used Multnomah Channel during their downstream migration (ODFW 2005). These fish were likely Upper Willamette River spring chinook due to their relatively large size (range from 108 mm to 141 mm). A majority of the radio-tagged salmonids (71%), which includes chinook, coho, and steelhead, were never relocated downstream of the head of Multnomah Channel; thus, their passage route remains undetermined (*ibid*).

### 5.2.3 Upper Willamette River Steelhead Trout DPS (*Threatened*)

**Status and Range:** In March 1999, NMFS listed the Upper Willamette River steelhead trout as threatened under the federal ESA (64 FR 14308). Threatened status was reaffirmed in January 2006 (71 FR 834). In 2003, a majority (71%) of the NMFS BRT concluded that the Upper Willamette River Steelhead Trout DPS is “likely to become endangered” in the near future (Good et al. 2005).

This DPS includes all naturally spawned populations of late migrating, winter-run steelhead in the Willamette River (and its tributaries) upstream from Willamette Falls to the Calapooia River (inclusive). No artificial propagation programs are part of this DPS. Detailed life history information pertaining to this DPS is available in Busby et al. 1996.

**Critical Habitat:** Critical habitat for Upper Willamette River steelhead was designated on September 2, 2005, and described in detail in the Federal Register (70 FR 52630).

**Use of the Project Action Area:** Adults from this DPS could be expected in the lower Willamette River and Multnomah Channel beginning in January and continuing through mid-May, with the peak occurring in late March or April, when steelhead typically ascend Willamette Falls and return to spawn in the mid Willamette River and its tributaries, upstream to the Calapooia River (WCBRT 2003) (Table 1). Steelhead smolts from this DPS would be expected to be present in the lower Willamette River and Multnomah Channel from March through mid-July, with peak migration occurring in May (Table 2).

Recent radio tracking studies of juvenile salmonids conducted by ODFW showed that no radio-tagged steelhead (0 of 28) used the channel during their downstream migration (ODFW 2005). Although yearling steelhead typically exhibit a directed migration toward the ocean, it is expected that some juvenile steelhead migrate through the channel. As previously described for spring chinook, a majority of the radio-tagged salmonids (71%), which included chinook, coho, and steelhead, were never relocated downstream of the head of Multnomah Channel; thus, it is possible that some radio-tagged steelhead used the channel to migrate downstream (*ibid*).



#### 5.2.4 Lower Columbia River Steelhead Trout DPS (*Threatened*)

**Status and Range:** In March 1998, NMFS listed the Lower Columbia River steelhead trout as threatened under the federal ESA (63 FR 13347). Threatened status was reaffirmed in June 2005 (70 FR 37160). In 2003, a majority (73%) of the NMFS BRT concluded that the Lower Columbia River Steelhead Trout DPS is “likely to become endangered” in the near future (Good et al. 2005).

Within the Project action area, this DPS occupies the Willamette River (and its tributaries) up to Willamette Falls. The Clackamas River is the principal spawning and rearing area for Lower Columbia River steelhead that utilize the lower Willamette River. Only late-run, winter steelhead are included in the Clackamas River population. Ten artificial propagation programs are considered to be part of the DPS, including the Clackamas Hatchery (70 FR 37160). Detailed life history information pertaining to this DPS is available in Busby et al. 1996.

**Critical Habitat:** Critical habitat for Lower Columbia River steelhead was designated on September 2, 2005, and described in detail in the Federal Register (70 FR 52630).

**Use of the Project Action Area:** The late run winter steelhead that spawn in the Clackamas River typically reach their spawning grounds in March and April. Most of these fish would pass Multnomah Channel and the lower Willamette River a few weeks earlier (Table 1). However, extended pre-spawning residency in downriver areas is unlikely because these fish enter freshwater in a mature state and do not typically hold for long periods prior to spawning.

Counts of juvenile steelhead out-migrating from the Clackamas River have been monitored at PGE's North Fork dam fish facility. The five year (1995-99) monthly out-migration averages for Clackamas River naturally spawned steelhead indicate that out-migration starts in April, peaks in May and is complete by mid July (Table 2). Steelhead smolts are predominately 2+ years of age and typically move rapidly downstream to the ocean. Therefore, only a short lag time (a few days) between the timing shown for the North Fork counting station and the passage of these smolts through the lower Willamette River would be anticipated. As described for Upper Willamette River steelhead, some juveniles from this DPS are expected to migrate downstream through the Multnomah Channel.

#### 5.2.5 Lower Columbia River Coho Salmon ESU (*Threatened*)

**Status and Range:** NMFS listed the Lower Columbia River coho salmon as threatened under the federal ESA in June 2005 (70 FR 37160). This ESU includes all naturally spawned populations of coho salmon from Columbia River and its tributaries in Washington and Oregon, from the mouth of the Columbia, up to and including the Big White Salmon and Hood Rivers. This ESU includes the lower Willamette River up to Willamette Falls. Twenty-five artificial propagation programs are also considered to be part of this ESU (70 FR 37160), including the Eagle Creek National Fish Hatchery, located in the Clackamas River Basin.

The NMFS Biological Review Team (BRT) most recently reviewed the status of this ESU in 2001 (NMFS 2001a). A majority (68%) of votes for the Lower Columbia River Coho Salmon ESU fell in the “danger of extinction” category, with the remainder falling in the “likely to

become endangered” category. Detailed life history information pertaining to this ESU is available in Weitkamp et al. 1995.

**Critical Habitat:** Critical habitat for Lower Columbia River Coho Salmon has not yet been proposed or designated.

**Use of the Project Action Area:** Most adult coho salmon migrate through the lower Willamette River and Multnomah Channel from August through December, with the peak occurring from mid-August through mid-November (ODFW 2003b). However, there may be some late-run native fish that enter the Clackamas River from late December to March (Cramer and Cramer 1994). Thus, adults are expected to migrate through the Project action area from August to March, with the majority passing in October and November, and a small peak in February for the late-run Clackamas adults (Table 1). Juveniles generally spend about one year in fresh water before migrating to the ocean. Juvenile coho salmon are likely to migrate through the lower Willamette River and Multnomah Channel throughout their downstream migration, which begins in late March, peaks in mid-May, and declines through June (ODFW 2003b) (Table 2).

Recent radio tracking studies of juvenile salmonids conducted by ODFW showed that 13 percent of radio-tagged coho salmon (7 of 54) recovered below the head of Multnomah Channel used the channel during their downstream migration (ODFW 2005). A majority of the radio-tagged salmonids (71%), which included chinook, coho, and steelhead, were never relocated downstream of the head of Multnomah Channel; thus, their passage route remains undetermined (*ibid*).

### 5.3 NON-SALMONID SPECIES OCCURRENCE AND USE OF THE PROJECT ACTION AREA

In 2002, EES collected resident fish species in the lower Willamette River (from river mile 3.5 to above Willamette Falls) to provide tissue samples for contaminant analysis (Table 3). Threespine stickleback, prickly sculpin, yellow perch, and smallmouth bass were the most abundant fish species collected in the area (EES 2003). Most of these samples were collected in the Portland Harbor, and are likely found throughout the Multnomah Channel and Project action area. Electrofishing efforts conducted by EES in the lower Willamette River did not indicate a particular abundance of predator fish species (EES 2003). A list of fish species known to occur in the lower Willamette River is shown in Table 3.

ODFW (2003a) performed population surveys for resident fish species by beach seine, gillnet, and electrofishing at twenty standard sites in the lower Willamette River, from the mouth to Willamette Falls, from May 2000 to June 2002. These species may also occur within Multnomah Channel, including the Project action area. ODFW considered juvenile salmonid predators to include the following species: northern pikeminnow, largemouth bass, smallmouth bass, and walleye. Only fish greater than 250 mm were classified as predators, as smaller individuals are not likely to consume large numbers of salmonids. Throughout the entire sampling area, northern pikeminnow were collected by at least one gear type at 78% of the sampling sites, followed by smallmouth bass (43%), walleye (13%), and largemouth bass (9%) (ODFW 2003a).

**Table 3. List of fish species that may occur in the lower Willamette River and Multnomah Channel (EES 2003).**

Fish Species		
Family, Species	Common Name	Willamette River
Petromyzontidae	Lampreys	X
Acipenseridae	Sturgeons	X
<i>Acipenser transmontanus</i>	White Sturgeon <sup>a3</sup>	X
Clupeidae	Herrings	X
<i>Alosa sapidissima</i>	American shad <sup>b2</sup>	X
Salmonidae	Trouts and salmon	X
<i>Oncorhynchus kisutch</i>	Coho salmon <sup>b3</sup>	X
<i>Oncorhynchus tshawytscha</i>	Chinook salmon <sup>b3</sup>	X
<i>Oncorhynchus keta</i>	Chum salmon <sup>b3</sup>	
<i>Oncorhynchus nerka</i>	Sockeye salmon <sup>b3</sup>	
<i>Oncorhynchus clarki clarki</i>	Coastal cutthroat trout <sup>b3</sup>	
<i>Oncorhynchus mykiss</i>	Steelhead trout <sup>b3</sup>	X
Cyprinidae	Carp and minnows	X
<i>Ptychocheilus oregonensis</i>	Northern pikeminnow <sup>c1</sup>	X
<i>Mylocheilus caurinus</i>	Peamouth <sup>b2</sup>	X
<i>Acrochilus alutaceus</i>	Chiselmouth <sup>e2</sup>	X
<i>Richardsonius balteatus</i>	Redside shiner <sup>b1</sup>	
<i>Cyprinus carpio</i>	Common carp <sup>a1</sup>	X
<i>Carassius auratus</i>	Goldfish <sup>a1</sup>	X
Catostomidae	Suckers	X
<i>Catostomus macrocheilus</i>	Largescale sucker <sup>a1</sup>	X
Cobitidae	Loaches	
<i>Misgurnus anguillicaudatus</i>	Oriental weatherfish <sup>a1</sup>	
Ictaluridae	Catfishes	X
<i>Ameiurus natalis</i>	Yellow bullhead <sup>a1</sup>	X
<i>Ameiurus nebulosis</i>	Brown bullhead <sup>a1</sup>	X
<i>Ictalurus punctatus</i>	Channel catfish <sup>a1</sup>	X
Cyprinodontidae	Killifishes	X
<i>Fundulus diaphanous</i>	Banded killifish <sup>b2</sup>	X
Gasterosteidae	Sticklebacks	X
<i>Gasterosteus aculeatus</i>	Threespine stickleback <sup>b2</sup>	X
Centrarchidae	Sunfishes	X
<i>Pomoxis annularis</i>	White crappie <sup>b1</sup>	X
<i>Pomoxis nigromaculatus</i>	Black crappie <sup>b1</sup>	X
<i>Micropterus dolomieu</i>	Smallmouth bass <sup>c2</sup>	X
<i>Micropterus salmoides</i>	Largemouth bass <sup>c1</sup>	X
<i>Lepomis macrochirus</i>	Bluegill <sup>b1</sup>	X
<i>Lepomis gibbosus</i>	Pumpkinseed <sup>b1</sup>	X
<i>Lepomis gulosus</i>	Warmouth bass <sup>c1</sup>	X
Percidae	Perches	X
<i>Perca flavescens</i>	Yellow perch <sup>b2</sup>	X
<i>Morone saxatilis</i>	Striped bass <sup>c2</sup>	X

Fish Species		
Family, Species	Common Name	Willamette River
<i>Stizostedion vitreum</i>	Walleye <sup>c2</sup>	X
Cottidae	Sculpins	X
<i>Cottus perplexus</i>	Reticulate sculpin <sup>b1</sup>	
<i>Cottus asper</i>	Prickly sculpin <sup>b1</sup>	X
Pleuronectidae	Flounders	X
<i>Platichthys stellatus</i>	Starry Flounder <sup>c1</sup>	X

Note: an "X" indicates species was captured in the lower Willamette River (EES 2003).

Trophic Group: a= omnivore; b=insectivore; c=piscivore; d=parasitic; e=herbivore  
 Pollution Tolerance: 1= tolerant; 2= intermediate; 3= intolerant

#### 5.4 MACROINVERTEBRATE COMMUNITY

Benthic macroinvertebrates known to be present in the lower Willamette River include oligochaetes, mysid shrimp, the amphipod *Americorophium salmonis* (formerly known as *Corophium salmonis*), and chironomid (midge) larvae (Sanborn 1973). Other benthic organisms known to occur include crayfish and mollusks. Zooplankton organisms including several species of cladocera, copepods, and hydracarina (water mites) have been found in the past (Misitano 1973). Fishman Environmental Services (FES) reported that a variety of fish collected near the Morrison Bridge in Portland contained mayfly nymphs in their stomachs on June 17, 1999 (FES 1999). In addition, FES reported seeing large schools of mysid shrimp and mysids were found in the stomachs of largemouth and smallmouth bass during the spring of 1999.

Although no studies were located on benthic invertebrate production in Multnomah Channel, it is expected that the channel supports a similar benthic community structure as the lower Willamette River. The channel has a higher percentage of shallow water habitat, relative to the lower Willamette River, and is expected to provide an important benthic food source for juvenile salmonids. However, the presence of rocky substrate along the shoreline of the Project site may limit the habitat suitability for benthic invertebrates and result in less abundance of invertebrates relative to finer grained substrates in other portions of the Multnomah Channel.

#### 5.5 LISTED WILDLIFE SPECIES

##### 5.5.1 Bald Eagle (De-listed)

**Status** The bald eagle was listed as endangered in the conterminous United States under the Endangered Species Preservation Act on March 6, 1967 (32 FR 4001) and has been listed as endangered under the ESA since its implementation in 1973. The population in the Pacific Northwest was later down-listed on February 14, 1978 to threatened. Bald eagles in the remaining states were subsequently down-listed to threatened on July 12, 1995 (60 FR 36000). Bald eagle populations have rebounded considerably within the last few years, with nearly all recovery goals met for Oregon, Washington, and other regions of the country. On July 6, 1999, the USFWS proposed de-listing bald eagles from the ESA. On June 28, 2007, bald eagle was formally removed from the list of threatened and endangered species. Bald eagle and golden eagle are, and will continue to be, protected under the Bald Eagle and Golden Eagle Protection

Act of 1940 (as amended) and the Migratory Bird Treaty Act. No further discussion of bald eagle will be presented in this document.

## 5.6 LISTED PLANT SPECIES

No recent observations of listed plant species have been documented within a two-mile radius of the Project site (ORNHIC 2007). Although the federally endangered *Howellia* (*Howellia aquatilis*) was listed by ORNHIC, this species has not been found near the Project site since 1886. This species historically occurred over a large area of the Pacific Northwest. *Howellia* grows in firm, consolidated sediments associated with glacial potholes and former river oxbows which flood in spring but usually dry to some degree by late summer. Microhabitats include shallow water and the edges of deep ponds that are partially surrounded by deciduous trees such as black cottonwood and aspen. It is a hydrophytic annual plant that grows 4 to 24 inches in height. It has extensively branched stems with both submerged and emergent flowers. Low genetic variability of *Howellia* limits the species to a highly specific habitat (USFWS 1994). *Howellia* is threatened by loss of wetland habitat and habitat changes due to timber harvesting, livestock grazing, residential development and competition from introduced plant species, such as reed canary grass and purple loosestrife.

**Use of the Project Action Area:** There are no records of *Howellia* occurring within two miles of the Project site. *Howellia* occurs in low elevation ponds or sloughs, which are present along Multnomah Channel. However, *Howellia* has not been observed since 1886 in the vicinity of the Project action area and is considered extirpated in Oregon.

## 6.0 BASELINE AQUATIC HABITAT CONDITIONS

In describing the existing baseline riparian and aquatic habitat conditions for the Project action area, we have utilized NMFS' guidelines for "*Making Endangered Species Act Determinations of Effect for Individual or Grouped Actions at the Watershed Scale*" (NMFS 1996). The environmental baseline includes the "past and present impacts of all Federal, State or private activities and other human activities in the action area, the anticipated impacts of all proposed Federal Projects in the action area that have undergone formal or early Section 7 consultation, and the impact of State or private actions which are contemporaneous with the consultation in process." (50 CFR § 402.02).

This baseline section also addresses the designated critical habitat primary constituent elements (PCEs) that will apply for four of the five threatened and endangered salmonid ESUs/ DPSs (70 FR 52630). PCEs consist of the physical and biological features identified as essential to the conservation of the listed species, as identified in 70 FR 52630. Although critical habitat has not yet been designated for the Lower Columbia River Coho Salmon ESU, it is anticipated that these PCEs will also apply for coho salmon.

Freshwater rearing sites and freshwater migration corridors are the only PCEs for Pacific salmon that apply to the Project action area (70 FR 52630). The essential physical and biological features for these PCEs are shown in Table 4. The potential Project effects on the critical habitat PCEs are discussed in Section 9. Although the critical habitat PCEs also include freshwater

spawning, estuarine, nearshore marine, and offshore marine habitats, these habitat types do not occur within the Project action area and would not be affected by the proposed Project. Thus, no further information on these PCEs is warranted.

Although NMFS guidelines are routinely used for evaluating the effects of an action on listed species and their designated critical habitat in BAs, its basic components are a useful guide for

**Table 4. Types of habitats and essential physical and biological features described as PCE’s for salmonid critical habitat within the Project action area.**

Habitat	Essential Physical and Biological Features	Species Life Stage
Freshwater rearing	Water quantity and floodplain connectivity	Juvenile growth and mobility
	Water quality and forage	Juvenile development
	Natural cover	Juvenile mobility and survival
Freshwater migration	Free of artificial obstructions, water quality and quantity, and natural cover	Juvenile and adult mobility and survival

assessing the existing environmental baseline conditions for anadromous species. NMFS makes clear, however, that its guidelines will not apply to every watershed or basin, in which case,

NMFS requests that more biologically appropriate values should be provided (NMFS 1996). Indeed, some of the habitat indicators, including road density/location, drainage network, pool frequency/quality, and width/depth ratio were designed for natal streams in forested upland areas and simply do not apply to the lower Willamette River or the Multnomah Channel. Thus, no further information will be provided for these NMFS indicators.

The NMFS 1996 matrix criteria were established to evaluate specific habitat features at the watershed scale (NMFS 1996). The proposed Project is not expected to impact any habitat pathways and indicators outside the Project action area. As such, we have indicated where modifications were made for the specific conditions found in the Project action area. For each appropriate habitat indicator, we have determined whether it is “properly functioning”, “at risk”, or “not properly functioning” (*ibid.*).

### 6.1 WATER QUALITY

The Oregon Department of Environmental Quality (DEQ) is responsible for reviewing waters of the state and designating those that are not in compliance with water quality standards, in accordance with Section 303(d) of the Clean Water Act.

The Multnomah Channel is not included on the 2002 DEQ 303(d) list as water quality limited. However, the Willamette River, from the mouth to RM 24.8 is water quality limited for many water quality parameters, including biological criteria, dieldrin, aldrin, DDT/DDE, PAHs, PCBs, manganese, iron, and pentachlorophenol (DEQ 2003). In September 2006, the U.S. Environmental Protection Agency (EPA) approved a Total Maximum Daily Load (TMDL) for



mercury, bacteria, and temperature in the lower Willamette River Basin (<http://www.deq.state.or.us/wq/tmdls/willamette.htm>). A TMDL is the total amount of a pollutant that can enter a waterbody without exceeding the State water quality criterion for that pollutant. At this time, the DEQ is not proposing TMDLs for the other water quality parameters included on the 303(d) list.

Since the Project action area includes the Multnomah Channel, which is a side channel of the Willamette River, water quality conditions in the channel are expected to be similar to conditions in the lower Willamette River. As such, the supporting data used to make determinations for the lower Willamette River have been applied to the Project action area. As water quality is a critical pathway for the Multnomah Channel and lower Willamette River, some additional detail has been provided in terms of relevant indicators.

#### *6.1.1 Temperature*

The Willamette River Basin temperature TMDL adheres to the temperature standards approved by EPA in March 2004 (OAR 340-041-0028). The temperature standards for the Willamette River Basin were established to protect cold-water species such as anadromous salmonids. The Willamette River, within the Project action area, is identified by the DEQ as providing rearing and migration habitat for salmon and steelhead. The temperature standard as described in OAR 340-041-0028(4) reads, "Unless superseded by the natural conditions criteria described in section (8) of this rule, or by subsequently adopted site-specific criteria approved by EPA", the temperature criteria are as follows:

- (i) The seven-day-average maximum temperature of a stream identified as having salmon and trout rearing and migration use may not exceed 18.0°C (64.4°F).

Recent temperature data, collected in the lower Willamette River by the DEQ Laboratory (DEQ 2007) at the Spokane, Portland, and Seattle (SP&S) railroad bridge (RM 7.0) were reviewed for the time-period 1991 to 2006. The bridge is located on the Willamette River, approximately 11 miles upstream of the Project site. Temperatures at this location ranged from a low of 41°F (5°C) to a high of 76.1°F (24.5°C). The mean river temperature was 56.3°F (13.5°C) (95% confidence level of ±2.1°F (1.2°C)) for this period of record.

These point-in-time temperature readings routinely exceeded 68°F (20°C) in August. These data indicate that mid-summer temperatures sometimes exceed the DEQ temperature standard. However, it is important to note that DEQ temperature criteria are based on a seven-day average maximum temperature. The data from the SP&S railroad bridge are only collected approximately once every two months and are not adequate for the calculation of a seven-day average maximum temperature.

In April through June, during peak periods of juvenile salmonid presence in the lower Willamette River, river temperatures have averaged 56°F (13.3°C) (95% confidence level of ±2.1°F (1.2°C)) and ranged from 48.2°F (9°C) to 66.7°F (19.3°C) (DEQ 2007). Fisheries data in the lower Willamette River indicates that the abundance of juvenile salmonids generally drops dramatically in July (USACE 2000, ODFW 2003b).

Relatively few juvenile salmonids are expected to migrate or rear in the Project action area in August. The NMFS' PFC criteria for juvenile salmonid rearing and migration are 50°F (10.0°C) to 57°F (13.9°C) for a "properly functioning condition" and 57°F (13.9°C) to 64°F (17.8°C) for an "at risk" condition. Given our analysis of the data available, we conclude that water temperature conditions within the Project action area are "at risk" in terms of salmonid rearing and migration.

#### 6.1.2 Turbidity

NMFS' criteria for properly functioning conditions for sediment are based on requirements in streams where spawning and rearing take place. Although some rearing of juvenile salmonids probably occurs in the Multnomah Channel and the lower Willamette River as they migrate downstream to the ocean, the Project action area is used primarily as a migratory corridor. There is no known spawning habitat for salmonids in the lower Willamette River or Multnomah Channel. Furthermore, "sediment" is a term loosely used by some fisheries biologists to refer to the fine-grained material that can fill interstitial spaces in spawning gravels. However, the term "sediment" in larger river systems can be sometimes confused with the term "substrate". We have therefore modified this discussion to focus on turbidity, which is highly correlated with suspended sediment or more appropriately "total suspended solids". River sediments are discussed further in Section 6.3.2.

The effect of elevated turbidity levels on salmonids is a complex issue, and differs based on their developmental stage and the specific *in situ* conditions that they encounter. Although low to moderate turbidity levels can enhance survival of juvenile salmonids by providing cover from predation (Gregory and Levings 1998), high levels can reduce feeding efficiency, food availability, clog gillrakers, and erode gill filaments (Bruton 1985, Gregory 1993). Long-term turbidity increases may also reduce the amount of light in the water column, decreasing phytoplankton growth and limiting the depth of submerged plants (USACE 2001).

Available turbidity data for the lower Willamette River were reviewed to describe ambient turbidity levels in the vicinity of the Project action area. Water quality data obtained by the DEQ Laboratory at the Spokane, Portland, and Seattle (SP&S) railroad bridge (RM 7.0) for the period 1991-2006 were reviewed (DEQ 2007). Average turbidity levels in the lower Willamette River tend to be greater in fall and winter. The average monthly turbidity levels for the months of December, January, and February (1991-2006) were 29, 24, and 39 nephelometric turbidity units (NTUs), respectively. Maximum turbidity levels for December, January and February were 53, 46, and 149 NTUs, respectively. Turbidity levels were generally much lower during the summer and early autumn with average monthly values ranging between 4 and 6 NTUs for the months of July through October. Maximum turbidity levels during these months did not exceed 18 NTUs. Overall, turbidity conditions in the lower Willamette River appear to fall within the "moderate" turbidity range for a large river. Turbidity conditions in the Multnomah Channel are expected to be similar to conditions in the lower Willamette River. As such, the Project action area is considered to be "at risk" relative to NMFS' matrix criteria.

#### 6.1.3 Chemical Contamination/Nutrients

Chemical contamination and nutrient loading in the lower Willamette River are influenced by municipal and industrial point sources and non-point sources. In the Willamette River Basin, the largest individual quantities of point source pollution are discharged by industries. Several paper

mills (e.g., Blue Heron Paper Company and West Linn Paper Company) and wastewater treatment plants are located upriver from the Project site and release treated effluent to the river. These point sources are regulated and tracked through TMDL and National Pollutant Discharge Elimination System (NPDES) permit processes. Non-point sources may include sedimentation caused by erosion, stormwater runoff, and agricultural runoff. These sources are dispersed throughout the watershed and are not easily regulated.

The EPA recently approved TMDLs for mercury and bacteria within the Willamette River Basin (DEQ 2006). The mercury TMDL focuses on protecting human health by decreasing mercury concentrations in fish within the entire Willamette Basin. The bacteria TMDL applies exclusively to the Willamette River mainstem and has been developed to reduce bacterial levels in support of water contact recreation. Unlike the new temperature TMDL for the Willamette Basin, these TMDLs were not designed to protect beneficial uses pertaining to listed fish and wildlife species. Thus, no further information on the mercury or bacteria TMDLs will be presented in this document.

No site-specific sediment contaminant studies have been conducted at the Project site. The Project site is not considered a source of chemical contamination. However, based on the presence of known chemical contaminants within the lower Willamette River, we conclude that this habitat parameter is “at risk” within the Project action area.

## 6.2 HABITAT ACCESS

### 6.2.1 *Physical Migratory Barriers*

The Multnomah Channel is a free flowing side channel of the Willamette River that provides unobstructed migratory access for both juvenile and adult salmonids. There are no physical barriers to fish migration downstream of Multnomah Channel in the Columbia River. Upstream from the proposed Project site, Willamette Falls historically represented an impassible obstacle to migration of fall chinook salmon, coho salmon, chum salmon, and cutthroat trout. Only steelhead and some spring chinook salmon were known to ascend the falls. Fish passage facilities were constructed at the falls in the early 1900s and were upgraded in 1971. Continued loss of adult and juvenile salmonids, delay of upstream migration, and inadequate evaluation of mitigation efforts, however, remain as problems at Willamette Falls. However, within and downriver from the Project action area, salmonid access is uninhibited and is considered to be “properly functioning” for physical barriers.

### 6.2.2 *Access Between Riverine Habitat Types*

Salmonids utilize several habitat types during their life history. Within the Project action area, habitat modification and control of the hydrologic regime has limited salmonid access to productive feeding habitats. There are some off-channel habitats along the western shoreline of the channel, within the Project action area that may provide preferred rearing and/or overwintering habitat for juvenile salmonids. However, much of the Multnomah Channel has been diked and realigned to prevent flooding and to provide suitable conditions for agricultural development and moorage for houseboats and recreational vessels. These activities have reduced salmonid access to shallow water/off-channel habitats, relative to historic conditions.

Based on these factors, connectivity between riverine habitat types is considered to be “at risk” within the Project action area.

### 6.3 HABITAT FORMING PROCESSES

The habitat forming processes described below are important factors in the formation and maintenance of the riverine habitat types found within the Project action area. The criteria for pool frequency and pool quality were not developed for large river environments and therefore have been excluded from this assessment.

#### 6.3.1 *Flows/Hydrology*

Hydrological processes are the primary factors influencing the formation of riverine habitats within the Project action area. These processes are dependant upon ocean tides, precipitation, temperature (freezing and thawing), and dam operations. Sediment deposition (accretion) and carving (erosion) is determined through the interaction of these hydrological processes (USACE 2001).

The Multnomah Channel is a 21.75-mile long side channel of the Willamette River. The channel is tidally influenced and primarily fed by the Willamette River, which flows northward from the confluence of the Coast Fork and Middle Fork Willamette rivers before joining with the Columbia River. The Willamette River is approximately 187 miles in length, drains a surface area of approximately 11,478 square miles, and is regulated by one mainstem dam (Willamette Falls) and 13 tributary dams, which largely regulate flows. Impoundment Projects are regulated to reduce flooding in the winter and increase flows during the summer. Operation of these impoundments has modified water flow and temperature regimes, which has resulted in a mix of beneficial and detrimental effects on fish production. Minimum stream flows are maintained to protect fish production by increasing available habitat, increasing fish passage at Willamette Falls, and diluting pollution (ODFW 1990). Highest discharges generally occur during January and February, while lowest discharges occur in August and September. The extensive system of dikes and levees in the Multnomah Channel help to regulate flow and prevent flooding of developments located in floodplain areas. Flows in the Multnomah Channel have been significantly altered relative to pre-development conditions. It is concluded that this habitat parameter is “not properly functioning” within the Project action area.

#### 6.3.2 *Substrate/Sediments*

The NMFS criteria for substrate pertains to spawning suitability. Substrate within the Project action area is not suitable for salmonid spawning. Based on river morphology and tidal influences within Multnomah Channel and the lower Willamette River, it is likely that the grain size of historic depositional materials were likely dominated by sand with occasional small gravel and silt/clay (Rosgen 1996). This is consistent with current studies that have shown that substrate in the lower Willamette River (below Willamette Falls) and in several of its low-gradient, valley-floor tributaries are primarily composed of sand/silt substrate (Farr and Ward 1993). Silt loads to the lower Willamette River and Multnomah Channel have increased over historic levels due to logging, agriculture, road building, and urban and suburban development within the watershed. However, given that the Project action area has never been used for salmonid spawning, it is concluded that substrate/sediment conditions are “properly functioning” with respect to historic conditions.

Substrate in the Multnomah Channel is similar to substrate conditions in the lower Willamette River, which is primarily composed of sand and silt material from RM 1 to RM 11 (Striplin 2002). The lower velocity conditions in the Multnomah Channel are expected to result in a greater percentage of fine sand and silt than in the mainstem Willamette or Columbia Rivers.

Although the Project action area does not provide suitable spawning habitat for anadromous salmonids, the substrate supports habitat for food organisms used by migrating juvenile salmonids. Fine-grained substrates favor a high abundance of macroinvertebrates and high taxa richness. Thus, it is possible that juvenile salmonids, particularly subyearling fall chinook, may gain foraging benefits by using the Multnomah Channel during their downstream migration. However, the west shoreline at the Project site is composed of rocky bedrock that likely limits burrowing habitat for benthic macroinvertebrates. Thus, it is likely that benthic production is somewhat limited along the shoreline at the Project site.

### 6.3.3 *Large Woody Debris*

No comprehensive survey data of large woody debris (LWD) frequency was found for the lower Willamette River or the Multnomah Channel, within the Project action area. The south bank at the head of Multnomah Channel contains several large diameter black cottonwood and Oregon ash trees that may provide LWD recruitment. Few downed, large diameter trees were observed along shoreline areas within the Project action area. Historic diking and filling activities within the Multnomah Channel have reduced the potential for LWD recruitment, particularly on the northern shoreline of the channel. Overall, the production of large woody debris and associated nearshore cover, detritus input, and terrestrial insect production within the Project action area appears to be moderate to good. However, due to the discontinuous availability of LWD, this parameter is considered to be "at risk".

## 6.4 HABITAT TYPES

### 6.4.1 *Shallow Water and Flats Habitat*

Juvenile salmonid usage of shallow water and shoreline habitats in the lower Willamette River is not well understood. However, these habitats are considered important for juvenile salmonids, because they provide food resources (benthic macroinvertebrates, zooplankton, and emergent insects) and refuge from predators in the main river. Most definitions of shallow-water habitat available in the literature are somewhat vague or only apply to wetland or estuarine habitats. There is no formal published definition of shallow water habitat or flats habitat that applies to the Project action area.

Although juvenile outmigrants may occupy the entire Multnomah Channel, subyearling salmonids are expected to migrate close to the water surface and near the shoreline during rearing (within a few meters of the shoreline at water depths of less than one meter) (ODFW 2005). The reduction of current often associated with shallow water habitat provides an additional benefit to juvenile fish by significantly reducing their energy requirements. Because juveniles are small and have relatively weak swimming capabilities, feeding is most effective in areas where current velocities are slow. Although not well understood or studied, velocities of 30 cm/s or less are considered best for optimal foraging opportunity (Bottom et al. 2001).



Although the Multnomah Channel has been scoured by flows from the Willamette River, the channel has not been dredged to facilitate the transport of large shipping vessels. Diking and filling activities along portions of the Multnomah Channel have reduced shallow water habitat relative to historic conditions. However, the channel still supports important shallow water habitat areas that can be utilized by rearing salmonids.

Flats habitat are also important to juvenile salmonids by providing suitable substrate conditions to support primary productivity (benthic algae) and prey species (benthic macroinvertebrates). Large woody debris may collect on flats habitat and provide some complexity and cover for juvenile salmonids. Sediment deposition and tidal/wave action are important factors that help develop and shape flats habitat. Although flats are most frequently identified in the estuary in the form of intertidal mudflats and sandflats, flats habitat also occur in the Multnomah Channel. However, diking and filling activities have reduced flats habitat, relative to historic conditions. Dredging operations are routinely performed along shoreline areas (such as marinas and moorages) to facilitate navigation by recreational boaters. Flats habitat is generally limited within the Project action area. Overall, this habitat parameter is considered to be “at risk” with respect to historic conditions.

#### 6.4.2 Deep Water Habitat

Fish use of deep water habitat may include rearing and migration, with juvenile salmonids primarily foraging on zooplankton. Although ocean-type salmonids (i.e. subyearling chinook) may temporarily occupy these habitats, they are believed to prefer shallow-water habitat for rearing and migration. Deep water habitat is used primarily by stream-type (yearling) juveniles and adult salmonids from all species, and also serves an important function as an importer of phytoplankton and microdetritus from upstream areas. As depth increases, less light is available for plants to conduct photosynthesis. This reduction in light penetration can result in less phytoplankton growth as well as limit the depth of submerged plants. Although no bathymetry data were found for the Multnomah Channel, it is likely that shoaling and shallow flats were more historically abundant in the Project action area before diking and filling activities changed the hydrological processes of the Multnomah Channel. As a result of these activities, there are less functional shallow water habitats within the Project action area that can provide rearing opportunities for subyearling salmonids. The increase of deep water habitat areas may have also reduced the productivity of benthic algae, which may provide a food source for salmonid prey species. The ratio of deep water to shallow water habitat has increased over time, and the expansion of deep water habitat has reduced the amount of subyearling salmonid habitat within the Project action area. Therefore, we conclude that the percentage of deep water habitat has increased beyond suitable levels and is considered “at risk”, relative to historic conditions.

#### 6.4.3 Refugia Habitat

NMFS 1996 defines “refugia” as important remnant habitat for sensitive aquatic species. May and Peterson 2003 provides a more descriptive definition of “refugia”: “habitats or environmental factors that provide spatial and temporal resistance and/or resilience to aquatic communities impacted by natural and anthropogenic disturbances”. By this definition, refugia represent a convergence of several ecological factors, including off-channel habitat, floodplain connectivity, large woody debris, and riparian reserves.



The shoreline areas along Multnomah Channel may provide important rearing opportunities for salmonids. The channel has lower velocities during flood events than the mainstem Willamette River, and thus, may provide salmonids refuge from high water conditions. However, dike and fill activities have reduced off-channel areas and limited floodplain access to rearing fish along portions of the upper Multnomah Channel. For this reason, refugia habitat conditions within the Project action area are considered "at risk" with respect to historic conditions.

## 6.5 WATERSHED CONDITIONS

### 6.5.1 *Disturbance History*

The Multnomah Channel within the action area has undergone major changes in its surface area and physical features over the past 100 years due to natural and man-made changes. In the 1930's, the Corps implemented a dike system to control the annual flooding of Sauvie Island. The dike system significantly reduced the amount of off-channel habitat, shallow water habitat, and riparian reserves available to juvenile salmonids on the south side of Sauvie Island, within the Project action area. In addition, natural high flow events, which historically contributed large quantities of sand and silt to the area have been dampened over the years through the development of the extensive system of dams in the Willamette River.

Sauvie Island and the Multnomah Channel provide a mixture of agricultural uses, recreational uses, and natural protected areas. The upper end of the Multnomah Channel has been relatively undisturbed, relative to portions of the lower Willamette River that flow through the city of Portland. The NMFS matrix criteria for disturbance history were designed to evaluate the entire watershed based on Equivalent Clearcut Area (ECA) and are not applicable to the Project action area (NMFS 1996). However, historical diking, filling, and draining activities have significantly impacted portions of the Project action area. We conclude that the Project action area is "at risk" with respect to disturbance history.

### 6.5.2 *Riparian Reserves*

Riparian vegetation within the Project action area is important in providing a source of organic matter and terrestrial insects to the Multnomah Channel. Complex root systems associated with these riparian areas help to stabilize the riverbank. Riparian reserves also provide habitat for wildlife species and improve water quality by filtering stormwater runoff, trapping sediments, and absorbing chemical contaminants.

Large forested wetlands and smaller emergent and scrub/shrub wetlands are present along portions of the Multnomah Channel. The riparian community within the Project action area consists of some black cottonwood, Oregon ash, willow, red alder, big-leaf maple, and black hawthorn. However, riparian reserves are limited at the Project site. Invasive species, such as reed canarygrass and Himalayan blackberry are common along the west shoreline. Very little riparian vegetation is present along the east shoreline (Sauvie Island).

There are some large, mature hardwoods adjacent to the channel that could provide suitable roosting habitat for bald eagle and other bird species. The riparian canopy provides some

potential for future recruitment of LWD, although limited amounts of LWD were observed. Riparian reserves along this bank have been fragmented to support a variety of land use practices (agricultural, industrial, recreational), relative to historic riparian conditions. Riparian reserves within the Project action area have suffered a moderate loss of connectivity and function and would be considered “at risk” by NMFS matrix criteria.

## 7.0 BASELINE TERRESTRIAL HABITAT CONDITIONS

The Project action area for wildlife contains some historic bottomland forest and forested wetlands, dominated by black cottonwood and Oregon ash. Pacific willow may occur along the riverbanks of Multnomah Channel, and other trees found in this association are red alder, big-leaf maple, black hawthorn, and western red cedar. The understory is relatively sparse, but contains some red osier dogwood, red elderberry, Indian plum, snowberry and Himalayan blackberry (*ibid*). Tree canopy cover within the bottomland forest ranges from patchy cover (20 percent canopy closure) to relatively dense cover (80 percent closure). Snags and large woody debris are common, particularly along the riverbank and beach. Riparian habitat along portions of the Multnomah Channel, within the Project action area, has been reduced by channelization and development of marina facilities.

No recent surveys for listed plant species within the Project action were located. However, many of the species identified by the USFWS as potentially occurring within Multnomah County, including golden paintbrush, Bradshaw’s lomatium, Willamette daisy, and Kincaid’s lupine, require heavy clay soils found on native wet prairies of the Willamette Valley. No heavy clay soils or native prairie communities occur within the Project action area. Nelson’s checker-mallow requires gravelly well-drained soils that are not found within the Project action area. Howellia occurs in low elevation ponds or sloughs, which are present along Multnomah Channel. However, Howellia has not been observed since 1886 in the vicinity of the Project action area and is considered extirpated in Oregon.

No listed wildlife species are known to occur within the Project action area.

## 8.0 CONSERVATION MEASURES

Rocky Pointe Marina will implement the following impact minimization techniques and best management practices (BMPs):

### 8.1 TIMING OF IN-WATER WORK

- All in-water work associated with the proposed Project, including dock placement, pile removal/installation, and bank restoration will be conducted during the preferred in-water work periods for Multnomah Channel (*July 1 to October*) to minimize potential impacts to juvenile salmonids through the avoidance of vulnerable life stages and peak migration periods (ODFW 2000).

## 8.2 CONTROL OF TURBIDITY AND CONTAMINANTS

- An erosion and sediment control plan will be developed for anticipated site conditions to ensure water quality standards are met.
- Soils that are temporarily exposed and or/disturbed during installation of the concrete abutment anchoring the emergency ramp will be stabilized with biofilter bags, silt fencing and/or straw bales.
- All equipment staging areas will be surrounded with sediment fencing during construction activities. The sediment fencing will be located above the OHWE to prevent Project-generated sediments and gravel from entering the Multnomah Channel.
- Erosion control devices will be inspected on a routine basis. If inspection shows the erosion controls are ineffective, work crews will be mobilized immediately, during working and off-hours, to make repairs, install replacements or install additional controls as necessary.
- Turbidity will be visually monitored during in-water work activities to ensure that turbidity levels do not exceed state water quality standards. Should monitoring indicate a concern, corrective action will immediately occur.
- No riparian shrubs or trees will be removed during dock construction or piling installation/removal.


## 8.3 SPILL PREVENTION AND CONTROL

- The equipment staging areas will be located above the OHWE and nearby storm drains will be protected from potential sediment releases caused by the proposed Project.
- All equipment used will be clean and inspected daily prior to use to ensure that the equipment has no fluid leaks. Should a leak develop during use, the leaking equipment shall be shut down and not used again until it has been adequately repaired. At no time will any fuels or oils be allowed to enter any water body.
- Floating spill containment booms and absorbent booms will be maintained on site during all phases of construction to facilitate the cleanup of hazardous material spills. Containment booms will be installed in instances where there is a potential for release of petroleum or other toxic substances. Absorbent booms will be deployed within the containment boom if sheen is observed.
- A spill prevention, control and containment plan will be prepared and implemented.



#### 8.4 PILE INSTALLATION AND REMOVAL

- Piling required anchoring the docks and walkways shall be installed with a vibratory hammer, to the extent practicable, to reduce acoustic impacts to fish and wildlife species.
- Should impact drivers be required, the smallest feasible or practicable driver and the minimum force necessary will be used to complete the job. A diesel hammer or a hydraulic impact hammer will be used, when necessary, and the drop height will be set to the minimum necessary to drive the piling. A block of wood or other sound dampening substance will be placed between the hammer and the piling to reduce acoustic impacts.
- Removal of wood piling will either be performed by cutting the piling off at the mudline or by using a vibratory hammer. Care will be used during piling removal to minimize short-term and localized sediment resuspension that may result from sediments that adhere to piling. This material will not be washed off the piling or otherwise allowed to reenter the waterway.
- Piles will be fitted with anti-perching devices to prevent predation by piscivorous birds.
- If at any time, listed salmonids are observed in distress or a listed salmonid is killed, operations will cease and NMFS will be notified.



#### 8.5 DOCK CONSTRUCTION

- Synthetic floats used to support the docks and walkways shall be completely encapsulated with concrete to prevent adverse effects to fish and wildlife. The concrete will be applied to the floats and allowed to dry prior to installation in the Multnomah Channel to prevent uncured concrete from contacting the waterway.
- The marina will educate boaters about pollution and its prevention and provide specific information about ESA-listed species, their biological requirements, and measures the public may take to minimize adverse effects to listed species and their habitat. If practicable, public signs on pollution prevention will be installed at the parking lot and/or marina facility.

### 9.0 EFFECTS ANALYSIS

The following sections address direct, indirect, interrelated, interdependent, and cumulative effects of the proposed action on listed species and applicable critical habitats. Potential *direct effects* are identified as effects that occur at or very close to the time of the action itself. *Indirect effects* “are those that are caused by the proposed action and are later in time, but still are reasonably certain to occur” (50 CFR § 402.02). *Interrelated actions* are those “that are part of a larger action and depend on the larger action for their justification” (*ibid.*). *Interdependent actions* are defined as those “with no independent utility apart from the proposed action” (*ibid.*). *Cumulative impacts* as defined by rule “are those effects of future State or private activities, not involving Federal activities, that are reasonably certain to occur within the action area of the

Federal action subject to consultation” (*ibid.*). The effects of the proposed action consist of direct, indirect, interrelated, and interdependent effects (*ibid.*). In conducting a jeopardy analysis, USFWS and NMFS determines “whether the action, taken together with cumulative effects, is likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat (50 CFR § 402.14(g)(3)-(4)).

Evaluation for potential impacts of the proposed action on listed species and critical habitats in the Multnomah Channel were conducted following the general guidelines described in: “*Making Endangered Species Act Determinations of Effect for Individual or Grouped Actions at the Watershed Scale*” (NMFS 1996) and the “*Endangered Species Consultation Handbook*” (USFWS and NMFS 1998). No significant changes to the relevant NMFS pathways and indicators are anticipated. Only relevant indicators, which may be affected by the proposed action, are discussed below and have been modified as necessary to address the specific conditions found in the Multnomah Channel.

## 9.1 DIRECT EFFECTS TO LISTED FISH SPECIES

Incidental “take” (i.e. harm or harassment) of juvenile or adult listed salmonids during the proposed Project will be minimized through the implementation of conservation measures as described in Section 8.0. By scheduling any in-water work during the preferred ODFW in-water work period for the Multnomah Channel (*July 1 to October 31*), potential impacts to listed juvenile salmonids will be minimized through the avoidance of vulnerable life stages and peak migration periods. Any adult or juvenile salmonids that may be present in the channel during these periods are expected to readily avoid activities such as dock construction and piling removal and installation. Potential direct Project impacts to listed fish species or their habitat may include short-term and localized increases in turbidity, resuspension of sediment contaminants, acoustic impacts, and loss/disturbance of benthic forage. The Project would also cause some long-term increases in shading from the new docks, and moorage of recreational vessels and houseboats. The Project has been re-designed to reduce shading from 56,000 sq ft to approximately 28,500 sq ft. and to reduce the amount of floating dock space by half. Due to the location of the offshore dock structures, the proposed Project would not impede or obstruct migration for adult or juvenile salmonids. No significant long-term effects on listed fish species are anticipated.

Potential direct effects on designated critical habitat PCEs for listed salmonids would include short-term and localized water quality effects (i.e. increases in turbidity, resuspension of sediment contaminants), temporary disturbances to benthic forage for juvenile salmonids, and increases in shading, which can reduce primary productivity. No significant long-term effects on designated critical habitat are anticipated. Removal of creosote-treated wood piling in the Multnomah Channel is expected to improve localized habitat for listed fish species.

### 9.1.1 Turbidity

The proposed Project would result in localized, short-term increases in turbidity and associated suspended sediments due to disturbance of the substrate by construction and positioning of the new floating docks and the removal and installation of piling. Although low levels of turbidity and short-term pulses of moderate turbidity levels may not harm salmonids, prolonged exposure



to moderate and high turbidity levels can cause a number of negative environmental conditions for salmon and trout including:

- reduced light penetration, which in turn affects the reactive distance of juvenile and adult salmonids for food capture;
- increased straying rates of adult salmon;
- force juvenile salmon from preferred habitat, and;
- increase embryo mortality through deposition of fine sediments on spawning gravel.

The placement of the floating docks (e.g. positioning of boats and barges in shallow water habitat) and installation and removal of piling would result in some minor sediment disturbances and turbidity increases in Multnomah Channel. The resuspension and transportation of sediments would be limited to short-term pulses during piling removal when sediments that adhere to piling are transported through the water column. Piling installation would displace some sediments and result in low-level turbidity increases. However, water quality standards are expected to be easily met during the proposed activities. Visual monitoring will be performed for turbidity during in-water work activities to ensure that turbidity levels do not exceed state water quality standards. Should monitoring indicate a concern, corrective action will immediately occur.

It is anticipated that any downriver turbidity increases associated with the proposed Project would dilute rapidly as the plume dissipates. Turbidity caused by the proposed action would become undetectable within a half-mile downstream of the proposed Project site. Turbidity increases from the proposed Project are not expected to drift beyond one-quarter mile upstream of the Project site during a flood tide. Similarly, any movements of river sediments related to the proposed Project would not be measurable beyond these boundaries that are reasonably attributable to the proposed action.

All proposed activities that require in-water work would be conducted during the ODFW in-water work period. During this period of the year, numbers of juvenile salmonids are expected to be relatively low. The proposed Project is not expected to significantly detain or adversely affect adult salmonids that migrate upstream through Multnomah Channel during the in-water work window. By restricting operations to low periods of utilization by anadromous salmonids, and implementing the afore-mentioned conservation measures (Section 8.0), any effects of turbidity on listed anadromous salmonids would be minimized.

If the proposed activities are conducted as indicated above, we conclude that the short-term and localized increases in turbidity associated with the proposed action would not result in significant adverse effects to feeding behavior, use of preferred habitat, or upstream/downstream migration routes of any listed anadromous salmonids. Turbidity levels in the lower Willamette River are not expected to approach levels that would be detrimental to salmonids. Also, as discussed previously, there is no suitable substrate in the area for anadromous salmonid spawning. Therefore, sediment deposition on spawning substrate is not an issue.

For the reasons listed above, any temporary and localized turbidity increases caused by the proposed Project would be minimal and are not expected to force juvenile or adult salmonids



from use of designated critical habitat in the lower Willamette River. No long-term adverse effects to any designated critical habitat PCEs for listed salmonids are anticipated.

#### *9.1.2 Chemical Contaminants*

The primary concern regarding effects of sediment contaminants at the proposed Project site involves the exposure of resuspended contaminated sediments to salmonids and to organisms that provide food for juvenile salmonids. The Project action area is not considered a significant source of chemical contamination. However, several chemical constituents of concern, including TBT, PCBs, DDT, and PAHs have been identified within the Portland Harbor Superfund Area, located upstream in the lower Willamette River. It is possible that low levels of sediment contaminants have migrated from historic upriver sources to the proposed Project site. There are also several municipal and industrial point sources in the Willamette River that may contribute to contaminant levels in the Multnomah Channel. In addition, creosote leaching from wooden piling has likely resulted in elevated levels of PAHs in the sediments at the Project site.

The removal and installation of piling would cause some short-term and localized sediment resuspension in the Multnomah Channel. However, these activities are expected to result in much less sediment impacts than other more intrusive activities, such as maintenance dredging. Any sediment resuspension is expected to be minimal and would occur during periods of low utilization by juvenile salmonids. The conservation measures listed in Section 8.0 would further minimize the potential for contaminant effects on listed salmonids or their prey base.

The proposed removal of the creosote-treated wood piling at the Project site would help reduce the bioavailability of chemical contaminants to listed salmonids and their prey base. Creosote can be toxic to aquatic organisms and the environment. Only steel piling would be installed during the marina expansion Project; no treated wood piling would be placed in Multnomah Channel. Removal of these creosote-treated structures would have a beneficial impact on water quality in the channel.

Any resuspension of chemical contaminants caused by Project activities would not cause any long-term adverse effects on any designated critical habitat PCEs for listed salmonids. Although low levels of chemical contaminants may occur at the Project site, Project activities are not expected to significantly increase the contaminant bioavailability to salmonids or their food base.

#### *9.1.3 Benthic Macroinvertebrates*

Shallow water habitat in the lower Willamette River is considered important for juvenile anadromous salmonids because it provides food resources (benthic macroinvertebrates) and the shallow river-edge habitat may be utilized by juveniles as refuge from the main river currents. Approximately three percent of the proposed marina expansion Project is located in shallow water habitat (i.e.  $\leq$ -20 ft CRD). Although no studies were found for the Multnomah Channel, ODFW studies in the lower Willamette River have found that juvenile salmonids utilize shallow water habitats along the shoreline during periods of the year. Some minimal disturbance of substrate may occur from use of spud barges during installation of the docks and piling. Some additional short-term disturbance of substrate is expected during installation of the new piling and removal of the old piling. The physical displacement of substrate associated with piling installation would remove about 94 square ft of benthic invertebrate habitat.

The substrate along the west shoreline of Multnomah Channel consists of a significant percentage of bedrock, which is not preferred habitat for benthic macroinvertebrates. However, finer grained substrate (i.e. sand and silt) is present along the channel floor. Thus, offshore portions of the expansion area likely provide some areas of deposition of sand and silt material that may be utilized by benthic invertebrates.

The benthic macroinvertebrates most commonly utilized by downstream migrating juvenile salmonids include midge larvae (Chironomidae) and the amphipod *A. salmonis*. Both midges and *A. salmonis* have the ability to rapidly recolonize disturbed areas. Midges typically are among the first benthic organisms to recolonize denuded substrates. Larval drift from upstream areas is generally the first source of new recruits. In addition, many midge species have short life cycles, which enable them to increase their numbers rapidly. Individuals of *A. salmonis* periodically move from the substrate into the water column and then resettle at other locations on the substrate (Holton et al. 1984). These movements allow redistribution of individuals within the population and provide a mechanism for recolonization.

Based on the above analyses, we conclude that there would be a potential for a small, short-term loss of benthic food organisms for juvenile anadromous salmonids. However, these short-term disturbances are not likely to have a significant effect on growth or survival of juvenile salmonids due to the scheduling of Project activities during periods of minimal salmonid use and the limited area affected by the proposed action.

The temporary and localized disturbance of benthic forage caused by the proposed Project would not cause any long-term adverse affects on any designated critical habitat PCEs for listed salmonids. As described above, some benthic invertebrates would be lost due to substrate disturbance and piling installation/removal. However, benthic invertebrates are expected to rapidly recolonize the affected areas once the proposed Project is complete.

#### 9.1.4 Acoustic Disturbance

Pile driving can create a considerable amount of noise. The impact of the weight causes sound waves to radiate outward. Acoustic disturbances associated with pile driving may potentially disrupt the foraging behavior of juvenile salmonids, cause them to move away from the shoreline or delay migratory progress. Disturbances can also drive juvenile salmonids into deeper water. This can be especially detrimental in the spring, when salmonid concentrations are high and predation can have a significant impact on survival (Anderson 1990). Another concern is that sound may “mask” approaching predators or that salmonids may become habituated to the sound and fail to respond appropriately in the future. Hawkins and Johnstone (1978) found that adult Atlantic salmon may be able to detect sounds as far as 2,000 ft from a pile driving rig. However, juvenile fish may have less developed hearing abilities so the threshold could be much less.

Although studies documenting the acoustic effects of pile driving on salmonids are limited, two studies conducted in Washington’s Puget Sound offer behavioral responses to pile driving disturbances. Anderson (1990) studied the effects of pile driving on juvenile chum and pink salmon in the Puget Sound and found that fish avoided the construction activity to some degree, but some were observed swimming around the pile driving rigs during periods of active

construction. Feist et al. (1996) found that salmonids were capable of detecting the sound of drop-hammer pile driving nearly 2,000 ft away, and the sound was at least 20 dB above ambient levels. Juvenile chum and pink salmon did not move away from shore or stop foraging in response to pile driving. However, fewer fish schools were observed near the site on pile-driving days than on non-pile driving days. Also, qualitative observations indicated that fish had habituated to the sound of pile driving, which may be responsible for higher predation rates near the Project area (*ibid*). Anderson also observed fish startle was greater at the initiation of a pile-driving episode than after pile driving had commenced. No conclusive evidence has shown any long-term effects on juvenile growth rates or feeding patterns from the sound waves created from pile driving (Feist 1991). However, recent studies have indicated that high decibel levels may cause fish injury or death (Meyers pers. comm. 2003). More studies are needed to determine the degree of impact of pile driving on juvenile and adult salmonids.

The proposed Project intends to use pile drivers, fitted with vibratory hammers, to install up to 43 hollow steel piling to secure the new docks. Vibratory hammers would be used to minimize the potential effects of acoustic disturbance. An impact hammer may be necessary to batter (i.e. "proof piles"), or drive piles if installation activities cannot penetrate the substrate through use of the vibratory hammer. However, the use of impact hammers will be limited, and conservation measures (Section 8.0) will be followed, to minimize the potential acoustic effects of impact hammers on juvenile salmonids. It is possible that acoustic disturbances caused by in-water pile driving may result in sublethal effects to individual salmonids. However, piling installation and removal will take place during the in-water work period; thus, limiting the effects to relatively few juveniles.

The few existing non-treated wood piling at the site would be removed by cutting the piling off at the mud line. An attempt will be made to remove the single creosote-treated piling in its entirety using a vibratory hammer. No significant impacts to juvenile or adult salmonids are anticipated from these activities.

#### 9.1.5 Primary Productivity

Although no data are available on primary productivity at the proposed Project site, it is expected that primary productivity at the proposed Project site is dominated by diatoms and green algae (phytoplankton) that are primarily dispersed within the water column. However, diatoms may also be attached to aquatic vegetation or benthic organisms at the Project site (USGS 1997). The shallow water habitats within the Project action area may also support benthic algae and other types of phytoplankton. Approximately three percent of the proposed marina expansion design would occur in shallow water habitat (i.e.  $\leq -20$  ft CRD), or within the depths where benthic algae can effectively perform photosynthesis.

Portions of the main and finger walkways would be placed above shallow water habitat. The substrate along the shoreline at the Project site is dominated by bedrock. This type of substrate is not conducive to growth of rooted aquatic plants because of the difficulty in anchoring in bedrock substrate. Although no site-specific vegetation surveys have been conducted at the Project site, it is expected that aquatic rooted vegetation is limited along the west shoreline of Multnomah Channel at the Project site. However, sand and silt substrates are likely common offshore where the new moorage would be constructed. These substrates may facilitate growth

of some benthic algae. However, it is expected that phytoplankton is the primary producer within the Project action area.

Over water structures can reduce the amount of light available to phytoplankton and benthic algae, which can ultimately reduce primary productivity. The new floating docks would cause localized shading and may result in a small reduction in photosynthesis by benthic plants and phytoplankton. The moorage of recreational vessels and houseboats at the expanded marina will further exacerbate shading conditions at the Project site. The new dock and moored houseboats would cover approximately 28,500 sq ft. To reduce shading impacts, the main walk would not exceed six ft in width of solid decking. Finger floats dividing the open boat slips on the west side of the expansion would be limited in width to 3.5 ft and would account for an increase in shallow habitat shading of approximately 1,000 sq ft. Although shading caused by the new floating docks and moored houseboats may slightly decrease benthic algae and phytoplankton production, the potential loss of primary productivity would be minimal, considering the location of the proposed Project and Project designs and conservation measures that would be utilized to reduce shading impacts.

Overall, the proposed Project is not expected to significantly affect primary productivity (i.e. benthic algae and phytoplankton) within the Project action area. For the reasons listed above, the potential, localized loss of primary productivity that may result from shading under the new floating dock would not cause any long-term adverse effects on designated critical habitat PCEs for listed salmonids.

#### *9.1.6 Shading and Predation*

Depending upon the design, location, and timing; there has been concern presented by NMFS on similar Projects that the presence of in-water and over-water structures, such as barges, piers, and bridges, can affect habitat function by shading an area and creating visual barriers to migrating fish; or by providing cover for predators, thereby increasing their ability to ambush juvenile salmonids as they migrate downstream.

In the Willamette River, salmonid predators are known to include northern pikeminnow, largemouth bass, smallmouth bass, and walleye. In studies on smallmouth bass, Bevelhimer (1996) indicates that ambush cover and low light intensities create a predatory advantage and can also increase foraging efficiency for salmonid predators. Studies in the Willamette River have shown that smallmouth bass and largemouth bass have a strong affinity to structures, such as piers, docks, and associated pilings, and have been observed foraging and spawning in the vicinity of these structures (ODFW 2003b). ODFW studies found that largemouth bass and smallmouth bass were captured at significantly higher rates at sites containing artificial structures (e.g. riprap, piling) than at sites with natural bank habitats (*ibid*). Largemouth and smallmouth bass are opportunistic predators that may prey on juvenile salmonids, likely due to the overlap in rearing habitat.

The new docks, piling, and boat moorages would cause approximately 36,200 square feet of permanent shading. However, only 1,566 square feet would be over shallow water habitat. Additional shading in shallow water habitat could increase habitat for juvenile salmonid predators. However, as previously mentioned, the Project design includes shading reduction

measures to help reduce potential predator increases. Aspects of the marina design that are anticipated to minimize the use of the area by predators are minimization of floating structures, the narrow finger walkways, partially grated docks and the 18 to 20-inch diameter piling. Floating structures less than six feet in width usually do not provide adequate cover for large predators. The 20-inch diameter piling provides little refuge from the current on their downstream sides. Thus, it is not expected that predators would be attracted to the area by either of these marina components.

Although we cannot rule out the possibility that a few predators may benefit from the new over-water structures at the marina expansion area, the Project is not expected to significantly increase predator habitat in the Multnomah Channel. The emergency ramp originating from the bank will cross some shallow water habitat, however it will be suspended well above the surface of the water and is narrow enough (6 ft) to preclude effects from shading. All other dock structures would be placed at least 41 ft riverward from the shoreline during low flow conditions, which would reduce predatory habitat and allow an uninhibited passage route for juvenile salmonids along the shoreline.

Barges would only be used for a limited period of time to install the floating docks and support the pile driving equipment. The use of these platforms is common within the lower Willamette River and Multnomah Channel. Few salmonids will be present in the Project action area during the summer and early fall months when the proposed Project would occur. Due to the temporary and localized use of barges and timing of operation during the in-water work window, we conclude that there are no detrimental effects related to shading associated with barge placement.

#### 9.1.7 Chemical Spills

The proposed Project will adhere to conservation measures regarding oil and fuel spills and ensure that all personnel are aware of spill prevention and response procedures.

### 9.2 CRITICAL HABITAT EFFECTS

Four of the 13 salmonid populations that may occur in Multnomah Channel have designated critical habitat within the Project action area. These populations include: Lower Columbia River chinook salmon, Upper Willamette River chinook salmon, Lower Columbia River steelhead trout, and Upper Willamette River steelhead trout. Designated critical habitat for federally listed salmonids consists of freshwater rearing sites and freshwater migration corridors and their essential physical and biological features, also known as PCEs (70 FR 52630). The PCEs for the Project action area and potential Project impacts on these features are summarized in Table 5. The proposed Project is "*likely to adversely affect*" the value of some of these PCEs in the Project action area in the short term, but is not expected to negatively impact these PCEs over the long term. The proposed Project would not destroy or adversely modify critical habitat for listed salmonids.

### 9.3 INDIRECT EFFECTS

No significant indirect effects were identified that affect any federally listed species. The Project would increase moorage capacity for private recreational boats at the Project site. Thus, the increased boat usage

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following implementation of the Project could increase the potential for boat related contaminant spills and sewage releases within the Multnomah Channel. However, Multnomah Channel currently experiences a high number of recreational boaters each year. The increase in boat usage at the Project site would be insignificant when compared with existing boat usage within the Multnomah Channel.

**Table 5. Potential Project effects on specific critical habitat PCE's for listed salmonids that are known to use the Project action area.**

Site	PCE's	Potential Project Effects
Freshwater rearing	Water Quantity	No effects are anticipated.
	Floodplain Connectivity	Floodplain connectivity is limited within the Project action area. No effects are anticipated.
	Water Quality	Turbidity levels will temporarily increase during Project activities but are expected to be primarily limited to the expansion area. Some chemical contaminants may be resuspended by in-water work. Over the long term, water quality will be maintained. Removal of creosote-treated piling will reduce leaching of PAH's into the channel.
	Forage	Short-term loss of benthic invertebrates may result from substrate disturbance. Benthic organisms are expected to recolonize the expansion area following in-water work activities. Some loss of primary productivity may occur from shading, which could cause a reduction in the abundance of detritus-feeders at the Project site.
	Natural Cover	No effects are anticipated
Freshwater migration	Free Passage	Passage will not be significantly affected during Project construction. Placement of the new floating docks offshore will maintain free passage for juvenile salmonids along the shoreline.
	Water Quantity	No effects are anticipated.
	Water Quality	Short-term and localized increases in turbidity are not expected to preclude migration for juvenile and adult salmonids. Over the long term, water quality will be maintained.
	Natural Cover	No effects are anticipated.

Rocky Pointe Marina was designated as Oregon's first Clean Marina in June 2006. The Clean Marina Program works with marinas to eliminate or reduce the input of polluting materials, such as oil, paint, cleaning chemicals, sewage, fish waste, and trash, into the environment. Rocky Pointe Marina is trained and equipped to handle contaminant spills that may occur at the marina. Existing utilities-power, water, phone, propane, sewer have been determined sufficient to handle increase pressure resulting from the anticipated houseboats. No significant indirect effects on any designated critical habitat PCEs for listed salmonids are anticipated.



#### 9.4 INTERRELATED AND INTERDEPENDENT EFFECTS

No interrelated or interdependent effects of the proposed action on listed fish species were identified. Additionally, no interrelated or interdependent effects on any designated critical habitat PCEs for listed salmonids are anticipated.

#### 9.5 CUMULATIVE EFFECTS

Additional Projects within the watershed are anticipated as population growth continues in the region. Associated road and commercial development, as well as maintenance and upgrading of the existing infrastructure, are therefore likely to occur in the foreseeable future. Within the Project action area, gradual habitat and water quality improvements may also occur over time as federal, state and private conservation and habitat enhancement efforts are implemented.

A standard of “reasonably certain to occur” is clarified as “those actions that are likely to occur, bearing in mind the economic, administrative, or legal hurdles which remain to be cleared”. Further, NMFS provides that “speculative actions that are factored into the cumulative effects analysis add needless complexity into the consultation process...” (51 FR 19933). No specific state or private actions have been identified within the Project action area that meets this standard. Further, activities described above are speculative in nature and cannot be quantified in this document. Therefore, we conclude that there would be no cumulative effects associated with state or private activities. No cumulative effects on any designated critical habitat PCEs for listed salmonids are anticipated.

### 10.0 EFFECTS DETERMINATION

The USFWS and NMFS have published guidelines for making determinations of effect for listed species and critical habitats protected under the federal ESA. A determination of “*no effect*” is the appropriate conclusion when “the proposed action will not affect (i.e. harm or harass) listed species or critical habitat.” “Harm” is an act that actually injures or kills listed species (50 CFR § 17.3). “Harassment” is defined as an “intentional or negligent act or omission which creates the likelihood of injury to listed species by annoying it to such an extent as to **significantly** disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering” (50 CFR § 17.3).

A determination of “*is not likely to adversely affect*” is “the appropriate conclusion when effects on listed species or critical habitats are expected to be discountable, or insignificant, or completely beneficial.” The guidelines offer further clarification indicating that; “*insignificant effects* relate to the size of impact and should never reach the scale where take occurs. *Discountable effects* are those extremely unlikely to occur. Based on best judgment, a person would not (1) be able to meaningfully measure, detect, or evaluate insignificant effects; or (2) expect discountable effects to occur.” A “*likely to adversely affect*” determination is “the appropriate conclusion if any adverse effect to listed species may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effect is not: discountable, insignificant, or beneficial” (NMFS 1996, USFWS and NMFS 1998).

After evaluating the potential effects and available scientific and commercial data, we conclude that the proposed action is “*likely to adversely affect*” the following five ESUs/DPSs of federally listed salmonids known to occur within the Project action area:

- Lower Columbia River Coho Salmon (*Oncorhynchus kisutch*)
- Lower Columbia River Steelhead (*Oncorhynchus mykiss*)
- Lower Columbia River Chinook Salmon (*Oncorhynchus tshawytscha*)
- Upper Willamette River Steelhead Trout (*Oncorhynchus mykiss*)
- Upper Willamette River Chinook Salmon (*Oncorhynchus tshawytscha*)

This determination is primarily based on: (1) short-term (minutes to hours), localized acoustic disturbances during pile driving that may result in sublethal effects to individual salmonids; (2) temporary (hours to weeks) water quality and benthic disturbances that would occur during dock placement and the installation and/or removal of piling in the Multnomah Channel; and (3) long-term shading effects caused by over-water and in-water structures that could result in increased salmonid predation and a reduction in primary productivity.

The possibility that some listed salmonids could be present in the Project action area during the proposed marina expansion Project gives rise to the potential for adverse effects to listed salmonids. A determination of “*likely to adversely affect*” is the appropriate conclusion since the potential Project effects cannot conclusively be classified as “discountable, insignificant, or beneficial” (NMFS 1996, USFWS and NMFS 1998). The potential Project effects on acoustic levels, water quality and benthic forage cannot be termed “insignificant” since insignificant effects are defined as “effects that should never reach the scale where take occurs” (*ibid*). Under the ESA definition, “take” includes both harm and harassment (50 CFR § 17.3). Pile driving has the potential to cause harm (injury or mortality) to listed salmonids; all Project impacts could result in short-term “harassment” of listed salmonids (*ibid*). The implementation of conservation measures will help reduce the potential for take of listed salmonids. No significant long-term adverse impacts (months to years) are anticipated. The Project would not cause adverse, long-term impacts that would affect the survival and/or recovery of any listed salmonids that utilize the Project action area.

Usage of the Multnomah Channel by the remaining eight listed salmonids would be so rare an event that the likelihood of adverse effects would be negligible. Therefore, we conclude that the determination of “*may affect, not likely to adversely affect*” is appropriate for the following eight ESUs/DPSs of federally listed salmonids:

- Columbia River Chum Salmon (*Oncorhynchus keta*)
- Snake River Sockeye Salmon (*Oncorhynchus nerka*)
- Upper Columbia River Steelhead Trout (*Oncorhynchus mykiss*)
- Upper Columbia River Spring Chinook Salmon (*Oncorhynchus tshawytscha*)
- Middle Columbia River Steelhead Trout (*Oncorhynchus mykiss*)
- Snake River Spring/Summer Chinook Salmon (*Oncorhynchus tshawytscha*)
- Snake River Fall Chinook Salmon (*Oncorhynchus tshawytscha*)
- Snake River Basin Steelhead Trout (*Oncorhynchus mykiss*)

The proposed action will not significantly “hinder the attainment of relevant functioning indicators” as defined in “Making Endangered Species Act Determinations of Effect for Individual or Grouped Actions at the Watershed Scale” (NMFS 1996). The proposed Project would not result in the “*destruction or adverse modification*” of designated critical habitat. No significant indirect, cumulative, interrelated or interdependent effects on listed salmonids or their critical habitats were identified with the proposed Project.

## 11.0 ESSENTIAL FISH HABITAT

The Magnuson-Stevens Act (MSA) requires proposed Projects with a federal nexus to evaluate their impacts on habitat of commercially managed fish populations. EFH has been defined for the purposes of the MSA as “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity” (16 U.S.C. 1802(10)). NMFS has further added the following interpretations to clarify this definition:

- “Waters” include aquatic areas and their associated physical, chemical and biological properties that are used by fish, and may include areas historically used by fish where appropriate;
- “Substrate” includes sediment, hard bottom, structures underlying the waters and associated biological communities;
- “Necessary” means the habitat required to support a sustainable fishery and the managed species’ contribution to a healthy ecosystem; and
- “Spawning, breeding, feeding, or growth to maturity” covers the full life cycle of a species (50 CFR § 600.10).

The analysis of the effects provided below regarding the proposed Rocky Pointe Marina Expansion Project is made pursuant to Section 305(b)(2) of the MSA. Under this act, Federal agencies are required to consult with NMFS regarding any of their actions authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken that may “adversely affect” EFH. “Adverse effect” means any impact that reduces the quality and/or quantity of EFH, which can include direct (e.g., contamination or physical disruption), indirect (e.g., loss of prey, reduction in species’ fecundity), site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions (50 CFR § 600.810).

Cumulative impacts are incremental impacts, occurring within a watershed or marine ecosystem context, which may result from individually minor, but collectively significant actions. The assessment of cumulative impacts is intended, in a generic sense, to examine actions occurring within the watershed or marine ecosystem that adversely affect the ecological structure or function of EFH. The assessment should specifically consider the habitat variables that control or limit a managed species’ use of a habitat. It should also consider the effects of all impacts that affect either the quantity or quality of EFH (50 CFR § 600.815).

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For any federal action that may adversely affect EFH (except those activities covered by a General Concurrence), federal agencies must provide NMFS with a written assessment of the effects of that action on EFH. EFH consultations can be completed using the ESA Section 7 consultation process provided that the action agency supplies the information required by 50 CFR § 600.920 (NMFS 2001b).

An EFH assessment must contain:

- 1) a description of the proposed action;
- 2) an analysis of the effects, including cumulative effects, of the proposed action on EFH, the managed species, and associated species, such as major prey species, including affected life history stages;
- 3) the federal agency's views regarding the effects of the action on EFH; and

The earlier sections of this document present a detailed description of the proposed Project and all potential impacts to species listed as threatened or endangered under the ESA. The following section presents an identification of EFH within the Project action area, an analysis of effects, and a determination of these effects on EFH.

### 11.1 IDENTIFICATION OF EFH

#### 11.1.1 Coastal Pelagic Fish Species

The CPS fishery includes four finfish species [Pacific sardine (*Sardinops sagax*), Pacific mackerel (*Scomber japonicus*), northern anchovy (*Engraulis mordax*), and jack mackerel (*Trachurus symmetricus*)] and the invertebrate, market squid (*Logigo opalescens*) (NMFS 1998). All of these species are restricted to marine and saline estuarine waters and are not known to occur in the lower Willamette River or Multnomah Channel.

#### 11.1.2 West Coast Groundfish

The West Coast Groundfish Fisheries Management Plan (FMP) manages 83 species over a large and ecologically diverse area. Of the 83 species, starry flounder (*Platichthys stellatus*) is the only species expected to occur within the Project action area. The EFH for Pacific coast groundfish is defined as the aquatic habitat necessary to allow for groundfish production to support long-term sustainable fisheries for groundfish and for groundfish contributions to a healthy ecosystem. The boundaries for West Coast groundfish EFH are generally defined as all waters from the mean higher high water line, and the upriver extent of saltwater intrusion in river mouths along the coasts of Washington, Oregon and California seaward to the boundary of the U.S. EEZ (64 FR 49092). However, more specific definitions of EFH on a species by species basis are provided in an appendix (Casillas et al. 1998) to the Pacific Coast Groundfish Fishery Amendment 11 (64 FR 49092). The habitat description for starry flounder notes "adults and juveniles are known to swim great distances (>120 km) up major coastal rivers but not following any migratory trend." Therefore, in the case of starry flounder, it appears that EFH includes the freshwater of major coastal rivers used by adults and juveniles.

Starry flounder occur in the lower Willamette River and are expected to occur within the Project action area. Several starry flounder have been captured in shallow water habitat areas in the lower Willamette River, near St. Johns Bridge (EES 2003). The starry flounder that were captured in shallow water habitat ranged in length from 94 mm to 454 mm. According to Hart (1973), maturity in males occurs at about 300 mm and in females at about 350 mm. Based on the length frequency distribution of the starry flounder caught in shallow water habitat upriver from the Project site, it appears that most of the fish were juveniles.

### *11.1.3 Pacific Coast Salmon*

In September 2000, NMFS approved the Pacific Fishery Management Council's Amendment 14 to the Pacific Coast Salmon Plan. Appendix A to Amendment 14 defines freshwater EFH for chinook salmon and coho salmon as including all streams, lakes, ponds, wetlands, tributaries and other water bodies currently viable and most of the habitat historically accessible to these species in Washington, Oregon and California within specific hydrologic units. The Multnomah Channel, at the Project site, is included in this definition for both species.

## 11.2 EFH EFFECTS ANALYSIS

### *11.2.1 Direct Effects*

EFH for the CPS fishery is not known to be present in the Project action area. The starry flounder is the only West Coast groundfish expected to occur in the Project action area. EFH for the starry flounder includes the deep water and shallow water habitat within the Project action area. Chinook salmon and coho salmon are the two salmonid species that are managed in the Multnomah Channel for EFH.

The direct effects of the proposed Project that could affect starry flounder EFH include substrate disturbances caused by proposed dock placement and piling installation/removal in the Multnomah Channel. As described in Section 9.0 of the BA, substrate disturbances and water quality impacts would be short-term and localized to the Project site, and minimized through the implementation of appropriate conservation measures. The west shoreline of the channel is dominated by bedrock and does not provide preferred substrate conditions for starry flounder. However, preferred habitat for starry flounder (sand and silty substrate) is common in the channel mainstem. Project activities may degrade water quality conditions in the short-term and cause increases in shading that may reduce habitat suitability for starry flounder. However, the shading reduction measures incorporated in the Project design are expected to minimize long-term adverse effects on starry flounder EFH.

The EFH for chinook and coho salmon consists of the water and substrate in the shallow water, deep water, and off-channel habitats within the Project action area. The direct Project effects on these areas have been thoroughly described in Section 9.0 of the BA. We conclude from this analysis that the proposed Project would adversely affect EFH for coho or chinook salmon in the short term. No adverse effects to EFH for these species are anticipated over the long-term.

### *11.2.2 Indirect and Cumulative Effects*

Potential indirect and cumulative effects of the proposed Project on chinook salmon and coho salmon were discussed in the BA (Section 9.0). Indirect effects, as defined for EFH

consultations under 50 CFR 600.810, include the short-term disturbance of benthic food organisms. The substrate disturbances caused by the proposed activities would be primarily limited to the proposed expansion area. Also, because the Project action area is located on the periphery of the distribution of starry flounder, it is unlikely that food is a limiting factor for the fish that migrate into the Project action area. Based on these analyses, we conclude that the temporary loss of benthic production associated with the proposed Project activities would not adversely affect Pacific Coast Salmon EFH or West Coast Groundfish EFH over the long term.

Cumulative affects associated with the proposed actions are unlikely to affect EFH. Any cumulative or indirect impacts associated with other Projects planned in the vicinity of the Project area would be required to comply with existing or emerging development standards required to protect habitat for fish species. These standards are intended to protect water quality, hydrologic conditions, stream habitat conditions, riparian buffers, and wetlands.

### 11.3 EFH EFFECTS DETERMINATION

The potential direct, indirect, and cumulative effects of the proposed Project "*may adversely affect*" identified EFH in the short-term for the Project action area evaluated, based on consideration of the EFH requirements of the CPS fishery, West Coast groundfish fishery, and the Pacific coast salmon fishery. No significant adverse long-term effects on EFH are anticipated. It is expected that the conservation measures described in the BA are also applicable to EFH and would satisfy the requirements pursuant to Section 305(b)(4)(A) of the MSA.

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**APPENDIX A. PHOTOGRAPH LOG.**

**APPENDIX B. PROJECT DRAWINGS.**



**APPENDIX C. U.S. FISH AND WILDLIFE SERVICE SPECIES LIST FOR  
MULTNOMAH COUNTY.**



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

**Decision**

This Decision consists of Conditions of Approval, Findings, and Conclusions

**JULY 30, 1993**

- |                  |                                  |   |
|------------------|----------------------------------|---|
| <b>CS 1-93,</b>  | <b>Community Service Use</b>     | (Alter and add to existing marina facilities)           |
| <b>HV 1-93,</b>  | <b>Variance Requests</b>         | (allow gravel parking below 100-year flood level, etc.) |
| <b>WRG 1-93,</b> | <b>Willamette River Greenway</b> | (approve revised moorage and site designs, etc.)        |
| <b>CU 7-93,</b>  | <b>Conditional Use Requests</b>  | (moorage of 50 houseboats; boat repair yard, etc.)      |

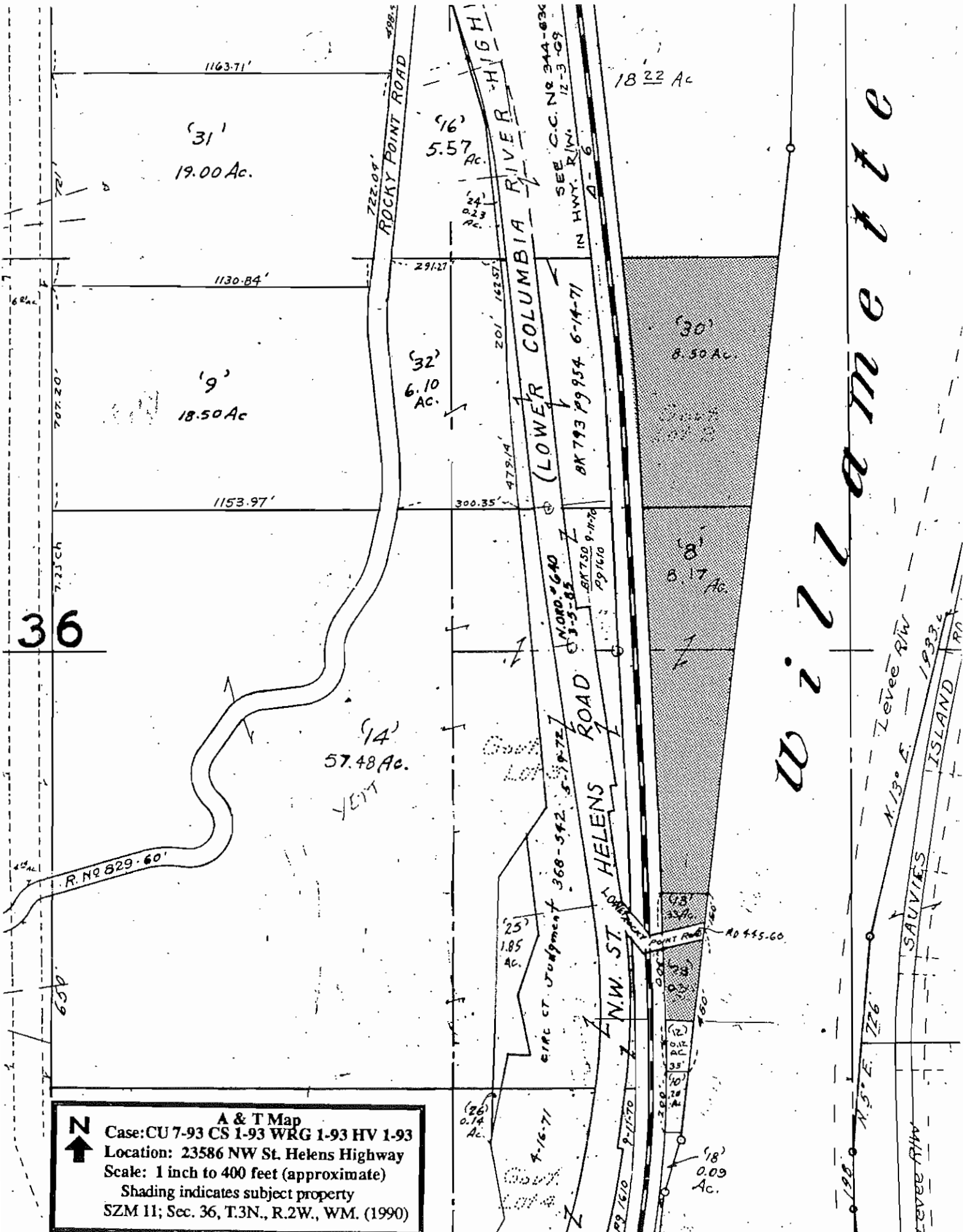
This Hearings Officer decision is regarding facilities and development proposed at "Rocky Pointe Marina" under the four application case files cited above.

- |                              |   |
|------------------------------|---|
| <b>Location:</b>             | 23586 NW St. Helens Road (Rocky Pointe Marina)  |
| <b>Property Description:</b> | Tax Lots '8', '13', '28' & '30'; Section 36, 3N-2W  |
| <b>Site Size:</b>            | 17.1 Acres (CS designation is on south 9-acres) <b>Size Requested:</b> Same   |
| <b>Owner/Applicant:</b>      | Janis and Richard Tonneson<br>23586 NW St. Helens Road  |
| <b>Comprehensive Plan:</b>   | Multiple Use Agriculture  |
| <b>Zoning:</b>               | MUA-20, Multiple Use Agricultural District<br>WRG, Willamette River Greenway<br>FH, Flood Hazard<br>CS, Community Service (except for tax lot '30') |

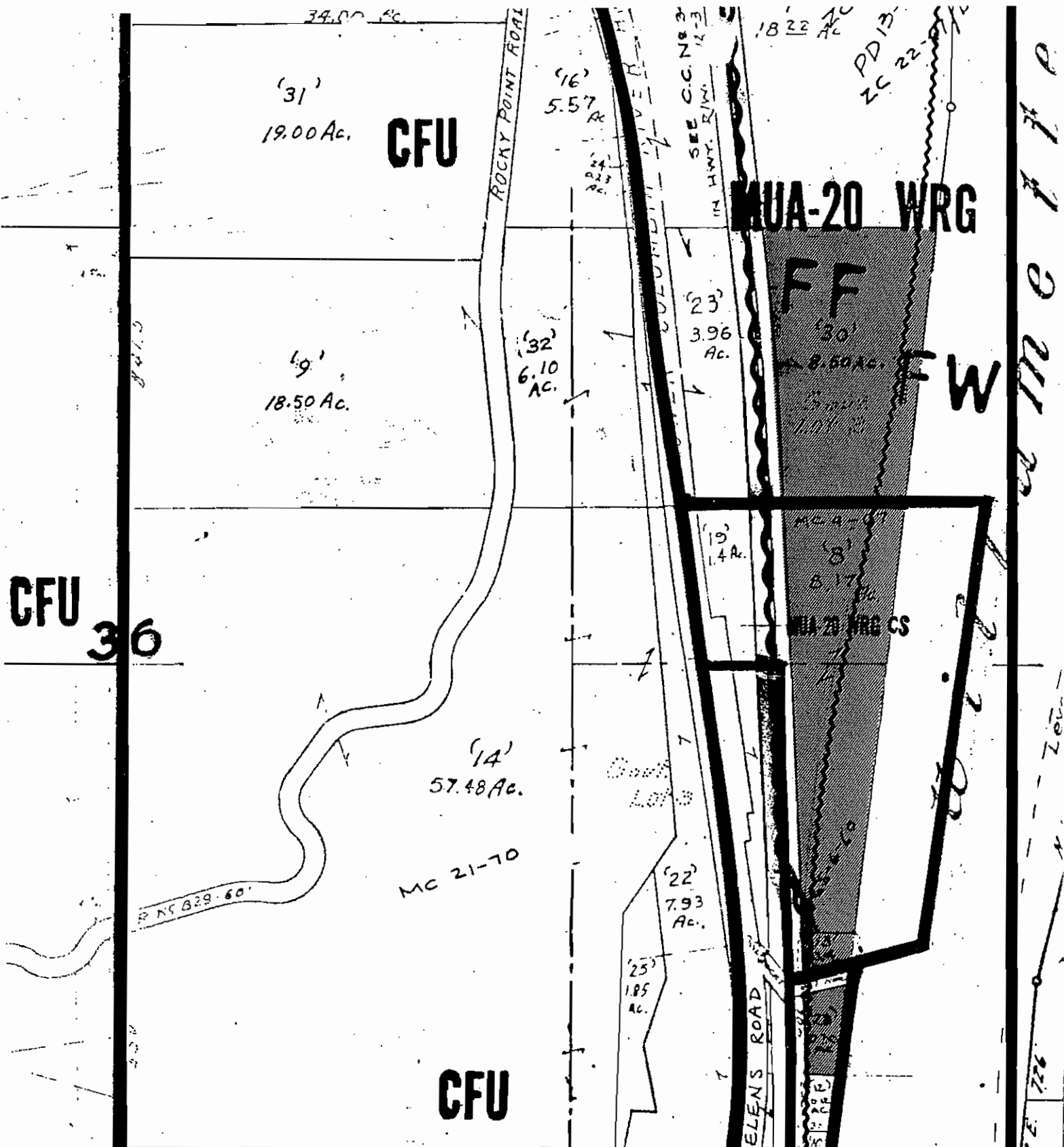
**HEARINGS OFFICER  
DECISIONS**

Notices	Decision Notices
23	8-05-93
mailed on	by J.B.

- #1. Approve, subject to conditions and modifications,** the proposed Community Service Use to reconfigure and expand the marina facilities;
- #2. Approve, subject to conditions and modifications,** the proposed Conditional Use request for a boat repair facility on Tax Lot 30;
- #3. Approve, subject to conditions and modifications,** the proposed Conditional Use request to expand the houseboat moorage. However, the request to allow 50 houseboats is denied, and has been modified to approve only 40 houseboats.
- #4. Approve, subject to conditions and modifications,** the proposed variances to allow variations for graveled parking below the 100 year flood elevation. However, the variance to reduce the number of spaces required for the proposed boat slips is denied.
- #5. Approve, subject to conditions,** the requested WRG permit for new and altered uses in the Willamette River Greenway; all subject to the following conditions of approval:



**A & T Map**  
 Case: CU 7-93 CS 1-93 WRG 1-93 HV 1-93  
 Location: 23586 NW St. Helens Highway  
 Scale: 1 inch to 400 feet (approximate)  
 Shading indicates subject property  
 SZM 11; Sec. 36, T.3N., R.2W., WM. (1990)



**Zoning Map**  
 Case: CU 7-93 CS 1-93 WRG 1-93 HV 1-93  
 Location: 23586 NW St. Helens Highway  
 Scale: 1 inch to 400 feet (approximate)  
 Shading indicates subject property  
 SZM 11; Sec. 36, T.3N., R.2W., WM.

(14)  
 39.20 Ac.

**MUA-20  
 WRG**

**MUA-20 WRG**

**FF**

**CFU 36**

**CFU**

(31)  
 19.00 Ac. **CFU**

(19)  
 1.4 Ac.

(14)  
 57.48 Ac.

(32)  
 6.10 Ac.

(23)  
 3.96 Ac.

(22)  
 7.93 Ac.

(25)  
 1.85 Ac.

(26)  
 0.14 Ac.

(21)  
 7.47 Ac.

(18)  
 0.09 Ac.

(16)  
 5.57 Ac.

(18)  
 22 Ac.

PD 13  
 20 22

SEE C.C. N.B. 3  
 IN HWY. R.W. 14-3

W M C 7 7 P

20 22  
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 22 22

**MUA-20  
 WRG**



## CONDITIONS OF APPROVAL

1. Obtain Final Design Review Plan approval pursuant to MCC .7805-.7865 for proposed site improvements including, but not limited to, grading, clearing, landscaping, fencing, building materials and exterior colors. Design Review shall include applications for a Grading and Erosion Control Permit [MCC. 6710], and a Floodplain Development Permit [MCC .6307]. Site work or construction of expanded marina facilities or grading or construction on Tax Lot '30' shall not proceed before required Design Review and associated Administrative approvals are obtained. Minor changes to the site design may be allowed; however the Final Design Review Plan(s) approved shall not permit an increase in the number of houseboats (40-maximum), boat slips (150-maximum), boathouse spaces (7-maximum), parking spaces (166 maximum).
2. The Community Service and Conditional Use approvals described herein shall expire five years from the effective date pursuant to MCC .8260(A) or .8280(D), unless the project is completed or substantial development has taken place within five years as specified in MCC .7010(C) and MCC .7110(C). Construction of proposed development and uses approved under the CU/CS/WRG and HV decisions may be divided into stages. However, each phase or stage shall require a separate Final Design Review Plan and other approvals as prescribed by conditions herein.
3. Obtain applicable approvals from the U.S.Army Corps of Engineers and the Division of State Lands before conducting site grading or fill work within identified wetlands on the site, and prior to installation of proposed pilings,docks, floating walkways, or structures in Multnomah Channel . The riverward encroachment of the marina and its associated floating structures and uses shall not extend beyond the distances illustrated on approved CU/CS plans.
4. Prior to site development or construction of the proposed facilities, obtain applicable permits or approvals from the Oregon Department of Environmental Quality for expanded sewage facilities, and from the State Department of Water Resources. Provide documentation that authorized facilities have adequate capacity and are authorized to serve the uses noted above in Condition #1.
5. Except as modified by conditions of approval, the land use permits shall be for the specific uses proposed and specified in the application. A maximum of 40-houseboats are authorized; only those houseboats that will be moored at this site may be constructed, and only in their respective slips. Houseboat or other water dependent manufacturing for export to other locations is not authorized. The proposed boat repair commercial use shall not employ more than 5 people total in the business, and facilities shall not exceed a 5,000 square foot building setback at least 150 feet from OLW per MCC .6372(O) and a 10,000 square foot yard area. The boat repair facility shall be designed and located consistent with the



applicant's "ALTERNATIVE PLAN" submitted on 6/14/93. This configuration of the boat repair facility better protects the wildlife that will tend to inhabit the adjacent wetland area.

6. Each new, relocated, or replaced boathouse or floating home shall be individually authorized by a WRG Permit [Planning Director approval per MCC §.6364]. Applications for new, relocated, or replacement structures shall be consistent with the reconfigured marina plan approved herein, except ~~as~~ amended by Condition #1.
7. Any subsequent decision(s) by the Director to implement conditions above and requiring the exercise of legal or factual judgment shall include notice and opportunity for a hearing before a Hearings Officer as provided in ORS 215.416(11).
8. The reduction in the number of requested parking spaces from 186 to 166 shall be accommodated by reducing the number of spaces located in the area south of the sewage lagoon and east of the wetland area. This reconfigured parking plan shall be reviewed and approved through design review in order to carry out the intent of this condition.

## I. SUMMARY

The applicant requests approval to permit the expansion of the Rocky Pointe Marina. In essence, the applicant proposes to reconfigure the existing houseboat moorages and boat slips somewhat, and to expand the moorage to the north. In addition, the applicant is proposing a significant extension of the parking area and access road to the north, to serve the proposed moorage expansion. The northward expansion of the moorage and its related development on the shore, will impact existing wetlands on the site. At the northern terminus of the access road, the applicant is proposing a boat repair facility and boat lift.

The major issues in this case are: 1). the density and location of development, 2). the protection of ecologically fragile natural resources, 3). that no hazardous conditions will be created, and 4). whether the applicants have met their burden of proof by demonstrating that there is substantial evidence in the whole record that all of the other applicable approval criteria can be met.

The Hearings Officer held public hearings to consider the request on June 7, June 22, and July 14, 1993. The Hearings Officer finds that if the number of proposed houseboats is reduced from 50 to 40, if the number of parking spaces is reduced from 186 to 166, if the proposed design of the boat repair facility is changed so that it presents less of a disruption to wildlife in the adjacent wetland, and if other conditions of approval are met, then the proposal will meet the applicable approval criteria and can be approved.

## II. PROJECT HISTORY

The following excerpts from page 2 of the application provide a brief review of the

project's history. It should be noted that one of the opponents to this application, namely, F.O.R.C.E., have also summarized certain historical information concerning Rocky Pointe Marina. The Hearings Officer also takes note of the basic facts contained on page 2 of the document submitted by F.O.R.C.E. on April 1, 1993. In order to provide a reasonably concise history, only the following excerpts from the application are reprinted here:

*"In September, 1992, the present owners of Rocky Pointe Marina were informed by the County that the marina was not in compliance with approvals CS 6-60 and MC 9-67, issued in 1960 and 1967 respectively. These zoning approvals allow 14 houseboats, 75 boat houses, 600 boat moorage slips and a marine construction facility (with a maximum of 5 employees). \* \* \* Previous owners had allowed the Marina to expand beyond \* \* \* 14 houseboats to 29 houseboats, while the number of boat houses and covered boat moorage slips remained well below the approved amounts.*

*"The present owners (and applicants) acquired Rocky Pointe Marina in October, 1991. They also acquired the adjoining vacant land (Sec. 36 3N2W, Tax lot 30) to the north of Rocky Pointe Marina.*

*"An application for Community Service (CS), Conditional Use (CU), Willamette River Greenway (WRG), and Variance (V) approval was submitted to the County for review in December, 1992 to obtain land use approval of the existing development as well as a proposed expansion of the facility. This application was reviewed by the County staff. A postponement of the hearing date for this application was requested so that additional information could be prepared which addressed issues raised by the Planning staff."*

### III. APPLICANT'S PROPOSAL

Janis and Richard Tonneson (applicants) request county approval to modify the Community Service (CS) use at "Rocky Pointe Marina" and to expand the CS designation to include an 8-acre property north of the existing marina. The requests include several components:

Conditional Use and Willamette River Greenway Permit approval to:

- a) Increase the number of allowable houseboats (floating homes) from 14 to 50; and
- b) Modify the existing marine construction zoning approval on Tax lot 8 to allow instead a boat repair facility on Tax lot 30.

Community Service Use approval and a Willamette River Greenway Permit to:

- a) Decrease the number of approved boat houses from 75 to 15;
- b) Decrease the number of approved boat moorage slips from 600 to 150;

Variance approval to:

- a) Continue to have a parking area below the 100 year flood elevation;
- b) Continue to use a gravel surface instead of pavement; and

- c) Provide parking spaces for the boat slips at a ratio of one parking space per three boat slips.

NOTE: During the course of the hearings held by the Hearing's Officer on this matter, the applicant submitted a variety of alternate designs for various aspects of the development. When these designs become relevant in the discussion below, they will be referred to specifically.

#### IV. SITE AND VICINITY

The 17.1-acre site is located on the west bank of Multnomah Channel and is bounded by the Burlington Northern rail-line (BN line) on the west, Multnomah Channel and Sauvie Island on the east, "Big Oak Marina" to the north, and "Happy Rock Marina" to the south. Highway 30 (St. Helens Road) is immediately west and up-slope of the BN line.

The south 9-acres contains the existing "Rocky Pointe Marina", including parking areas, a sewage treatment facility, and other structures associated with the boats and floating homes moored in the river. A marina was first established on the south end of the site in the 1940's. Additions approved by the County in the 1960's extended the marina north. Today, the moorage pilings, walkways and floating structures extend about 1700-feet along the riverbank. The riverward encroachment (*i.e.*, the distance from water edge to the outside edge of the structures secured in the river) varies from about 75-feet on the south (upstream) end, to about 210-feet on the north (downstream) [as scaled from Application: Exhibit C]. The balance of the property, including 8-acres on Tax Lot '30', is generally flat forested or brushy wetlands below the 100-year flood elevation (*i.e.*, 26-feet m.s.l.). Most of the river bank is defined by large cottonwood trees within a 50-foot wide riparian strip. The wooded strip is bordered by an open area of grasses and shrubs beneath power lines which parallel the river about 100-feet from the bank.

Nearby sites to the north and south (between the Channel and the highway) are generally flat with most portions below the 100-year flood elevation, and many wetland features. Most are developed with river-related recreation and residential (houseboat) development. Lands west of Highway-30 are generally steep forested hillsides, with scattered rural residences. The "Wildwood Golfcourse" is located about 1/2 mile to the southwest.

#### V. APPLICABLE LAW AND RESPONSIVE FINDINGS

##### A. COMPLIANCE WITH APPLICABLE COMPREHENSIVE PLAN POLICIES

The following Comprehensive Plan policies are applicable to the requests:

Policy 2 (Off-site Effects); Policy 10 (Multiple Use Agricultural Lands); Policy 13 (Air, Water and Noise Quality); Policy 14 (Development Limitations); Policy 15 (Willamette River Greenway); Policy 16 (Natural Resources); Policy 24, (Housing Location), Policy 26, (Houseboats), Policy 31 (Community Uses & Facilities); Policy 37 (Utilities); Policy 38 (Facilities); Policy 39 (Parks and Recreation Planning).

***Policy #2 Off-site Effects.***

*The County's policy is to apply conditions to its approval of land use actions where it is necessary to protect the public from potentially deleterious effects of the proposed use, or the fulfill the need for public service demands created by the proposed use.*

**Findings:** The Hearings Officer has approved and modified the applicant's proposal, subject to a number of conditions of approval which have been imposed, in part, to protect the public from potentially adverse impacts caused by development and to insure that adequate public services are provided to serve the proposed development. This policy has been met.

***Policy #10 Multiple Use Agricultural Land***

*It is the County's policy, in recognition of the necessity to protect adjacent Exclusive Farm Use areas, to restrict Multiple Use Agricultural uses to those compatible with Exclusive Farm Use areas.*

**Findings:** The Hearings Officer finds that the proposed use complies with this policy, based upon findings regarding MCC 11.15.7015(A)(3).

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

*It is the county's policy to require, prior to approval of a legislative or quasi-judicial action, a statement from the appropriate agency that all standards can be met with respect to air quality, water quality and noise levels.*

**Findings:**

**Air quality**

Additional vehicular traffic will be attracted by the proposed redesign of the existing marina but the impact upon air quality should be negligible.

**Water quality**

As part of the proposed redesign, the existing sewage treatment facility located adjacent to Multnomah Channel will be upgraded to process effluent to meet Federal requirements (40 CFR, Section 133.102). This will prevent untreated sewage from entering Multnomah Channel, and will also improve air quality somewhat. The applicant indicates that water from the proposed boat repair facility will be totally recycled. If not, the DEQ letter of June 9, 1993 indicates

that a NPDES permit will be required. Overall, this criteria will be met.

## Noise

Other than the construction process, evidence in the record indicates that the redesigned marina will not significantly increase ambient noise levels. The boat repair yard will be situated between the Burlington Northern railroad tracks and the river side dike. The dike has heavy vegetation and tall cottonwoods which provide screening and sound deadening of noise levels. The boat repair yard and building will be a minimum of 300 feet from any residences on adjoining properties and this use will be redesigned to further reduce the likelihood of any significant disturbances to wildlife in the area. The building and the storage yard will be oriented to minimize noise impacts on the residence to the north. Overall, this criteria will be met.

### ***Policy #14 Development Limitations***

*The county's policy is to direct development and land form alterations away from areas with development limitations except upon a showing that design and construction techniques can mitigate any public harm or associated public cost, and mitigate any adverse effects to surrounding persons or properties.*

### **Findings:**

Of the limitations noted in this policy, the 100 year flood plain and the wetland area with a high seasonal water table are relevant to this proposal.

The site lies within the 100 year flood plain, as designated by the Federal Emergency Management Agency (FEMA). There is evidence in the record of recent flooding. In particular, Appendix 2, Exhibit L submitted by FORCE, shows significant flooding in 1982 throughout the site. Some minor flooding also occurred in February of 1993. The record also shows flooding in 1977, when there was 18 feet of water in the south parking lot.

The proposed development is designed to be relatively unaffected by flooding and there is evidence in the record which indicates that the moorage will be adequately secured to prevent it from causing off-site effects due to flooding. The parking lot can be flooded without damage and vehicles can be moved from the site in the event of a flood. The houseboats and boat slips are designed to rise and fall with the water level and will not be affected by high water. Finally, the proposed boat repair building is designed to withstand flood water and a mezzanine level is incorporated into the design so that storage of materials will occur above the 100 year flood elevation. A letter from the applicant's engineer elaborates on the design of the building (see Appendix 5). In view of these facts, the threat of flooding will present no significant problem in the redesign or redevelopment of the marina.

A large portion of the property is within a wetland as defined by the State and Federal agencies. This wetland is delineated on the Existing Conditions site plan in Exhibit C. The applicant has submitted a wetland mitigation plan in order to mitigate any adverse effects to surrounding persons or property. In particular, a small portion of the boat repair facility is proposed to be located in a 1.57 acre area of reed Canary grass. Mitigation and enhancement has been proposed at a 3 to 1 ratio to offset this encroachment (See Exhibit D).

The Hearings Officer finds that the applicant has demonstrated that design and construction techniques can and will be used to mitigate any adverse public harm associated with this use. Furthermore, the Hearings Officer has included various modifications to the proposed project which will further mitigate any adverse effects. Conditions of approval will require verification of applicable approvals from the U.S. Army Corps of Engineers and D.S.L.. This policy will be met.

***Policy #15 Willamette River Greenway***

*Protect, conserve enhance and maintain the natural, scenic, historic, agricultural, economic and recreational qualities of lands along the Willamette River; and*

*Protect identified Willamette Greenway areas by requiring special procedures for the review of certain types of development allowed in the base zone that will insure the minimum impact on values identified in the various areas...*

**Findings:**

By applying for approval of a Willamette River Greenway permit, the applicant complies with the procedural portion of this policy. The natural qualities of the land will, on balance, be protected through the applicant's proposed wetland mitigation plan. This policy has been implemented through the county's Willamette Greenway permit criteria. Those criteria are specifically addressed below and the findings in that section apply here. The substantive portion of this policy can therefore be met.

***Policy #16 Natural Resources***

*F. (Scenic Resources)*

**Findings:**

This moorage is located between two other moorages which lie immediately to the north,(Big Oak Marina) and to the south (Happy Rock Marina). Therefore



expansion of this moorage was planned, will conserve scenic resources because the northward expansion will amount to a logical in-fill between already existing moorages.

*G. (Water Resources and Wetlands)*

**Findings:**

The wetlands that exist on this site do not constitute county identified wetlands. Therefore, Goal 5 protection under the county's acknowledged comprehensive plan and zoning ordinance was not contemplated for this site. State and federal regulatory agencies have regulatory authority regarding the wetlands impacted by this development. Nonetheless, the hearings officer finds that the applicant's proposed mitigation plan, and the water quality permits required by state and federal agencies will ensure that water resources and wetland values will be protected on this site.

***Policy #21 Housing Choice***

*Allow for a variety of housing location, type and density...*

**Findings:**

The proposed houseboat uses support this policy because there is a demand for this type of housing.

***Policy #24 Housing Location***

*This policy articulates the County's locational standards for new residential development. The proposed marina expansion, with the addition of 36 houseboats, is classified as a "major residential project."*

**Findings:**

The proposed expanded use of houseboats on the site is consistent with the criteria contained in this policy for the following reasons:

- a) There will be less than one houseboat per 50 feet of waterfront. The total frontage is 2,600 feet long, allowing 52 houseboats. 40 houseboats will be allowed - 10 less than the applicant proposed and 12 less than this comprehensive plan policy would allow.
- b) The site has direct access to Lower Rocky Point Road (County Road No. 445) which in turn intersects State Highway 30.
- c) No traffic safety problems will result from this development because the

street facilities are adequate. The driveway and access locations are established and have proven to be safe during the use of the marina. The additional traffic for boaters primarily will occur during the evening hours and weekend when traffic is the lightest.

- d) Public transit is not provided within 1/4 mile of the site because Tri-Met buses only travel as far north as the Sauvie Island Bridge which is approximately six miles south of the marina. This issue is discussed more thoroughly under Policy 31 below.
- e) The proposed marina redesign will provide user convenience by establishing a moorage with new utilities, walkways, parking, and boat slips. Clustering new houseboats, boats slips, and boat repair facilities in an area that is committed to this type of development is more energy efficient because related services and facilities will be combined into one mixed use development.
- f) The unique natural features on the site are the waterfront and the wetland area on the west side of the property. These features will be protected and enhanced by moving the existing water development away from the shore thereby avoiding potential impact to the shallow water habitat and the riparian vegetation.
- g) The grade on the property is considerable less than a 20%.
- h) The intensity of the use will be less than the current development permits issued by the County for this site would allow. The predominant character of the property will continue to be residential use that will continue to be compatible with surrounding land uses.
- i) The need for boat slips is evidenced by the consistent rise in the number of private pleasure craft in the Portland metropolitan area. Boat slips are always in demand and many marinas have waiting lists of people wanting a slip.
- j) This marina redesign proposal includes the integration of uses (residences, boat slips, marine sanitation pump out station, and a small boat repair) for the convenience of residents in the Rocky Pointe Marina and nearby moorages.

Overall, the Hearings Officer finds that this policy has been met.

***Policy #26: Houseboats***

*The county has designated certain areas as being suitable for houseboats.*

**Findings:**

The Rocky Pointe moorage is specifically designated as an appropriate location for houseboats.

***Policy #27 Commercial Location***

**Findings:**

A boat repair yard is an allowable use under the MUA-20 zone. The majority of this Plan policy is intended to address conventional land-based commercial development. The one relevant portion of the policy states that it is '[t]he County's policy to: improve the availability and accessibility of consumer goods and services by supporting the location and scaling of commercial development to meet the needs of the community and to reinforce community identity'.

The proposed boat repair facility is consistent with this policy because it is intended to serve the boaters in the immediate vicinity and reduce the need to transport boats in the area to other repair locations which are inconvenient and located a considerable distance away. Because of its orientation toward minor repairs of small pleasure craft, the scale of the business will be compatible with surrounding land uses. This policy will be met so long as conditions of approval are met which strictly limit the manner in which this use is conducted on site and so long as the design of the building is modified to better protect the adjacent habitat.

***Policy #31 Community Facilities and Uses***

Rocky Pointe Marina is defined by Policy 31 as a "minor regional community facility". The applicable portions of Policy 31 stress the importance of meeting community needs, expansion at locations reinforcing orderly and timely development, direct access to a collector street, public transit within one fourth (1/4) mile, siting facilities where adverse traffic impacts will not occur, compatibility between land uses, and compliance with other Plan policies.

**Findings:**

**Community needs:** Community needs are met by providing needed moorage and repair facilities for the increasing number of recreational boaters using the Multnomah Channel.

**Orderly and timely development:** Orderly and timely development will be improved at the site because some of the necessary support facilities are not presently in place or are inadequate to accommodate the existing development. The expansion, if carried out in compliance with the currently applicable local, state and federal law will, in addition to providing more boat slips, houseboat sites, and a new boat repair facility, will also greatly upgrade the existing services and support facilities. These improved facilities will include more adequate parking, safe vehicular and pedestrian access, water service, sanitation, and other utility services.

**Direct access to a collector street:** Direct access is provided to Oregon Hwy 30 which is designated as a principle arterial in the Comprehensive Plan.

**Public Transit:** Public transit is not provided within one fourth (1/4) mile because

Tri-Met buses do not provide service to this section of Multnomah County. The closest bus service is at the Sauvie Island bridge which is approximately six (6) miles south of Rocky Pointe Marina.

Boat moorages typically attract people who arrive in groups by car during off-peak times such as evenings and weekends. This factor has apparently been considered in Policy 26 which identifies the Rocky Pointe location on the Multnomah Channel as an appropriate location for houseboats and related facilities.

**Adverse traffic impacts:** Adverse traffic patterns will not occur as a result of entering, leaving or traveling on the site because driveway and access road locations have been established, and over a period of time have proven to be reasonably adequate and well designed.

**Compatibility between lands uses:** Land use compatibility will be maintained because neighboring properties are also used as moorage facilities for houseboats, boat houses and boat slips. The proposed reduction of the number of proposed boat slips will reduce the potential water traffic generated by the marina. The Hearing's Officer recognizes that this particular moorage will have a significant number of boat slips. There is evidence in the record at page 11 of the binder submitted by FORCE, that indicates that the average number of boatslips along the Willamette and Columbia Rivers is 104. The source of this data was not indicated by FORCE. However, even assuming that FORCE'S data is correct, the Hearing's Officer finds that the proposed 150 boat slips will be compatible with the surrounding land uses because the surrounding land uses in this area are primarily marinas.

**Other Plan policies:** These policies are satisfied as discussed in the remainder of this application.

***Policy #34: Traffic ways***

**Findings:**

The proposed Marina redesign is consistent with applicable components of Policy 34 because no new driveway access will be created and the anticipated traffic generated by the enlarged facility will be appropriately accommodated by the existing driveways and access.

***Policy #37: Utilities***

*This policy calls for the provision of adequate sewerage disposal, water, storm water, energy and communication facilities to accommodate the proposed redesign.*

**Findings:**

**Sewage disposal:** Sewage disposal will be adequately provided for by an on-site sewage facility. All proposed modifications and enhancements to the existing sewage system will be designed and reviewed for compliance with DEQ and Federal standards and requirements. There is substantial information in the record indicating that the proposed system can be approved by the relevant regulatory authorities, and that the new system will be a significant improvement over the existing system that has aged poorly.

Water service: Water service will be provided by an existing deep well. Although there is conflicting information in the record concerning the availability of adequate water, the Hearing's Officer finds that the applicant will be required, as a condition of approval, to obtain all necessary permits under current law for expanding the water system. Based upon the information contained in applicant's exhibit 3, it is likely that adequate water service will be provided.

Storm water: Runoff will be increased slightly with the proposed redesign. However, this additional runoff will be used to supply water to the enhanced wetland proposed for the site. This system will be designed so that run off will not overburden or pollute the wetland.

Energy and communication: Facilities are presently available for energy and communication. Paragraph of Policy 37 is inapplicable to this proceeding.

### ***Policy #38 Facilities***

#### **Findings:**

Schools: The addition of 36 houseboats for a total of 50 houseboats is modest and will not significantly impact the school district. Currently, the marina supports 31 houseboats and vacation/weekenders. Only three school age children reside at the marina. The number of children is not expected to appreciably increase.

Fire and Police services: These services will remain unaffected by the proposed site redesign plan, except for the turning radius concerns at the end of the proposed access road. Comments from the Fire Marshall indicate that appropriate provisions for turning movements and other service considerations will be maintained.

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

*The relevant portions of this policy include the provision of recreational opportunities by private entities and the implementation of the plan for the 40 mile loop system.*

#### **Findings:**

Recreational opportunities: Recreational opportunities will be enhanced by the construction of new boat slips which will be available to the public. The benefit of the additional slips for boaters outweighs the loss of a small water area that is of minimal recreational value. In addition, a one half (1/2) mile pedestrian trail and public river access for fishing will be provided as well as a public boat launch.

40 mile loop system: Rocky Pointe Marina does not fall within the 40 mile loop system and is not affected by this portion of Policy 39.

## **B. APPLICABLE ZONING CODE STANDARDS AND CRITERIA**

## 1. COMPLIANCE WITH MCC 11.15.2130 (MUA-20) ZONE

### FINDINGS:

#### Boat Marina Changes and Expansion:

MCC 11.15.2132(A) — allows Community Service Uses as a conditional use in the Multiple Use Agriculture District pursuant to MCC .7005 – .7041.

MCC 11.15.7020(A)(1) — provides for a “...*Boat moorage, marina or boathouse moorage.*” Approval criteria are under 11.15.7015. All new or expanded uses proposed within Willamette River Greenway must meet approval criteria specified in MCC .6372

#### Boat Lift and Repair Facility:

MCC 11.15.2132(C)(2)(B) — allows “...*Limited rural service commercial uses such as ... repair services ...*” as a conditional use in the Multiple Use Agriculture District. Approval criteria are in MCC 11.15.7120. All new or expanded uses proposed within Willamette River Greenway must meet approval criteria specified in MCC .6372

#### Houseboat (floating home) Moorage Expansion:

MCC 11.15.2132(B)(9) — allows “...*Houseboats and Houseboat Moorages...*” as a conditional use in the Multiple Use Agriculture District. Approval criteria are in MCC 11.15.7505 – .7525. All new or expanded uses proposed within Willamette River Greenway must meet approval criteria specified in MCC .6372

#### Variance Requests

Three variances requests must each satisfy approval criteria in MCC 11.15.8505 in order to vary from parking facility design standards listed below:

MCC 11.15.7520(B) requires parking and access drives serving houseboats be constructed two feet above the 100-year flood elevation.

MCC 11.15.6132 requires parking lots to be paved; and

MCC 11.15.6142 requires one parking space for every two boat slips.

## 2. COMMUNITY SERVICE AND CONDITIONAL USE CRITERIA (MCC .7015 & .7120)

To approve the changes to the boat marina, or to allow the proposed boat lift and repair shop, it must be found that each:

### *A. Is consistent with the character of the area:*



## **Findings:**

The boat marina portion of this project is consistent with the existing marina use on the property and the adjoining marinas to the north and south. As noted earlier, this area is identified in the Multnomah County Comprehensive Framework as being appropriate for boat marinas and houseboat moorages.

The project includes a northerly extension and shifting of the moorage away from the bank to accommodate maneuvering in and out of the proposed boat slips, to reduce the potential impact of the facility on shallow water habitat and the riparian area near the water's edge, and to reduce erosion along the river's edge from wakes due to river traffic.

The boat repair facility, which will be a relatively small building with a limit of 5 employees, will be consistent with the character of the area because of its small scale, local service area, and the visual and noise buffering offered by the proposed location of the facility. The size of the building and limited storage area is similar in character to other resource activities (e.g. farming) that are permitted uses in the MUA zone.

Overall, the Hearings Officer finds that the proposed changes to the marina, with some modifications, will be consistent with the character of the area. In this case, the "area" is comprised of the west side of the Multnomah Channel, from the Happy Rock Marina, north to the Columbia County boundary. This definition is consistent with the area defined as suitable for houseboats in Policy 26 of the county's comprehensive plan. Marina uses are typically associated with houseboat moorages in this area. This criteria is met.

### ***B. Will not adversely affect natural resources;***

#### **Findings:**

The proposed marina and boat repair facility could have adverse effects on natural resources in the area. However, the Hearings Officer finds that the likely effects can be mitigated through the conditions of approval as specified in this decision. Specifically:

1. Adverse water quality effects could be caused if waste water is discharged from boats or from the boat repair facility. Boats that are moored at the facility will be required to release all waste water into the sewerage treatment facility located on site. The boat repair facility will be required to either obtain a Wash Water permit from DEQ or they must totally recycle all wash water from the repair facility.
2. Adverse effects on fish and wildlife habitat can be minimized by limiting the number of houseboats to 40, reducing the amount of parking in certain more sensitive resource areas, and by reorienting and modifying the design of

the boat repair facility so that it will have minimal effects on the resource area and the surrounding habitat. DSL, DEQ, ODFW and COE will also review aspects of this proposal and will be responsible for administering the environmental regulations under their authority. These reviews and other conditions of approval as set out above, will reasonably insure that natural resources will not be significantly affected by this modified proposal.

***C. Will not conflict with farm or forest uses in the area;***

**Findings:**

A railroad, a 5-lane highway, and steep slopes separate the subject site from nearby commercial forest lands. To the northeast, Multnomah Channel, a flood control dike, and Sauvie Island Road all separate the site from the nearest commercial farming operations on Sauvie Island. The channel is approximately 600-feet wide at this point. The Hearings Officer finds that the proposal's effects on farm or forest uses are insignificant — primarily due to physical barriers between the site and nearby farm or forest uses, and the non-farm/non-forest uses existing on immediately adjacent lands to the northwest and southeast.

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

**Findings:**

The hearings officer finds that the term "public services" is ambiguous. The hearings officer construes this term to include publicly financed services such as police and fire protection, public sewer and water services, public streets and schools. This proposed development will use private sewer and water systems and will therefore not require public water or sewer services. Police and fire protection will be adequate, based upon the historical experiences on this site. The Fire Marshall has provided comments regarding the ability of fire protection equipment to access the site. No difficulties are anticipated. As noted elsewhere, streets and schools have adequate capacity to handle the marginal increase in students and traffic that will be generated by this development. This criteria will be met.

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

**Findings:** The site is not identified as a big game winter habitat area in the Comprehensive Framework Plan or by the ODF&W. This criteria is met.

***F. Will not create hazardous conditions:***

**Findings:** The Hearings Officer finds that the existing moorage has fallen into

serious disrepair and as such, has created a number of hazardous conditions which have been detailed in the record. These conditions include serious water quality problems, general disrepair and zoning code violations. The applicant's proposed expansion will enable these hazardous conditions to be remedied. This criteria will be met.

The hearings officer wishes to pay special attention to the fact that this area is subject to flooding as detailed elsewhere in this report. The hearings officer expressed concern at the various hearings regarding the construction of the boat repair facility in the flood fringe area. After careful review of all the evidence in the record, the hearings officer is satisfied that the construction of the boat repair facility in the flood fringe will not create a hazardous condition because the building will be designed and used in a way so that flood waters will not be seriously impeded, nor will such waters seriously damage the building or its contents, according to the letter submitted by Alber Kenney, Consulting Engineer, dated Feb 11, 1993. Based upon this information, the hearings officer is reasonably comfortable that the boat repair facility can be designed to minimize any hazardous conditions in times of flooding.

**G. Will satisfy the applicable policies of the Comprehensive Plan.**

**Findings:** The hearings officer finds that there is substantial evidence in the whole record that the proposal, as conditioned, will be consistent with the relevant plan policies identified and discussed above. This criteria will be met.

**H. Will satisfy such other applicable criteria as are stated in his section**

**Findings:** There are no additional criteria specified in the CS section for the proposed use [MCC § .7020-.7072].

**3. CONDITIONAL USE REQUEST TO ADD HOUSEBOAT SPACES (MCC 11.15.7505-.7525)**

MCC.7505 lists a houseboat moorage as a conditional use and includes houseboat moorage location requirements and approval criteria. Houseboats are permitted only as designated by the Comprehensive Plan. The site is located within an area of Multnomah Channel designated for houseboats by Policy #26.

To approve a houseboat moorage, the Hearings Officer must find that:

**A. The proposed development is in keeping with the overall land use pattern in the surrounding area;**

**Findings:** The area is described above. Existing houseboat and boathouse moorages are located directly to the north and south of the site. The proposed moorage would be consistent with the surrounding development because it infills between existing moorages directly north and south of the site and marina has existed at the site for more than 30 years. There are no commercial farm or forest uses in the immediate vicinity. The railroad tracks and St.

Helens Highway will buffer the use from rural land uses west of the highway. The project, as conditioned, satisfies this criteria.

***B. The development will not adversely impact, or be adversely affected by the normal fluvial processes;***

**Findings:** The hearings officer agrees with the conclusions of the planning staff in that the development will not adversely impact, or be adversely affected by the normal fluvial processes. Since moorages already exist near the site, most of the potential adverse affects from such processes have already been experienced. The types of hazards associated with moorages are typically:

- (a) Damage to walkways and houseboats from drifting debris during the Spring rains or other high water times. The proposed moorage expansion benefits from the previous experience of the existing moorages, and piling and dolphin locations can be designed and placed to avoid such hazards. The bends in the Channel, and flow rates of the river at this point, are well established by the nearby moorage operators due to their long-term experience with these phenomenon.
- (b) Tilting of walkways due to unanticipated fluctuations in river tides, which may cause the jaws of the supporting rings to hang up on the associated piling due to lack of sufficient clearance to impending connections. This tilting can also result from sub-zero weather causing ice to support the walkway, suspending it above receding tide. This hazard is eliminated by proper design of the connections and supporting dolphins.

In addition, the hearings officer finds that the applicant has demonstrated his intention and ability to design a boat repair facility and upgraded sewerage lagoon that will not be adversely impacted and will not adversely impact the fluvial process. Overall, the hearings officer is satisfied that this criteria will be met, so long as the conditions of approval are implemented.

***C. All other applicable governmental regulations have, or can be satisfied;***

**Findings:** The sewerage treatment system has been reviewed by the relevant agency. Conditions of approval will require the applicant to document that the expanded system proposed is or can be approved by the Oregon Department of Environmental Quality.

The proposed pilings and floating structures in Multnomah Channel are regulated by the U.S. Army Corps of Engineers and the Division of State Lands. Applications are currently pending before both agencies. Conditions of approval address applicable regulations for grading and erosion control, floodplain development, and other agencies. The hearings officer concludes that application material submitted demonstrates the proposal, as conditioned

above, is consistent with this criteria.

***D. The proposed development will not generate the untimely extension or expansion of public facilities and services including, but not limited to, schools, roads, police, fire, water and sewer.***

**Findings:** The hearings officer has previously concluded that under Policy 37 and 38, the proposal, as conditioned, will be consistent with this criteria.

***E. The maximum density of houseboats shall not exceed one for each 50 feet of waterfront frontage...***

**Findings:** The entire site has about 2600-feet of waterfront frontage [as scaled on Exhibits D<sup>1</sup> and D<sup>2</sup>]. This corresponds to a maximum density of 52 houseboats (floating homes). The proposed development requests 50 floating homes, and would therefore satisfy the maximum density standard. The Hearings Officer has further conditioned approval on 40 floating homes. The Hearings Officer has authority to reduce the density of a moorage below the allowed maximum density upon a finding that "Development at the maximum density would endanger an ecologically fragile natural resource or scenic area". See MCC 11.15.7510.

With regard to the maximum density of proposed houseboats, the hearings officer notes that the applicant is requesting only two fewer houseboats than the maximum allowed under the code, even though the parking area that would serve these houseboats, (and other proposed uses), contains extensive wetland areas. The arguments made by FORCE are well taken in that the natural resource areas, including the wetlands and the associated riparian zones, should act as a constraint on development. The applicant in turn has prepared an extensive mitigation plan which show that it is possible to mitigate for the loss of wetlands and develop according to the proposed plan. The COE and DSL, who have primary regulatory authority in this this case concerning the wetlands, have indicated that they will not take action until the local land use permit decisions have been made.

MCC 11.15.7510 provides the hearings officer and the county with a considerable amount of discretion to limit the number of houseboats in a moorage, if development at or near the maximum density would endanger an ecologically fragile natural resource or scenic area. In this case, the hearings officer finds that the parking needs associated with 50 houseboats, along with the cumulative affects of the other proposed uses and its associated parking, will unnecessarily endanger portions of the wetland and riparian fringe. In short, the applicant is attempting to put too much development in too small of a place, and the resource area is being unnecessarily crowded by parking in order to achieve such density. The hearings officer notes that one way to alleviate

such over crowding is to grant a larger variance from the required parking standards. Although some variation could be warranted under the circumstances, a variance of the magnitude requested by the applicant is not appropriate as noted below. The better solution, in view of all the evidence in the record, is to reduce both the number of houseboats and the number of required parking spaces, in an effort to better protect the more fragile and important resource areas from intrusion by roads and parking.

#### **5. VARIANCE REQUESTS FOR PARKING (MCC 11.15.7520)**

Applicants request the following variances relating to three parking standards:

- 1) To allow a parking lot which is below the 100 year flood plain elevation;
- 2) To allow a gravel parking and driveway surface where pavement is required; and
- 3) To allow parking for boat slips at a ratio of 1 parking spaces per 3 boats slips rather than a ratio of 1 per 2 boat slips.

To approve each variance requested, the Hearings Officer shall find that the following criteria are met:

**A. *Unusual circumstances or conditions apply to the property or to the intended use that do not apply generally to other property in the same vicinity or district***

#### **Findings:**

- 1) The existing and proposed parking lot is approximately 5 to 7 feet below the 100 year flood plain elevation. Placing 7 to 9 feet of fill to raise the parking area two feet above the flood elevation would have a negative affect on the aesthetic and habitat values of the site. Many of the existing cottonwood trees on the site would have to be cut. Other moorage developments on the Willamette and Columbia Rivers have the parking areas located on banks or levees that are above the flood elevation, but this opportunity is not realistically available to the subject property.
- 2) As discussed below, the nearby moorages share common circumstances and gravel surfacing is provided for all of them.
- 3) The unusual situation on this site is the considerable amount of sensitive land. The existing wetland area is 9.75 acres and the riparian (wetland) area identified by the County occupies an additional area adjacent to the shore. In order to minimize the amount of encroachment in these sensitive areas, DSL has encouraged the applicant to reduce the number of parking spaces to the extent feasible.
- 4) Overall, this criteria is met for all three requested variances.



***B. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, possessed by the owners of other properties in the same vicinity or district;***

**Findings:**

- 1) The nearby moorages have similar property elevations below the 100 year flood elevation. The applicant is requesting to have parking located at grades similar to the adjoining moorages (Big Oak Marina and Happy Rock Moorage). The applicants request that, like the neighboring moorages, the parking area and access road be located at grade level because satisfying the elevation requirement would entail a substantial amount of filling and grading. The neighboring moorages have unpaved parking areas which compliment and enhance the natural rural setting of the area.
- 2) The nearby moorages also have gravel driveways and parking areas. However, there is no evidence in the record that other property owners in the same area have reduced their parking ratios to accommodate more boat slips or houseboats.
- 3) The property development potential is limited by the wetland protection requirements that apply. A more modest reduction in parking spaces, than that requested by the applicant is an appropriate adjustment to allow most of the development proposed, while minimizing the impact of the parking area on the wetland area.
- 4) The applicant is not entitled to 50 houseboat berths or 150 boat slips if the cumulative parking generated by these uses would significantly impact the adjacent natural resource area. The hearings officer finds that the code requires 186 parkings spaces for the proposed uses. This number of spaces and their proposed location will cause too much of an encroachment into the wetland area. The amount of development should therefore be reduced. The hearings officer further finds that a reduction in the number of spaces located south of the sewerage lagoon and adjacent to the wetland is necessary in order to more adequately protect this habitat area from further encroachment. This area will benefit from less intrusion and fill. The hearings officer finds that by reducing the number of permitted houseboats from 50 to 40, 20 less parking spaces will be required (2 spaces per houseboat are required). This reduction in development will have a similar effect in reducing the number of required parking spaces from 186 to 166, compared to the granting of a variance in the parking ratio for boat house slips from 1 space per 2 slips, to 1 space per 3 slips, which would reduce the amount of parking from 186 spaces to 161.
- 5) This criteria is not met with regard to the variance to reduce the parking ratio for boat slips from 1 to 2, to 1 to 3. The criteria is met for the two other variance requests

***C. The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located;***

**Findings:**

- 1) The variance to locate parking below the flood level will not be detrimental to the public welfare or affect adjacent property, given that neighboring marina and moorage sites also have parking areas below the flood level, and there are available upland areas above the 100-year flood level on Lower Rocky Point Road where cars could be parked during a flood event.
- 2) The variance to allow gravel parking and driveway surfaces where pavement would be required will help reduce the amount of impervious surface in the area, and will therefore help reduce run off and erosion problems so long as all conditions of approval are complied with. Authorization of this variance will therefore not be materially detrimental to the public welfare or injurious to property located in the vicinity.
- 3) The variance to allow parking for boat slips at a ratio of 1 parking space per 3 boat slips rather than a ratio of 1 per 2 boat slips could have a materially detrimental affect on the public welfare and on property in the vicinity, because these boat slips will add to the overall supply of boat slips available in the area, and will attract more non resident boaters to this marina. Parking will be at a premium in this marina and the proposed development will only increase the need for adequate parking. Therefore, it is not appropriate to reduce parking ratios for various marina related uses. Rather, parking requirements and environmental constraints should work together to reasonably reduce the scale of development and thereby better accommodate the carrying capacity of the property.

***D. The granting of the variance will not adversely affect the realization of the Comprehensive Plan.***

**Findings:**

- 1) In this situation, raising the parking lot above the 100 year flood elevation would be contrary to relevant County policies, particularly those relating to the Willamette River Greenway and the protection of natural resources and habitat areas.

The location of parking below the 100 year flood elevation will be consistent with adjacent developments. Rural vistas and natural rural settings will be better retained than if the parking area were raised and fully paved. Placement of fill on this site will be detrimental to adjacent land owners and to the public because it would restrict natural rural views and could alter water drainage by the creation of impervious surfaces in the fill and grading process.

- 2) Paved parking lots are most appropriate in urban situations where high traffic volumes are expected. The gravel surface will provide adequate emergency access and any potential dust will not affect adjoining properties. This surfacing material is consistent with neighboring facilities as well as many of the roads on Sauvie Island to the East and the overall

rural character of the area.

- 3) Granting of the variances to allow parking below the 100 year flood plain and to allow such parking and roadway areas to be unpaved will not adversely affect the realization of the comprehensive plan, for the reasons noted above.
- 4) The applicant maintains that experience at the moorage has shown that a slight reduction in the number of parking spaces for the boat slips will still accommodate vehicles during the busiest times of the year. The hearings officer does not find this evidence persuasive because the applicant's conclusion is speculative. It can be just as easily concluded that once this marina is upgraded, as planned, the demand for parking will rise accordingly.

The Plan requires that adequate land area must exist to accommodate required parking. In this case, the scope of the applicant's development plan must be reduced in order to adequately realize Policy 26 (C) (4) of the comprehensive plan.

## 6. WILLAMETTE RIVER GREENWAY PERMIT

The County Zoning Ordinance requires a Greenway Permit for all new uses within the Greenway Boundary. When approving a Greenway Permit, the Hearings Officer must find the proposal consistent with the Greenway Design Plan [Ref. MCC 11.15.6372] as set out below. It should be noted that only a portion of the site is within the Greenway, namely that portion of the site that is within 150 feet of the mean low water mark.

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

**Findings:** Much of the site is covered with large deciduous trees. The plan proposes parking areas and an access drive about 50 feet from the riverbank. The parked cars and trucks would be separated from the river by native shrubs and trees. The proposed site and landscape plans provide enhanced landscape and natural areas along the river which screen parking areas and uses near the river. Potential negative visual impacts to the Greenway will be further addressed through Design Review. Condition # 1 requires Design Review approval prior to initiating construction or site development. Overall, the hearings officer finds that the applicant's site plan, as modified by this decision, retains and enhances the maximum possible landscaped area between the land based uses and the river. This criteria will be met.

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

**Findings:** A public moorage, boat launch ramp, public rest rooms, and fuel dock

are provided in the proposed redesign. In addition, public access for fishing will be provided. A PUC approved public crossing control over the rail line will be installed with some participation required by the applicants. This criteria will be met.

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

**Findings:** The land based portions of this development have been directed away from the river to the greatest possible degree by maintaining and enhancing the trees and other plant material that separates the parking area from the river. The houseboats themselves are specifically contemplated in this area according to plan policy 26. This criteria is met.

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

**Findings:** The parcel size, location and wooded character of the site does not make it suitable for farming. This criteria is met.

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

**Findings:** There is no timber harvest associated with the requests. This criteria does not apply.

- (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 hearings officer has previously applied carrying capacity analysis to the proposed development in the context of overall development density. In the context carrying capacity is used here, the applicant's request for a parking reduction to accommodate 150 recreational boat slips conflicts with criteria set out above. The county has legislatively decided that a boat slip needs one parking space for every two boat berths. Therefore, recreational boat berths have a land based carrying capacity that is equal to one parking space for every two boat berths. This policy is construed by the hearings officer to mean that in cases where trade offs such as this can be made, the carrying capacity of the land is controlling. Therefore this policy is met only if parking ratios are not reduced for recreational boating needs.

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

**Findings:** Multnomah Channel is generally regarded as a significant fish habitat.

In this case, most of the shallow shoreline area will be maintained in its natural state. The proposal actually moves water uses further away from the shallow water habitat that is most critical for fish and wildlife habitat within the Greenway. In addition, conditions of approval will require that the proposed development in the river be approved by the Corps of Engineers and the Division of State Lands. These agency reviews routinely include comments and address concerns from the federal and state departments of Fish and Wildlife. The request does not indicate dredging will be necessary to accommodate any of the proposed uses. The hearings officer concludes that so long as the conditions of approval are implemented and the Mitigation plan is fully implemented, this proposal should not create significant impacts to fish and wildlife habitat within the Greenway. This moorage is located between two other moorages and portions of this site have operated as a moorage for a number of years. To the extent that any moorage location will have relatively insignificant impacts on fish and wildlife habitat along the river, this moorage is likely to have the least impact on the river habitat because of its location and history of moorage related activity. It is reasonably likely that this criteria will be met.

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

**Findings:** The hearings officer finds that the visual character of this area has been established by the existing moorage and related development. This redesign will have a minimal visual impact because:

- Only one building for the boat repair will be added and it will be buffered by the existing trees and terrain;
- Much of the redesign is a reorganization of the existing moorage so that improved access is provided to the houseboats and boat slips;
- The moorage will provide breaks that will avoid the impact of a solid mass of structures extending along the entire frontage of the property;
- The moorage is not visible from State Highway 30; and
- Design details of the final design will be evaluated during the Design Review process.

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

**Findings:** The design of the proposed marina expansion will discourage vandalism and trespass by distributing residences throughout the development. Lighting will also be provided to minimize this problem. Specific design options to address this issue will be examined further during Design Review. This criteria will be met.

***(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:** As noted previously, the natural vegetation on the site will be maintained and enhanced with additional plantings as illustrated on the Landscape Plan. The hearings officer concludes that application text and plan materials submitted demonstrate the proposal, as conditioned above, will satisfy this criteria.

***(K) 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.***

**Findings:** Aggregate extraction is not proposed in the requests. This criteria does not apply.

***(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.***

**Findings:** The entire site is within the 100 year flood plain and a significant portion of the site is identified as wetland or riparian area. The boat repair facility is the only new building that will be constructed within the floodplain, and within the riparian area. This building will be designed to withstand flooding and materials will be stored in a mezzanine level that is above the 100 year flood elevation. It will also not significantly impede flood waters, according to the design engineer.

The hearings officer finds that the term "maximum possible extent" is ambiguous, because it does not indicate what "possible" means. On one hand the term can mean that no disruption in floodplains or wetlands can take place at all, because it is always "possible" to simply not build in these areas. On the other hand, the term "possible" can relate to whether or not it is "possible" to develop the property within the Greenway in a manner that avoids these protected areas as much as possible. Given a choice between these two plausible interpretations, the hearings officer chooses the later interpretation because it is the most reasonable interpretation given the context of the term, its relationship to the other criteria in this code section, and based upon the manner in which this provision has been applied in other cases.

Based upon the hearings officers interpretation of this provision, the hearings



officer finds that the applicant's proposal, as modified by the conditions of approval, preserves areas of annual flooding, flood plains, water areas and wetlands to the maximum possible extent (i.e. avoids these areas as much as possible) because:

- The parking area has been reduced and to the extent it impacts the wetland, the wetland values will be replaced and mitigated on site.
- The sewage lagoon will be upgraded and designed to withstand the threat of flood.
- The boat repair facility will be located outside the Greenway setback. As previously noted, it has been redesigned to accommodate flooding and will be oriented away from the mitigated wetland and associated riparian area. This redesign will help meet the intent of this criteria.

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

**Findings:** The revised marina proposal does not effect **significant** wetlands identified by the County Framework Plan. This criteria therefore does not apply.

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

**Findings:** The ecologically significant areas on the site are the wetland, riparian, and shallow water areas. As discussed above, these areas will be either protected and enhanced or mitigated. There are no known scientific, historic, or archaeological resources of significance on the site.

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

**Findings:** The site is not identified in the County Slope Hazards inventory. Condition #1 requires a Grading and Erosion Control Permit as part of Design Review of the proposed site improvements (including fill). The hearings officer concludes the proposal, as conditioned above, will satisfy this criteria.

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

**Findings:** As noted above, the quality of air, water and land resources will be protected to the extent possible, and when full protection cannot occur, a mitigation plan has been developed and will be reviewed by the appropriate regulatory agencies for compliance with the applicable state and federal law. Furthermore, condition #1 requires that erosion control measures be applied as part of Design Review approval. Other conditions of

approval will also be used to implement this criteria. Overall, the hearings officer concludes that this criteria will be met.

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

**Findings:** All buildings will meet the 150 foot setback, as a condition of approval. This criteria will be met.

***(R) 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.***

**Findings:** Condition #1 requires Design Review prior to site development or construction. This criteria will be met.

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

**Findings:** The applicable policies of the comprehensive plan have been reviewed above. This criteria will be met so long as the conditions of approval are complied with.

## VI. CONCLUSIONS

1. The proposed boat repair facility, as shown on the revised site plan submitted on 6/14/93, (Alternative Plan), can satisfy the applicable Zoning Code approval criteria and will be consistent with the applicable Comprehensive Plan Policies, so long as the conditions of approval are complied with.
2. The proposed expansion and reconfiguration of the marina facilities can meet the applicable criteria, so long as the applicable conditions of approval are complied with.
3. The proposed request to expand the houseboat moorage to 50 floating homes is denied, because it does not meet all of the applicable approval criteria. The number of houseboat moorage spaces will be limited to 40 as a condition of approval, pursuant to MCC 11.15.7510 (B).
4. The variance requests to allow parking below the 100 year flood level and to allow that parking and associated roadway area to be unpaved, meets the relevant criteria, in MCC 11.15.8505, as conditioned.
5. The variance request to reduce the parking ratio for boatslips is denied because

it does not meet all the applicable approval criteria and because it conflicts with certain comprehensive plan policies. Total parking in the proposal will be reduced from 186 to 166, and the reduction of these spaces will take place at specific locations in order to maximize the protection of adjacent wetland and riparian habitats.

6. The requested Willamette Greenway Permit is approved, subject to the modifications of the proposed development as summarized above and as specifically noted within the conditions of approval attached.

Signed July 30, 1993



Phillip Grillo, Hearings Officer

Filed With the Clerk of the Board on August 13, 1993

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

*Decisions of the Hearings Officer may be appealed to the Board of County Commissioners (Board) by any person or organization who appears and testifies at the hearing, or by those who submit written testimony to the record. Appeals must be filed within ten days after the Hearings Officer decision is submitted to the Clerk of the Board [ref. MCC 11.15.8260(A)(1)]. The appeal fee is \$300.00 plus a \$3.50-per-minute charge for a transcript of the initial hearing(s) [ref. MCC 11.15.9020(B)]. "Notice of Review" forms and instructions are available at the Planning and Development Office at 2115 SE Morrison Street (in Portland).*

*Failure to raise an issue by the close of the record at or following the final hearing, (in person or by letter), precludes appeal to the Land Use Board of Appeals (LUBA) on that issue. Failure to provide specificity on an issue sufficient for the Board to respond, precludes appeal to LUBA on that issue.*

*MONDAY, AUGUST 23, 1993 IS THE LAST DAY TO APPEAL the Hearings Officer decision; a "Notice of Review" form and fee must be submitted to the County Planning Director on or before 4:30 pm. on that day. The Hearings Officer Decision on this item is tentatively scheduled for the Board of County Commissioners review at 1:30 p.m. on Tuesday, August 31, 1993 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development Division at 248-3043.*



Department of Environmental Services  
DIVISION OF PLANNING AND DEVELOPMENT  
2115 S.E. Morrison Street  
Portland, Oregon 97214 (503) 248-3043

JANUARY 24, 1994  
PUBLIC NOTICE AND

ADMINISTRATIVE DECISIONS

on applications for a:

FINAL DESIGN REVIEW PLAN;  
GRADING AND EROSION CONTROL PERMIT; and a  
FLOODPLAIN DEVELOPMENT PERMIT

<sup>28-93</sup>  
Application File Nos.: DR-25-93, HD 33-93, FD 6-93  
Related Prior Cases: CS 1-93, CU 7-93, WRG 1-93, HV 1-93

**Location of the Proposal:** 23586 NW St. Helens Road (Rocky Pointe Marina)

**Property Description:** Tax Lots '8', '13', '28' & '30'; Section 36, 3N-2W

**Site Size:** 17.1 Acres (CS designation is on south 9-aces)

**Owner/Applicant:** Janis and Richard Tonneson  
23586 NW St. Helens Road

**SUMMARY:** These administrative decisions approve (with conditions and modifications) a *Final Design Review Plan* proposed for "Rocky Pointe Marina" at Multnomah Channel mile 14; including associated *Grading and Erosion Control* and *Floodplain Development* permits. The plans approved include: upland excavations and fill, landscaping, wetland alterations, a new boat repair yard and shop building, ramp-head 'kiosk' structures, refuse enclosures, and expanded and reconfigured parking areas. Facilities and development authorized in the river include: new moorage pilings, floating walks, ramps, accessory laundry/restroom buildings, boat slips (some under cover structures), and boathouse and houseboat slips.

The approval is based on: review of drawings, documents, and written materials submitted with the applications, and analysis of prior case history, and the associated conditions imposed on the boat repair, boat marina, and houseboat (floating home) moorage uses on the site; and evaluation of applicable design criteria in the Multnomah County Code (MCC) 11.15. The use of the expanded moorage facilities was conditionally approved on **July 30, 1993**, as detailed in Planning Division case files: **CS 1-93, WRG 1-93, HV 1-93, CU 7-93**. The Conditions of Approval detailed below are imposed to address certain Design Review, grading, and floodplain development standards, and to coordinate related plan reviews and inspections by other agencies and statutory requirements applicable to the project.

Staff Contact Person:  
Mark Hess: 248-3043

DR 25-93, HD

EXHIBIT  
25

## CONDITIONS OF APPROVAL

1. Except as modified by conditions below, install the moorage pilings, floating walks and associated structures, ramps, utilities, and floating homes, and complete the upland grading, landscaping, buildings, structures, and parking improvements as illustrated, specified, and detailed in the application materials submitted 11/12/93. Site improvements may be developed in stages if each section (or Phase) can independently satisfy the parking, access, and landscape standards required for the associated marina, boat repair, and/or houseboat moorage uses which it serves. Landscape plantings shall satisfy minimum size and spacing recommended and specifies in "A Developer's Handbook", page 76.
2. Proposed storm drainage facilities shall be reviewed and approved by the Portland Building Bureau (Plumbing Section) as applicable.
3. The site and landscape plan shall be modified as follows:
  - Add evergreen screening along the riverward side of the parking areas where feasible. Hogan Cedar – *Thuja plicata 'fastigiata'* – or Incense Cedar – '*Calocedrus decurrens'* – are the recommended species. Generally, trees shall be at least 4-foot height at the time of planting, and randomly spaced about 50 to 100 feet apart. However, at each ramp-head area, spacing shall be reduced to about 10-feet on-center to provide partial screening (from the river view) of the refuse containers, vehicles, equipment and upland development. Screening trees shall be continuously maintained.
4. Dedicate a public access easement for the proposed Greenway Trail along the riverbank. The easement shall extend along the entire east (riverward) property boundary and provide approximately 25-foot width. The metes-and-bounds legal description and dedication instrument for the easement shall be reviewed and approved by the County Transportation Division prior to issuance of
5. Implement temporary erosion control techniques as necessary to prevent off-site erosion effects during the construction phase of the project. Grading on-site shall be performed as indicated and detailed in submitted plans.
6. Future proposals to construct or relocate individually owned floating structures to the marina, including houseboats, 'combos', or boathouses, and proposed additions, exterior alterations, or change in the use of a structure (i.e., a 'combo-conversion'), SHALL NOT require a WRG Permit under MCC 11.15.6354, IF the moorage owner (or authorized agent) demonstrates that the project will comply with the Final Design Review Plan approved herein and the maximum number and types of uses as detailed below:
  - A maximum of 40 houseboats; this number shall include all floating homes, and 'combos' which contain a living space and complete kitchen and bathroom facilities;

- A maximum of 7 boathouse spaces, except that a 'houseboat' space indicated on the approved plan may be occupied by a non-residential boathouse, IF the number of floating residences in the marina is similarly adjusted down (from 40 spaces) according to the number of boathouses over the 7-space limit (i.e. 8-boathouses/39-houseboats, 9-boathouses/38-houseboats, ...etc.);
- A maximum of 150 boat slips, whether covered or uncovered (this number shall not include or limit the number of 'day-use' or tie-up boats, nor the number of boats which are accessory to and moored along with the moorage space of a houseboat, boathouse or 'combo' unit in the marina; and,
- A maximum of 166 vehicle parking spaces. above and imposed under.

NOTE: The above condition modifies and supercedes Condition # 6 in the CS 1-93, WRG 1-93, HV 1-93, CU 7-93 decision dated July 30, 1993 and only effects procedural requirements of the prior condition.

7. The Final Design Review Plan and land use permits approved herein shall be for the specific uses proposed and specified in the November 12, 1993 applications. New floating structures that will be moored at this site may be constructed in their respective slips. Water dependent manufacturing for export to other locations is not authorized. The boat repair commercial use shall not employ more than 5 people total in the business, and the boat yard facilities shall not exceed the 5,000 square foot building and 10,000 square foot yard area illustrated on the Final Design Review Plan.
8. Subsequent building permit applications for all upland structures shall be obtained and shall demonstrate compliance with MCC .6315(C) (i.e., non-residential structures) and include applicable engineering documents and elevation surveys certified by a State of Oregon Registered Professional Engineer or Land Surveyor, as well as applicable architect or engineer certifications necessary to demonstrate compliance with MCC .6315 (F), (G),and (H).

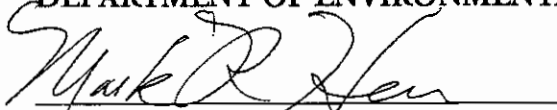
## FINDINGS AND CONCLUSIONS

1. The proposed expansion of the Rocky Pointe Marina will reconfigure the existing houseboat moorage and boat slips somewhat, and expand the moorage to the north. In addition, the applicant is proposing a significant extension of the parking area and access road to the north, to serve the proposed moorage expansion. The uses are permitted under the CS 1-93, WRG 1-93, HV 1-93, CU 7-93 decisions dated July 30, 1993.
2. The site, landscape and project designs generally comply with applicable standards and prior conditions except as detailed herein and modified by the above detailed Conditions of Approval.



3. Conditions are imposed on the DR, HD, and FD permits to address specific zoning standards and to coordinate related plan reviews, inspections, and permits required by other agencies.

MULTNOMAH COUNTY, OREGON  
DEPARTMENT OF ENVIRONMENTAL SERVICES

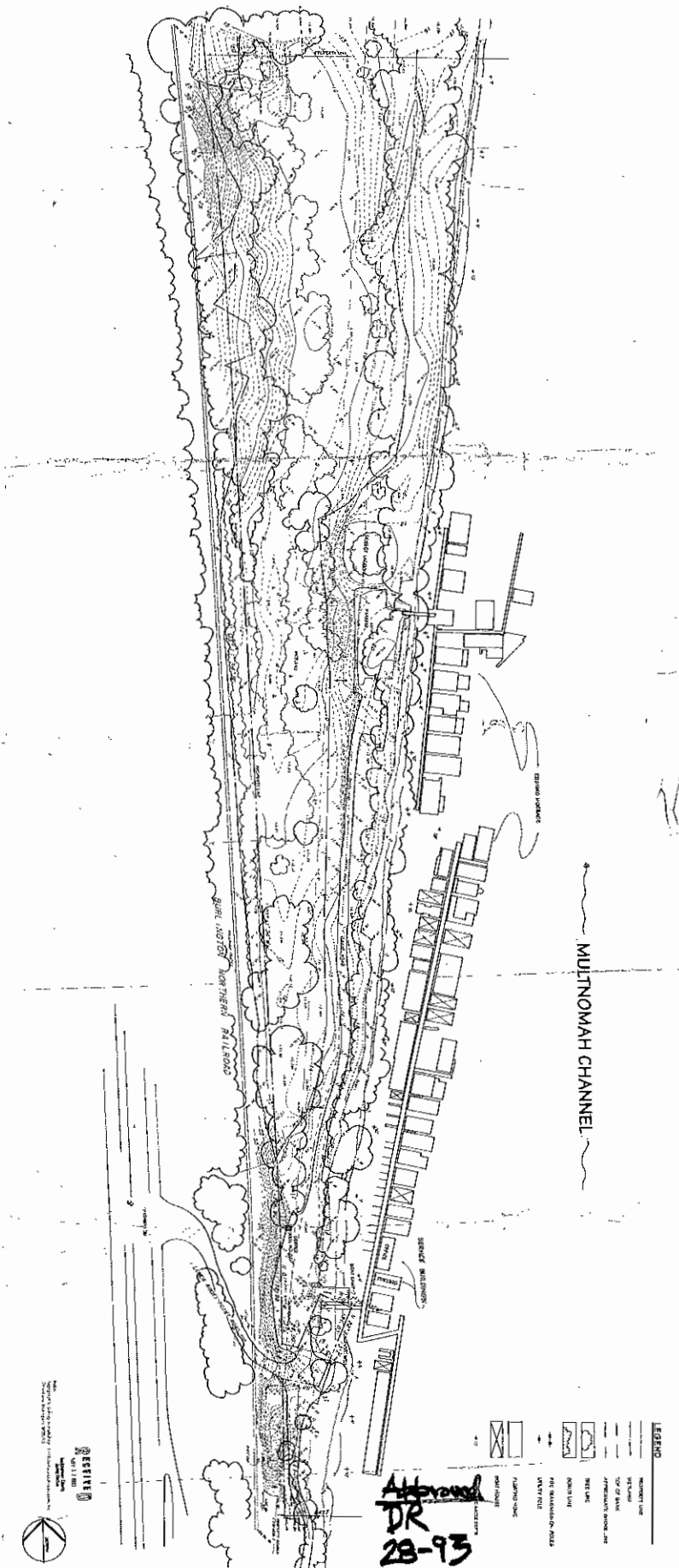


By Mark R. Hess, Planner  
For: Director, Planning & Development Division

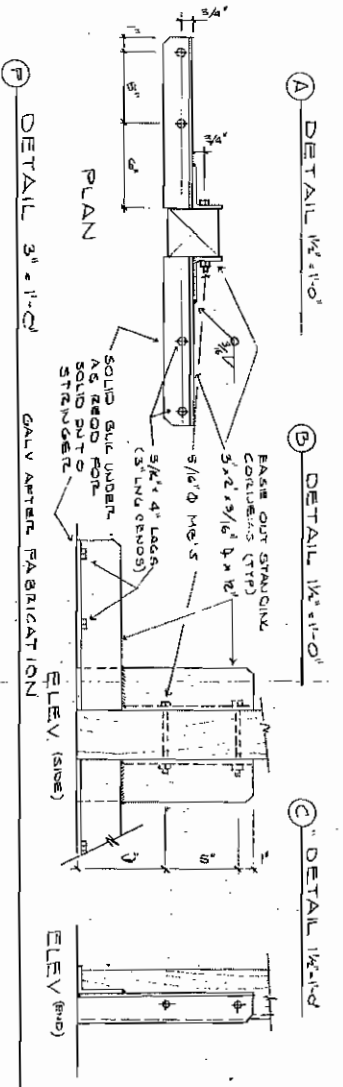
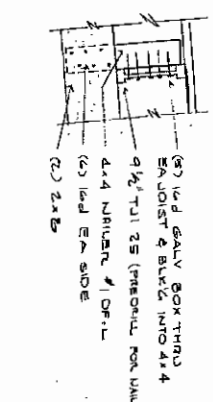
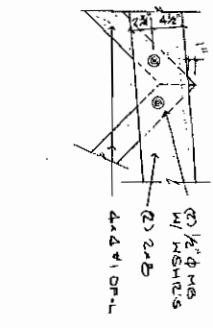
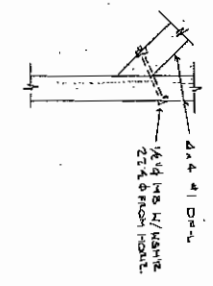
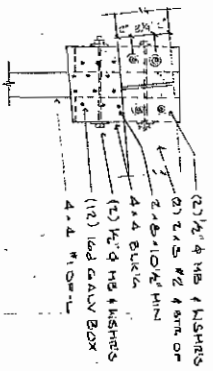
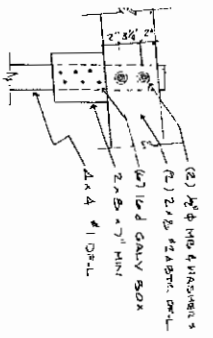
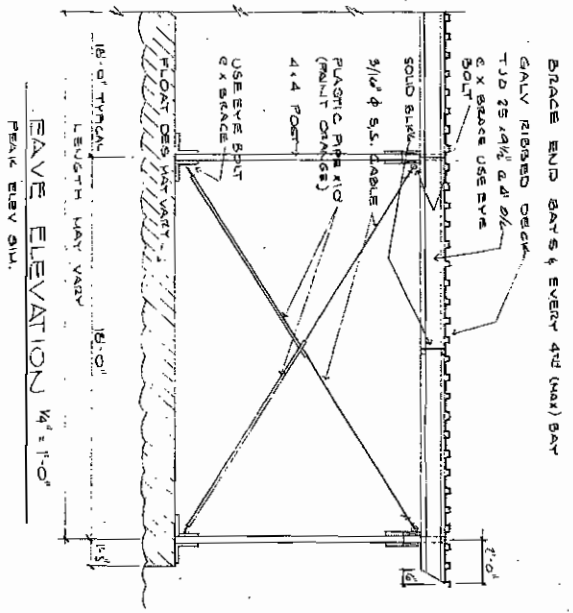
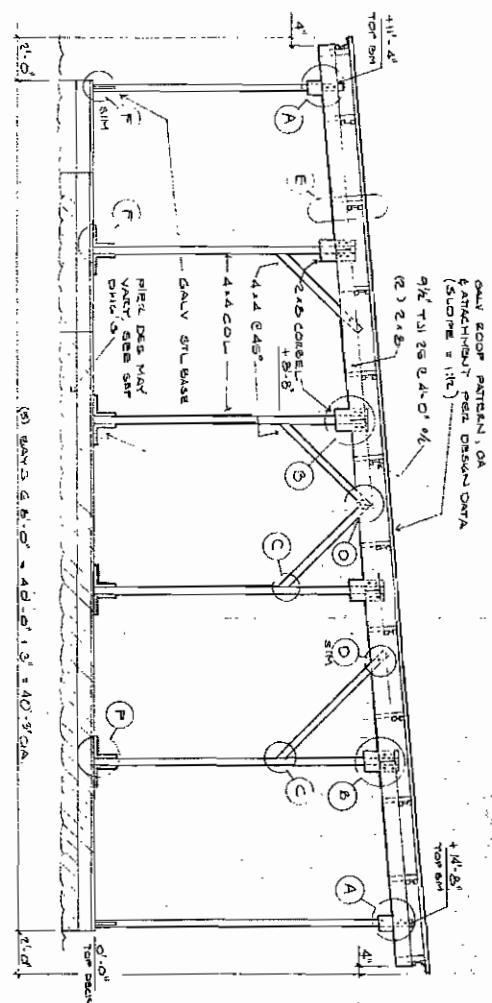
Filed with the Director,  
Department of Environmental Services  
On January 24, 1994


**Notice:** State law requires a public notice (by mail) to nearby property owners and to any recognized Neighborhood Association of a Planning Director decision which applies "discretionary" or subjective standards or criteria to land use or development permit applications. The notice must describe the method to challenge the staff decision; and, if appealed, the County must hold a public hearing to consider the merits of the application. ORS 197.763

The Administrative Decision(s) detailed above will become final unless an appeal is filed within the 10-day appeal period which starts the day after the notice is mailed. If the 10th day falls on Saturday, Sunday, or a legal holiday, the appeal period extends through the next full business-day. If an appeal is filed, a public hearing will be scheduled before a County Hearings Officer pursuant to Multnomah County Code section 11.15.8290 and in compliance with ORS 197.763. To file, complete an **Appeal of Administrative Decision** form, and submit to the County Planning Division Office, together with a \$100.00 fee and supplemental written materials (as needed) stating the specific grounds, approval criteria, or standards on which the appeal is based. To review the application file(s), obtain appeal forms, or other instruction, call the Multnomah County Planning Division at (503) 248-3043, or visit our offices at 2115 SE Morrison Street, Portland, Oregon 97214 [hours: 8:30 a.m. - 4:30 p.m.; M—F].



<p><b>MM</b> MULLENBACH/MASTERS, INC. 1410 1st Street, Suite 200 Portland, Oregon 97204 Tel: 503-224-9700 Fax: 503-224-9701</p>	<p>SITE ANALYSIS DIAGRAM</p> <p><b>ROCKY POINT MARINA</b></p> <p>MULLENBACH/MASTERS, INC. PORTLAND, OREGON</p>		<p>DATE: 10/27/93</p> <p>SCALE: AS SHOWN</p> <p>PROJECT NO: 28-93</p> <p>DESIGNER: [ ]</p> <p>CHECKER: [ ]</p> <p>DATE: 10/27/93</p>	<p>APPROVED BY:</p> <p>[Signature]</p> <p>DATE: 10/27/93</p>
	<p>1</p>		<p>1</p>	<p>1</p>




**ALBERT R. KENNEY, JR. P.E.**  
 CONSULTING ENGINEER/PUNYER  
 ROCKY POINT MARINA  
 HOORFACE COVERL

ROOM LL = 20 PSF (JOISTS) 120 SF (REST) NON SNOW  
 WIND & BOB) MPH SEE ALSO NOTES SHEET

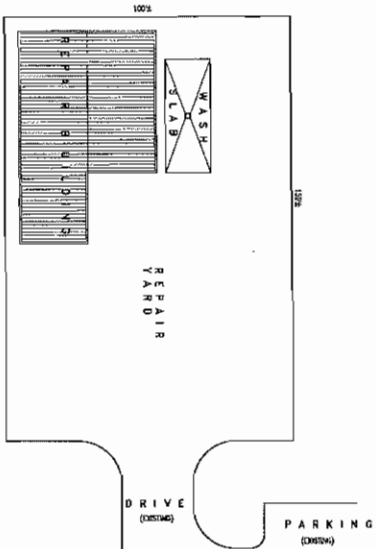
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RIVER

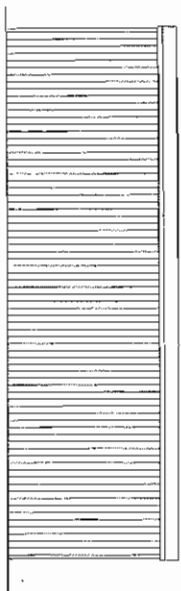


WETLANDS

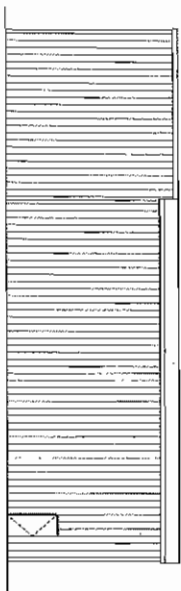


SITE PLAN 1" = 1'-0"

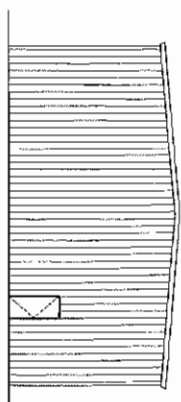
SEE NOTES 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100



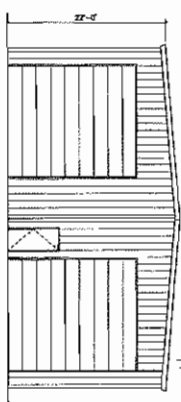
WEST ELEVATION 1/8" = 1'-0"



EAST ELEVATION 1/8" = 1'-0"



NORTH ELEVATION 1/8" = 1'-0"



SOUTH ELEVATION 1/8" = 1'-0"

GENERAL NOTES AND SPECIFICATIONS

SCOPE OF WORK Construct a 2800 sq ft shop building (007-10) in NE MOORE (049-4973) Road...

DIVISION 1 GENERAL CONDITIONS

- 1. Contractor is responsible for obtaining all necessary permits.
- 2. All work shall be in accordance with the specifications and drawings.
- 3. The contractor shall be responsible for the safety of all workers and the public.
- 4. The contractor shall be responsible for the protection of all existing utilities.
- 5. The contractor shall be responsible for the cleanup of the site.

DIVISION 2 SITE WORK

- 1. Prepare site plan showing all proposed work.
- 2. Clear and grub site to be constructed.
- 3. Excavate and backfill all areas to be constructed.
- 4. Compact all areas to be constructed.
- 5. Install all necessary drainage.

DIVISION 3 CONCRETE

- 1. All concrete shall be in accordance with the specifications.
- 2. All concrete shall be placed and finished in accordance with the specifications.
- 3. All concrete shall be cured in accordance with the specifications.
- 4. All concrete shall be tested in accordance with the specifications.
- 5. All concrete shall be protected in accordance with the specifications.

DIVISION 4 MASONRY

- 1. All masonry shall be in accordance with the specifications.
- 2. All masonry shall be laid in accordance with the specifications.
- 3. All masonry shall be finished in accordance with the specifications.
- 4. All masonry shall be protected in accordance with the specifications.
- 5. All masonry shall be tested in accordance with the specifications.

DIVISION 5 METALS

- 1. All metals shall be in accordance with the specifications.
- 2. All metals shall be installed in accordance with the specifications.
- 3. All metals shall be finished in accordance with the specifications.
- 4. All metals shall be protected in accordance with the specifications.
- 5. All metals shall be tested in accordance with the specifications.

DIVISION 6 MECHANICAL

- 1. All mechanical work shall be in accordance with the specifications.
- 2. All mechanical work shall be installed in accordance with the specifications.
- 3. All mechanical work shall be finished in accordance with the specifications.
- 4. All mechanical work shall be protected in accordance with the specifications.
- 5. All mechanical work shall be tested in accordance with the specifications.

DIVISION 7 ELECTRICAL

- 1. All electrical work shall be in accordance with the specifications.
- 2. All electrical work shall be installed in accordance with the specifications.
- 3. All electrical work shall be finished in accordance with the specifications.
- 4. All electrical work shall be protected in accordance with the specifications.
- 5. All electrical work shall be tested in accordance with the specifications.

DIVISION 8 PLUMBING

- 1. All plumbing work shall be in accordance with the specifications.
- 2. All plumbing work shall be installed in accordance with the specifications.
- 3. All plumbing work shall be finished in accordance with the specifications.
- 4. All plumbing work shall be protected in accordance with the specifications.
- 5. All plumbing work shall be tested in accordance with the specifications.

DIVISION 9 FINISHES

- 1. All finishes shall be in accordance with the specifications.
- 2. All finishes shall be installed in accordance with the specifications.
- 3. All finishes shall be finished in accordance with the specifications.
- 4. All finishes shall be protected in accordance with the specifications.
- 5. All finishes shall be tested in accordance with the specifications.

DIVISION 10 PAINTS AND COATINGS

- 1. All paints and coatings shall be in accordance with the specifications.
- 2. All paints and coatings shall be applied in accordance with the specifications.
- 3. All paints and coatings shall be finished in accordance with the specifications.
- 4. All paints and coatings shall be protected in accordance with the specifications.
- 5. All paints and coatings shall be tested in accordance with the specifications.

DIVISION 11 SPECIALTIES

- 1. All specialties shall be in accordance with the specifications.
- 2. All specialties shall be installed in accordance with the specifications.
- 3. All specialties shall be finished in accordance with the specifications.
- 4. All specialties shall be protected in accordance with the specifications.
- 5. All specialties shall be tested in accordance with the specifications.

NOTES & SECS CONT'D

DIVISION 5 METALS

1. All metals shall be in accordance with the specifications.

DIVISION 6 MECHANICAL

1. All mechanical work shall be in accordance with the specifications.

DIVISION 7 ELECTRICAL

1. All electrical work shall be in accordance with the specifications.

DIVISION 8 PLUMBING

1. All plumbing work shall be in accordance with the specifications.

DIVISION 9 FINISHES

1. All finishes shall be in accordance with the specifications.

DIVISION 10 PAINTS AND COATINGS

1. All paints and coatings shall be in accordance with the specifications.

DIVISION 11 SPECIALTIES

1. All specialties shall be in accordance with the specifications.

FOOTING CALCULATIONS

1. All footing calculations shall be in accordance with the specifications.

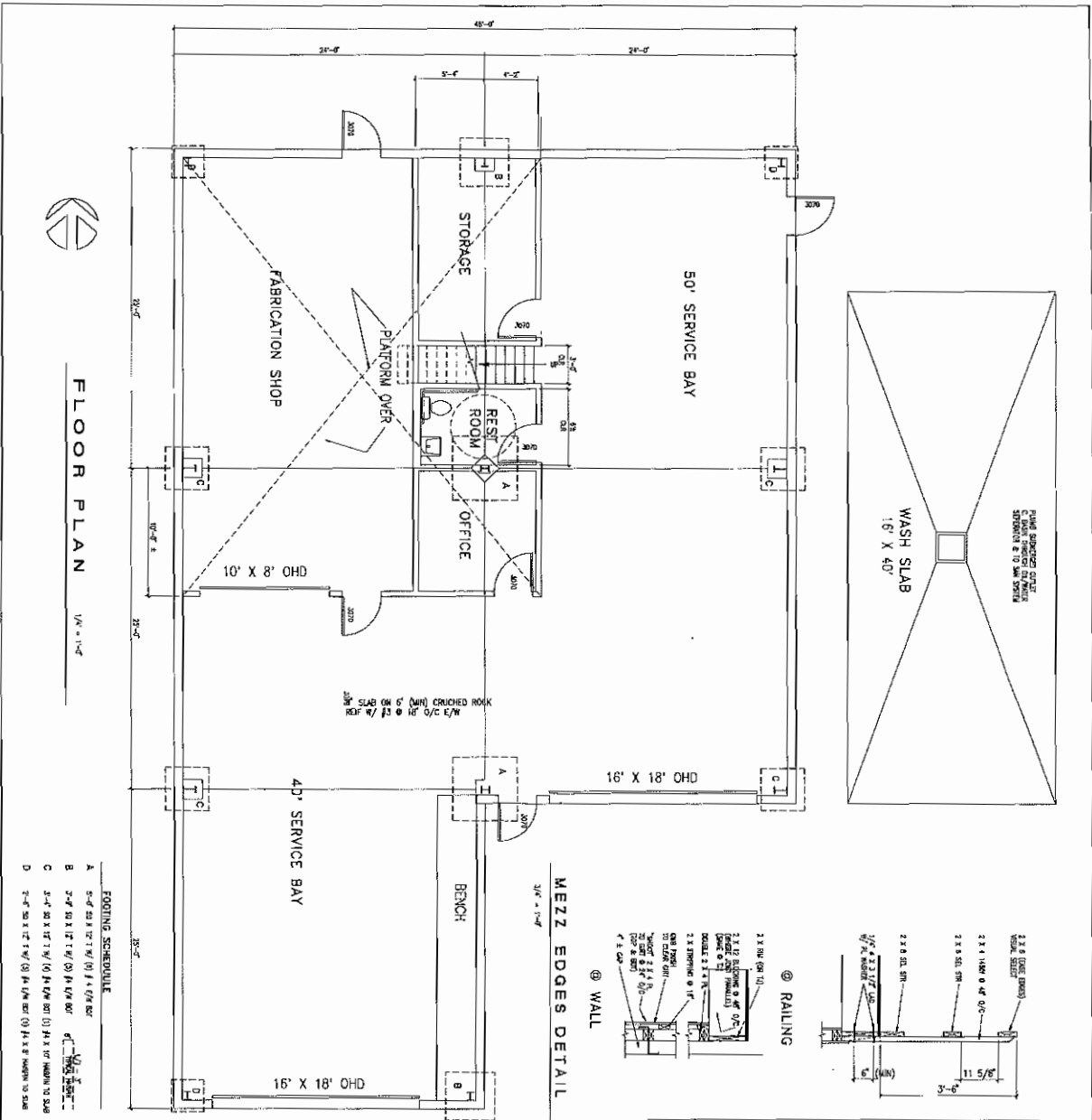
F.L.B. JOIST CALC'S

1. All joist calculations shall be in accordance with the specifications.

**ALBERT R. KENNEY JR. P.E.**  
CONSULTING ENGINEER/PLANNER  
503/799-4570 FAX 682-0491  
307-97-31-18

**SHOP BUILDING (part)**  
**ROCKY POINTE MARINA**  
23286 NW 51 Avenue Rd, Portland, OR 97231  
(503) 583-7035

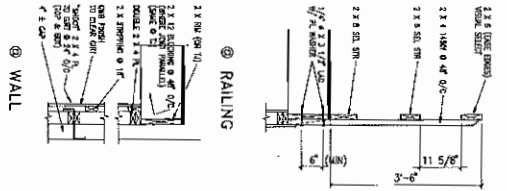
208 sq. ft. 28033  
1 OF 3



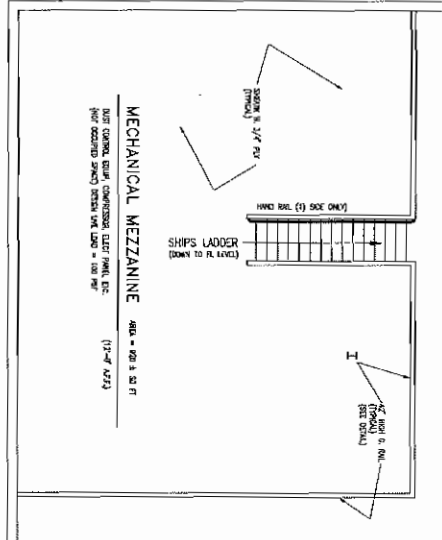
**FOOTING SCHEDULE**

A	3'-0" x 3'-0" x 1'-0" (1) 1'-0" x 1'-0"
B	3'-0" x 3'-0" x 1'-0" (2) 1'-0" x 1'-0"
C	3'-0" x 3'-0" x 1'-0" (3) 1'-0" x 1'-0"
D	3'-0" x 3'-0" x 1'-0" (4) 1'-0" x 1'-0"

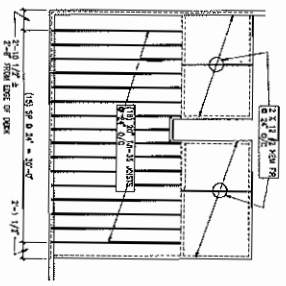
**MEZZ EDGES DETAIL**  
1/4" = 1'-0"



**MEZZ PLAN**  
1/4" = 1'-0"



**FRAMING PLAN**  
1/4" = 1'-0"



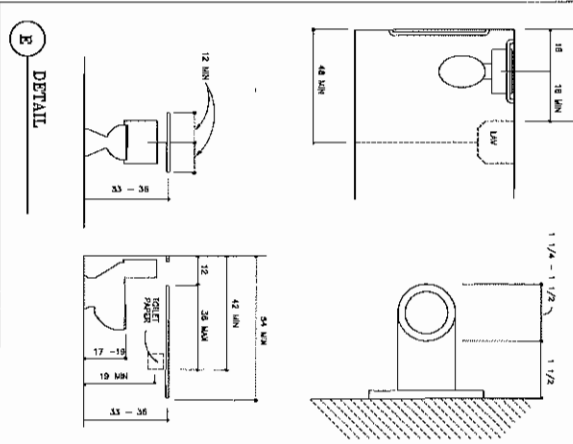
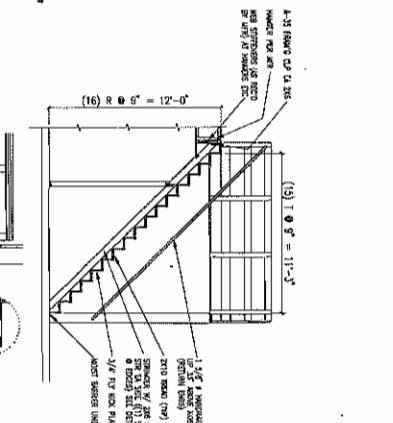
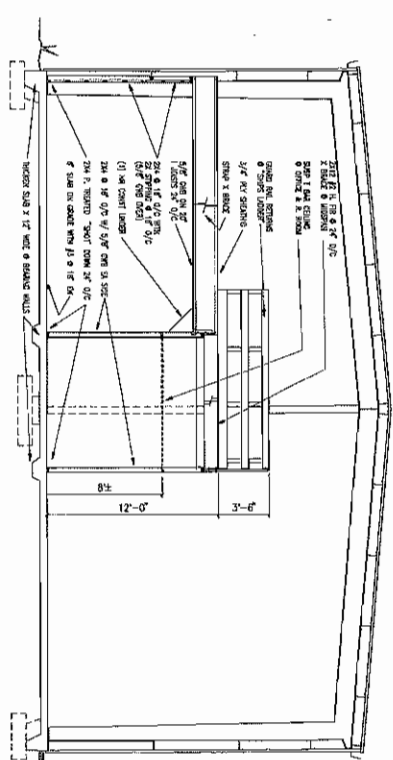
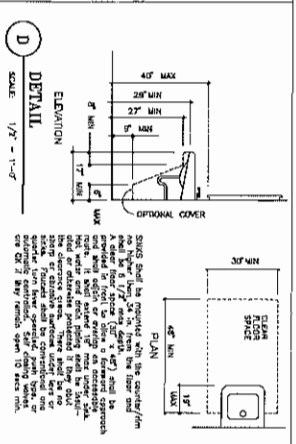
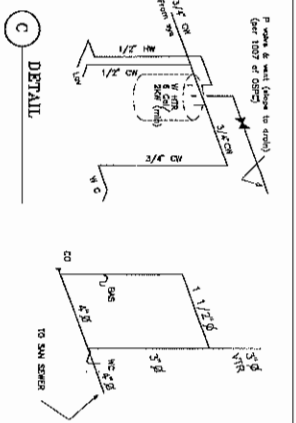
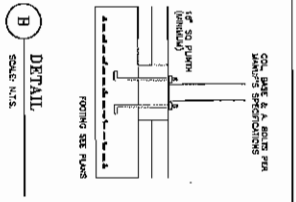
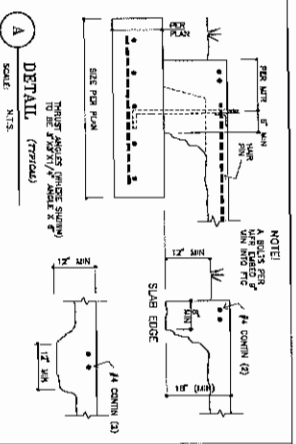
**ALBERT KENNEY JR. PE**  
CONSULTING ENGINEER/PLANNER

503.779-4570 FAX 682-0491

3110 E. ULLINOIS  
ROCKY POINT MARINA  
23500 NW St. Helens Rd., Portland, OR 97231  
(503) 543-7003

DATE: 09-07-98  
SHEET NO: 98033  
2 OF 3

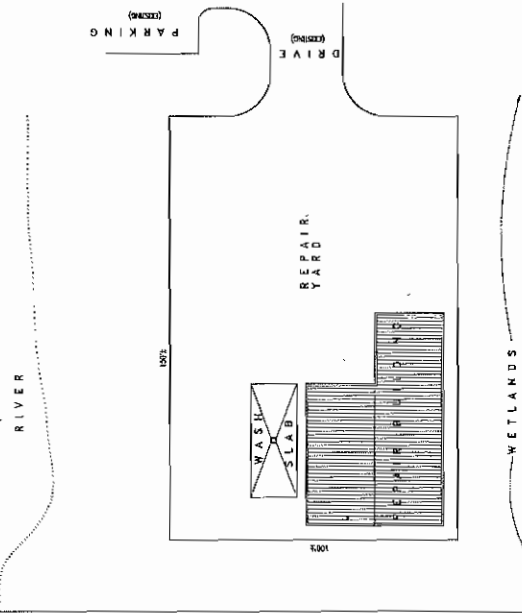




**ALBERT R. KENNEY, JR. P.E.**  
**CONSULTING ENGINEER/PLANNER**  
 503/799-4570 FAX 662-0491

**SHOP BUILDING FOR ROCKY POINTE MARINA**  
 23586 NW St Helens Rd, Portland, OR 97231  
 (503) 543-7003

DATE: 08-24-88  
 SHEET NO: 96033  
 3 OF 3



**SITE PLAN** 1/8" = 1'-0"

SEE NOTES AND SPECIFICATIONS FOR MATERIALS AND FINISHES.

**GENERAL NOTES AND SPECIFICATIONS**

**SCOPE OF WORK:** Construct a 3000 SF shop building (not to be heated) (over 40' x 30') in an existing machine structure as per a pre-engineered metal building shell with a flood resistant foundation (see Appendix B) of steel deck to hold much electrical equipment.

**DIVISION 1 GENERAL CONDITIONS**

1. The Contractor shall be responsible for obtaining all necessary permits and approvals for this project.
2. The Contractor shall be responsible for obtaining all necessary permits and approvals for this project.
3. The Contractor shall be responsible for obtaining all necessary permits and approvals for this project.
4. The Contractor shall be responsible for obtaining all necessary permits and approvals for this project.
5. The Contractor shall be responsible for obtaining all necessary permits and approvals for this project.

**DIVISION 2 SITE WORK**

1. The Contractor shall be responsible for obtaining all necessary permits and approvals for this project.
2. The Contractor shall be responsible for obtaining all necessary permits and approvals for this project.
3. The Contractor shall be responsible for obtaining all necessary permits and approvals for this project.

**DIVISION 3 CONCRETE**

1. The Contractor shall be responsible for obtaining all necessary permits and approvals for this project.
2. The Contractor shall be responsible for obtaining all necessary permits and approvals for this project.
3. The Contractor shall be responsible for obtaining all necessary permits and approvals for this project.

**NOTES & SPEC. CONT'D**

**DIVISION 5 METALS**

These drawings and calculations are to be used in conjunction with the specifications and contract documents. The Contractor shall be responsible for obtaining all necessary permits and approvals for this project.

**DIVISION 8 DOORS & GLAZING**

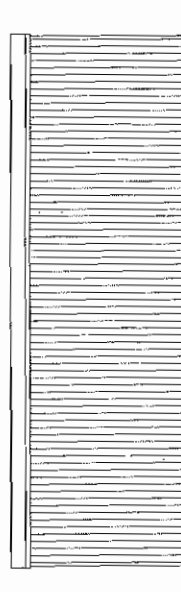
All doors shall be made without special knowledge or effort. They may be made of wood or metal. The Contractor shall be responsible for obtaining all necessary permits and approvals for this project.

**DIVISION 9 FINISHES**

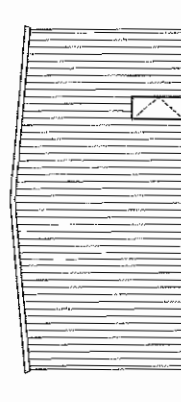
The Contractor shall be responsible for obtaining all necessary permits and approvals for this project. The Contractor shall be responsible for obtaining all necessary permits and approvals for this project.

**DIVISION 15 MECH AND PLUMBING**

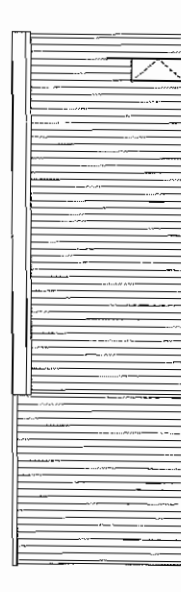
1. The Contractor shall be responsible for obtaining all necessary permits and approvals for this project.
2. The Contractor shall be responsible for obtaining all necessary permits and approvals for this project.
3. The Contractor shall be responsible for obtaining all necessary permits and approvals for this project.
4. The Contractor shall be responsible for obtaining all necessary permits and approvals for this project.



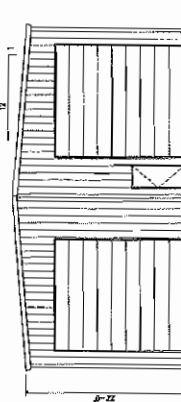
**WEST ELEVATION** 1/8" = 1'-0"



**NORTH ELEVATION** 1/8" = 1'-0"



**EAST ELEVATION** 1/8" = 1'-0"



**SOUTH ELEVATION** 1/8" = 1'-0"

**FOOTING CALCULATIONS**

FOOTINGS ARE CONSIDERED TO ALLOW FOR DIFFERENCE BETWEEN DESIGN AND ACTUAL CONDITIONS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FOR THIS PROJECT.

SEE NOTES AND SPECIFICATIONS FOR MATERIALS AND FINISHES.

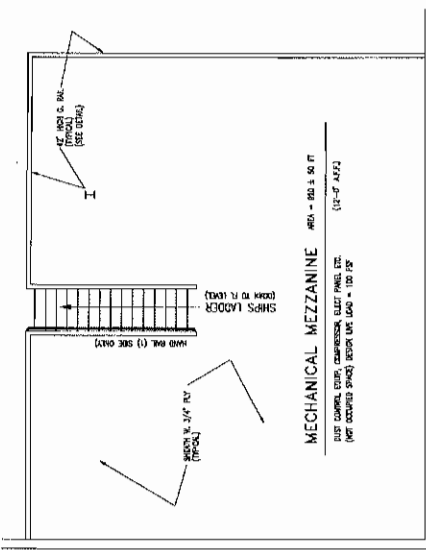
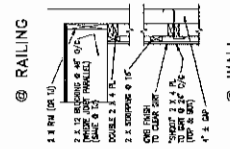
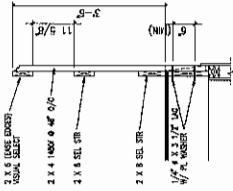
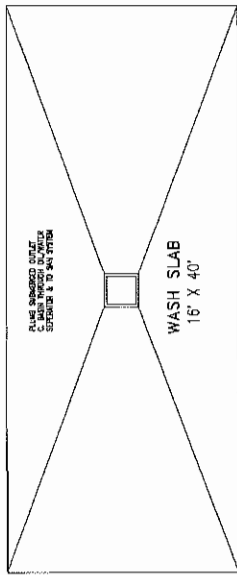
SEE NOTES AND SPECIFICATIONS FOR MATERIALS AND FINISHES.

SEE NOTES AND SPECIFICATIONS FOR MATERIALS AND FINISHES.

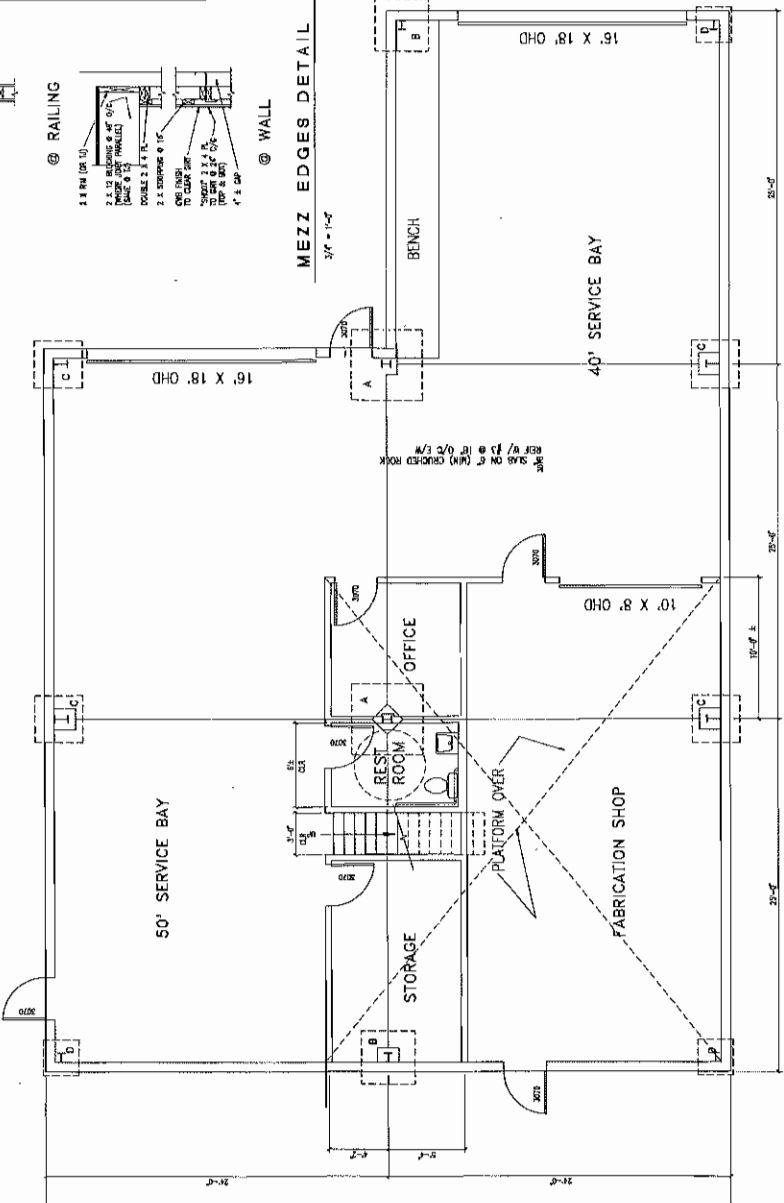
**ALBERT R. KENNEDY JR. PE**  
CONSULTING ENGINEER/PLANNER  
503/799-4570 FAX 682-0491  
503/799-4570  
SHOPPING BUILDING FOR  
ROCKWELL MARINA  
3400 N.W. 10TH AVE., PORTLAND, OR 97201  
(503) 543-7033

REGISTERED PROFESSIONAL ENGINEER  
STATE OF OREGON  
NO. 12345  
EXPIRES 12/31/2025

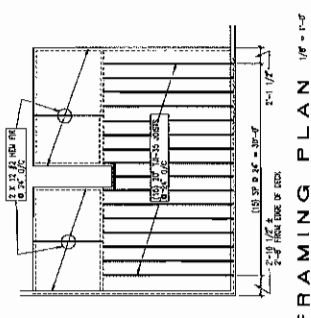
DATE: 08/15/2024  
TIME: 10:00 AM  
PROJECT: SHOPPING BUILDING FOR ROCKWELL MARINA  
SHEET NO: 1 OF 3



MEZZ PLAN 1/4" = 1'-0"



MEZZ EDGES DETAIL 3/4" = 1'-0"



FRAMING PLAN 1/8" = 1'-0"

FOOTING SCHEDULE

A	3'-0" x 18" x 18" (1) 1/2" J-12 @ 12"
B	3'-0" x 18" x 18" (1) 1/2" J-12 @ 12"
C	3'-0" x 18" x 18" (1) 1/2" J-12 @ 12"
D	3'-0" x 18" x 18" (1) 1/2" J-12 @ 12"

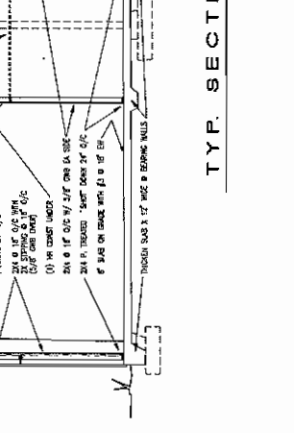
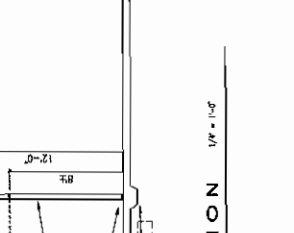
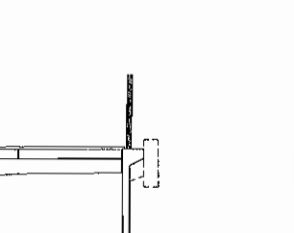
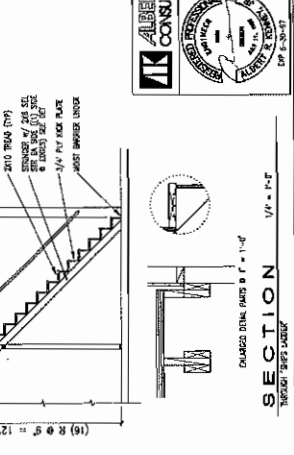
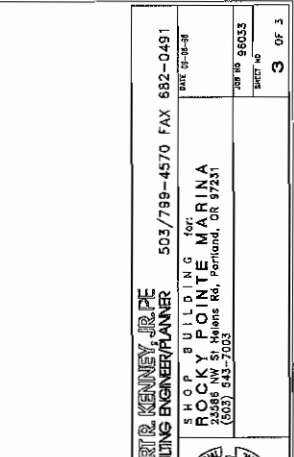
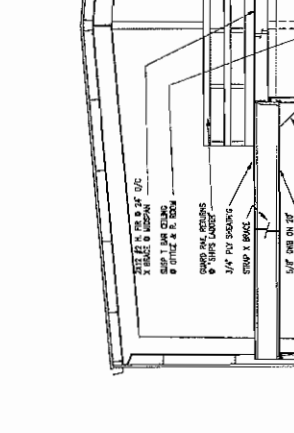
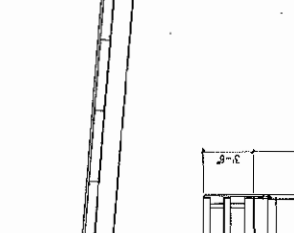
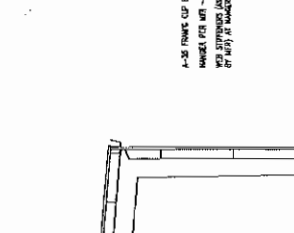
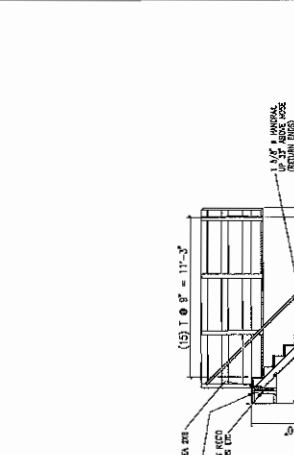
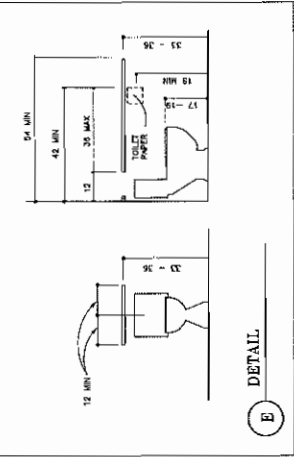
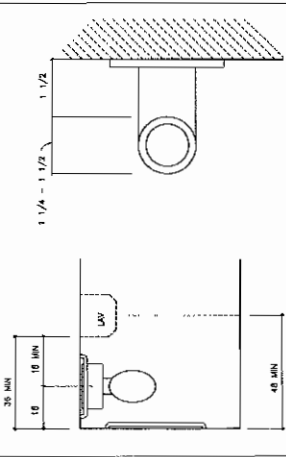
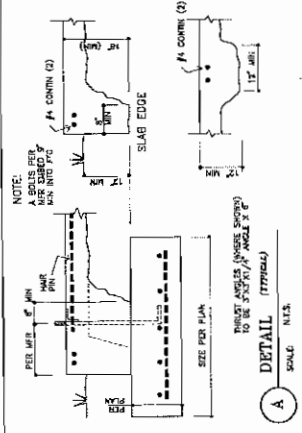
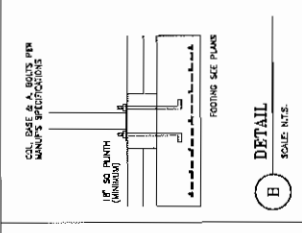
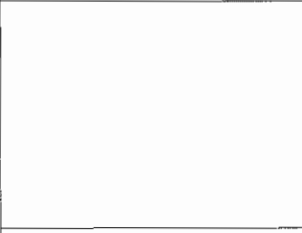
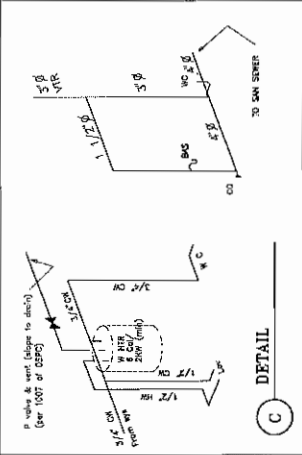
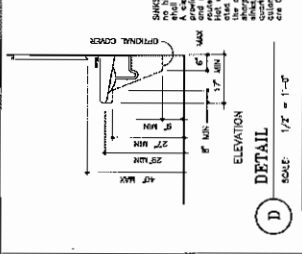
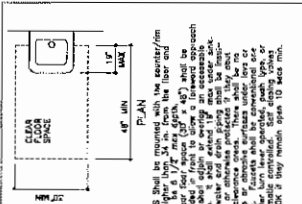
FLOOR PLAN 1/4" = 1'-0"

**ALBERT KENNEY JR. PE**  
CONSULTING ENGINEER/PLANNER

503/799-4570 FAX 682-0491

SHOP BUILDING FOR:  
**ROCK POINT MARINA**  
10000 Pointe Rd., Portland, OR 97221  
(503) 243-7003

DATE: 9-20-98  
JOB NO: 96033  
SHEET NO: 2 OF 3



**ALBERT R. KENNEY, JR., P.E.**  
CONSULTING ENGINEER/PLANNER

503/799-4570 FAX 503-682-0491

SHOP BUILDING for:  
**ROCKY POINTE MARINA**  
23586 NW St. Helens Rd., Portland, OR 97231  
(503) 243-2395

DATE: 01-18-88  
JOB NO: 88033  
SHEET NO: 3 OF 3

DESIGNED BY: [Signature]  
CHECKED BY: [Signature]  
DRAWN BY: [Signature]

**TYP. SECTION** 1/4" = 1'-0"

SECTION 1/4" = 1'-0"

DESIGNED BY: [Signature]  
CHECKED BY: [Signature]  
DRAWN BY: [Signature]



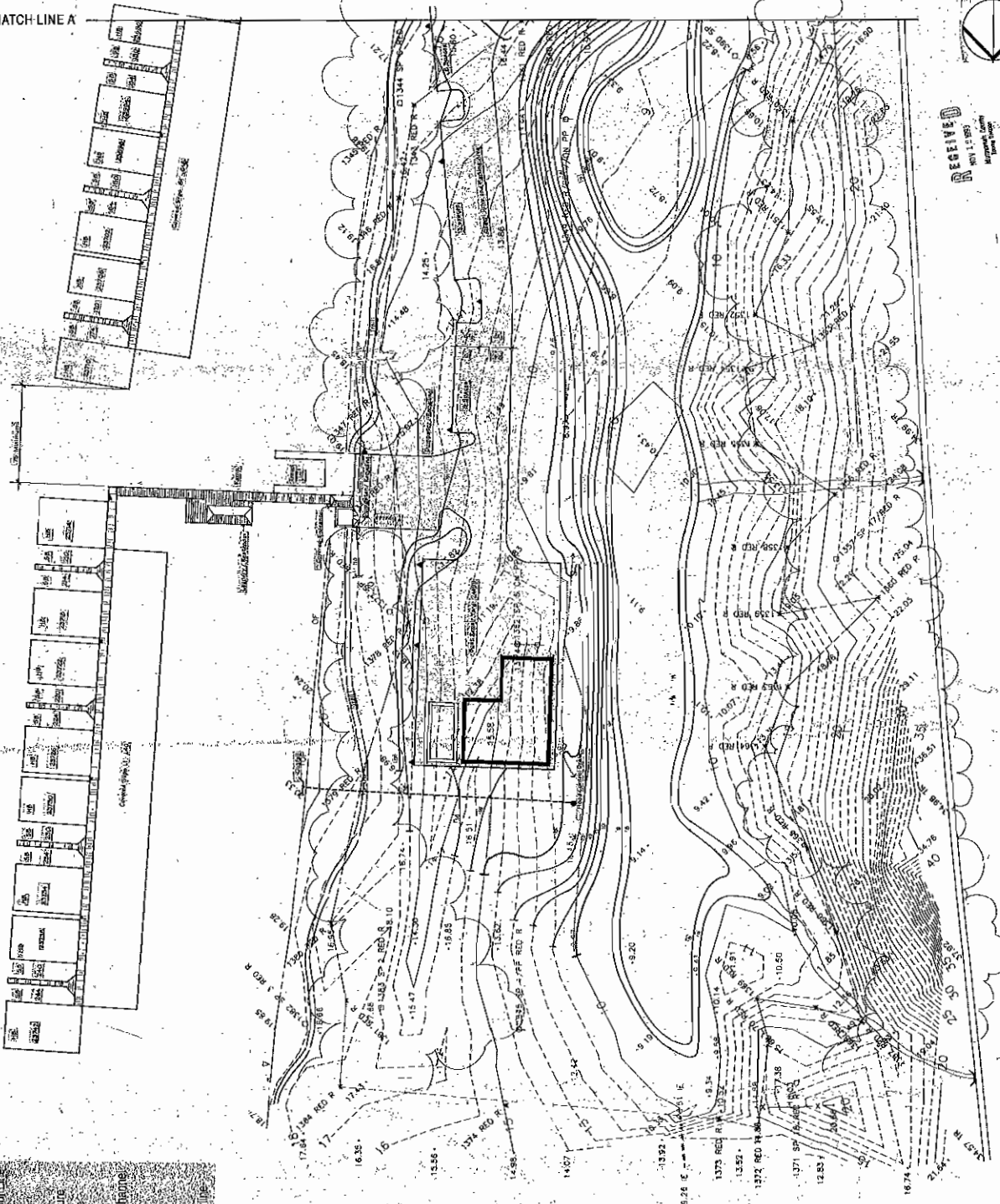
PROJECT NO.	11098-PD
DATE	08/11/98
DESIGNED BY	DW/JM
CHECKED BY	PM
APPROVED BY	[Signature]

**SITE DEVELOPMENT PLAN**  
**ROCKY POINTE MARINA**

**MJM**  
 McKee/Horita, Inc.  
 223 S W. Second Avenue  
 Portland, Oregon 97204  
 MA 503.228.7200  
 FAX 503.228.7252

DATE: 11/12/93  
 SCALE: 1" = 30'  
 SHEET NO.: SD1

MATCH LINE A



**RECEIVED**  
 NOV 11 1993  
 PORTLAND PLANNING DEPARTMENT

**LEGEND**

	Proposed Contour Line
	Gravel Surface
	Draining Structure
	Light on Pole
	Buoy Light
	Water Service Channel
	Houseboat
	Boat House
	Sailboat Slip
	Barge/Cargo Line

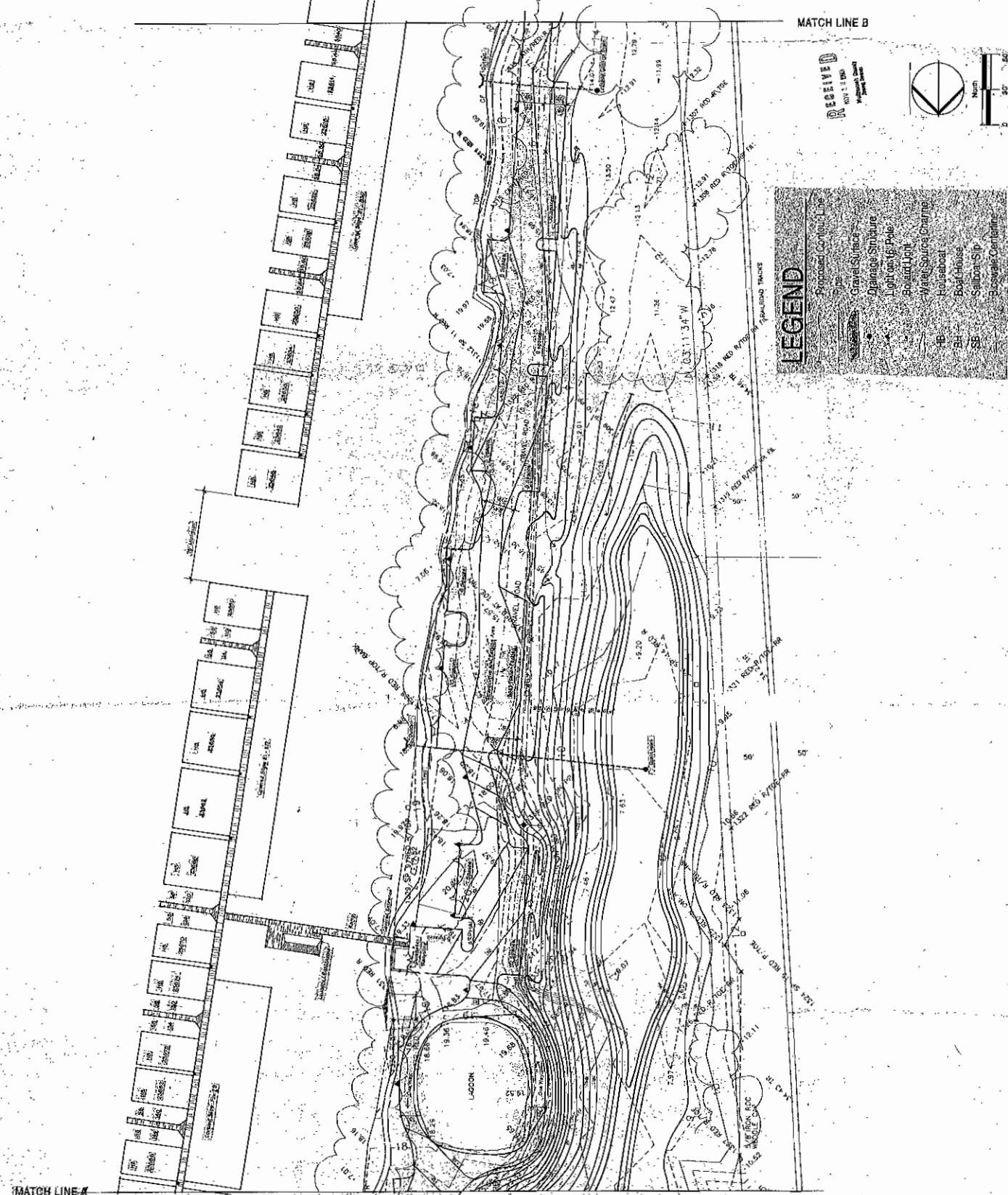


PROJECT NO.	110-93-PD
DATE	
DESIGNED BY	DM/JM
CHECKED BY	DM/JM
APPROVED BY	PM

**SITE DEVELOPMENT PLAN**  
**ROCKY POINTE MARINA**

**MM**  
 McKeever/Horvath, Inc.  
 713 S. Second Avenue  
 Portland, Oregon 97204  
 503.228.2583  
 503.228.1332

DATE: 11.12.93  
 SCALE: 1" = 30'  
 SHEET: SD 2



**LEGEND**

- Proposed Contour Line
- Pier
- Gravel Surface
- Drainage Structure
- Light on 6' Pole
- Boat Lift
- Marine Service Building
- Houseboat
- Boat House
- Sailboat Slip
- Buoy
- Buoys/Cantainers

**RECEIVED**  
 11/12/93  
 11:12 AM

North  
 0° 90° 180°



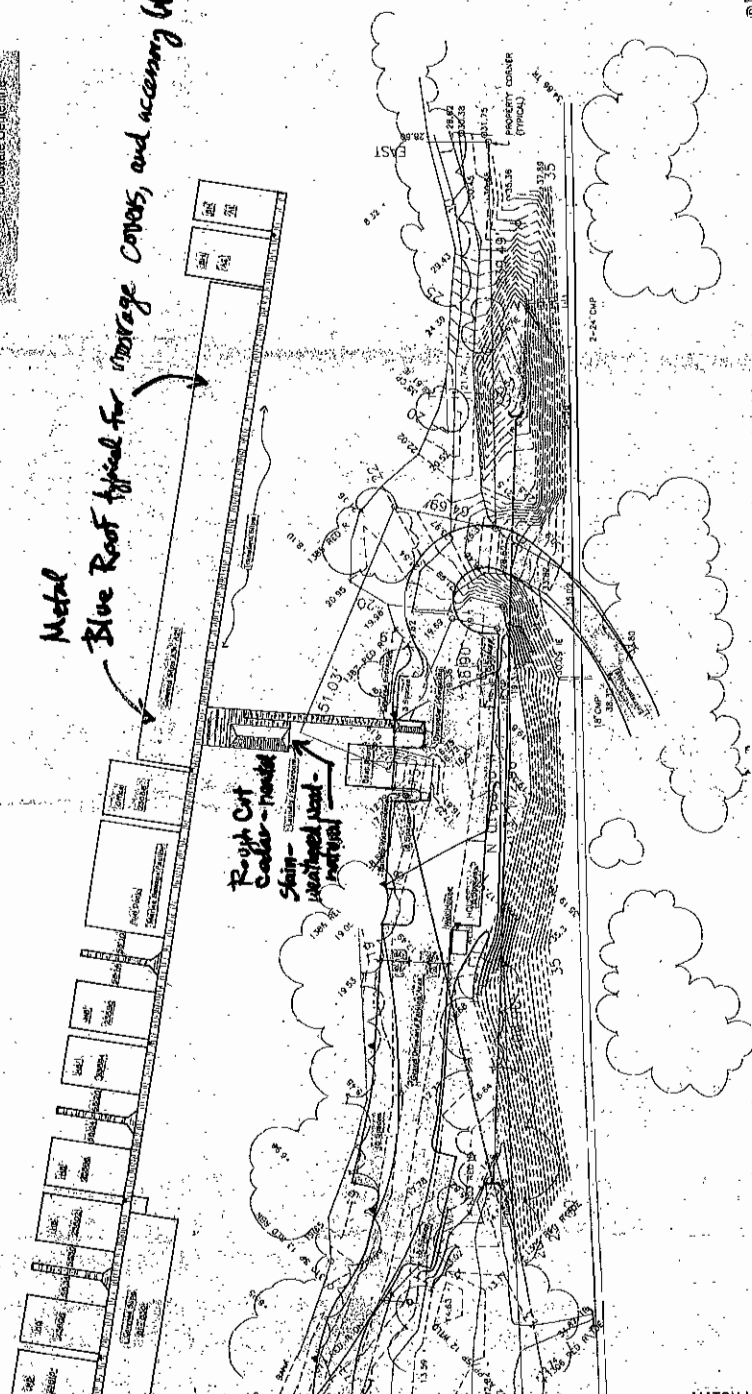
	APPROVED BY:	DATE:	<b>ROCKY POINTE MARINA</b> <b>SITE DEVELOPMENT PLAN</b>		722 S.W. Second Avenue Portland, Oregon 97204 503.226.2352
	CHECKED BY:	DATE:			
	DM/PM				
	DM/PM				
	110-894P				

**LEGEND**

	Proposed Contour Line
	Paved Area
	Gravel Surface
	Drainage Structure
	Light on 1/2\"/>
	Boat Lift
	Water Source Channel
	Houseboat
	Boat House
	Sailboat Slip
	Picnic Area

*Metal Blue Roof typical for storage covers, and accessory bldgs*

*Rough Cut Cedar - finished stain - weathered wood - exterior*

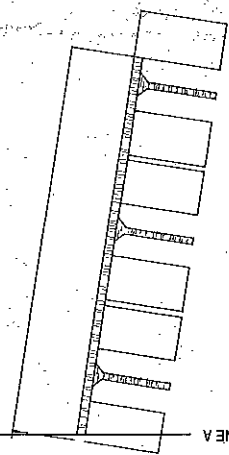
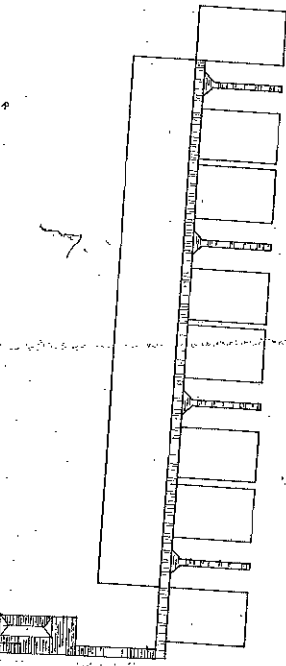
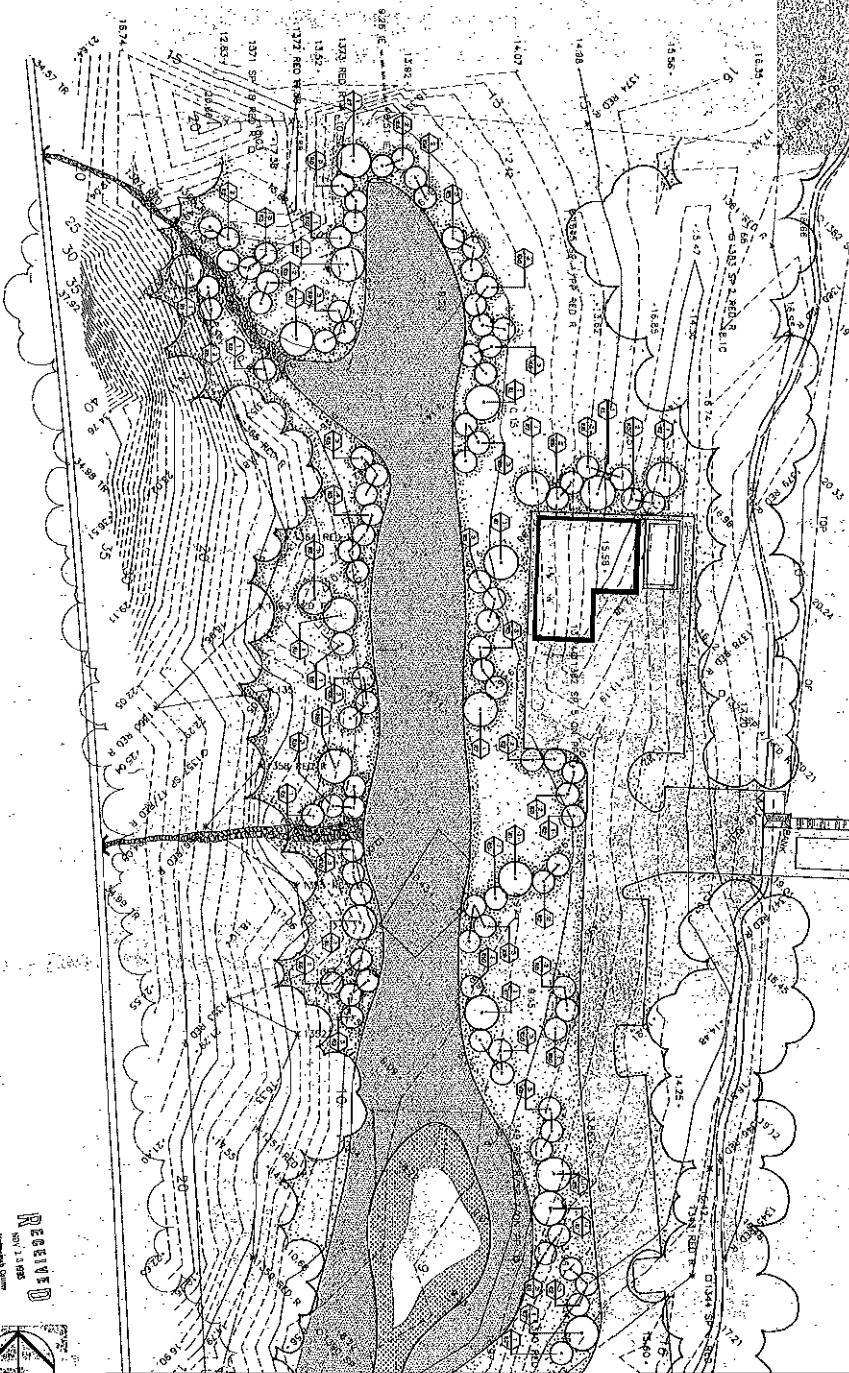


MATCH LINE B

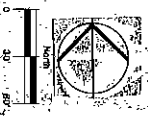
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 McKeever/Porter, Inc.

PLANTING LEGEND

	Tree
	Shrub
	Flowering Shrub
	Planting Note



RECEIVED  
NOV 11 1998



11 12 98  
1/4" = 30'

**MM**  
McKever/Morris, Inc.  
222 S.W. Second Avenue  
Suite 600  
Portland, Oregon 97204  
Tel: 503 728-7363  
Fax: 503 228-7357

Planning  
Landscape  
P.E. (Professional)  
Project Management

**LANDSCAPE PLAN**  
**ROCKY POINTE MARINA**

DATE	NOV 20 1998
DATE	
DATE	
DATE	
DATE	
DATE	

PROJECT NO.	110-93-9D
DESIGNED BY:	DMP/M
DRAWN BY:	DMP/M
CHECKED BY:	PM
APPROVED BY:	

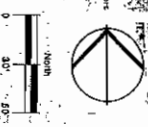


MATCH LINE A



MATCH LINE B

Symbol	Description
(Hatched pattern)	Grass
(Stippled pattern)	Gravel
(Dotted pattern)	Water
(Solid black)	Planting Area
(Circle with dot)	Tree
(Triangle with dot)	Bush
(Square with dot)	Shrub



**MM**  
McKeev/Morris, Inc.  
722 S.W. Second Avenue  
Suite 600  
Portland, Oregon 97204  
503.228.7585  
503.228.7322

Project Title: **LANDSCAPE PLAN**  
Project Name: **ROCKY POINTE MARINA**

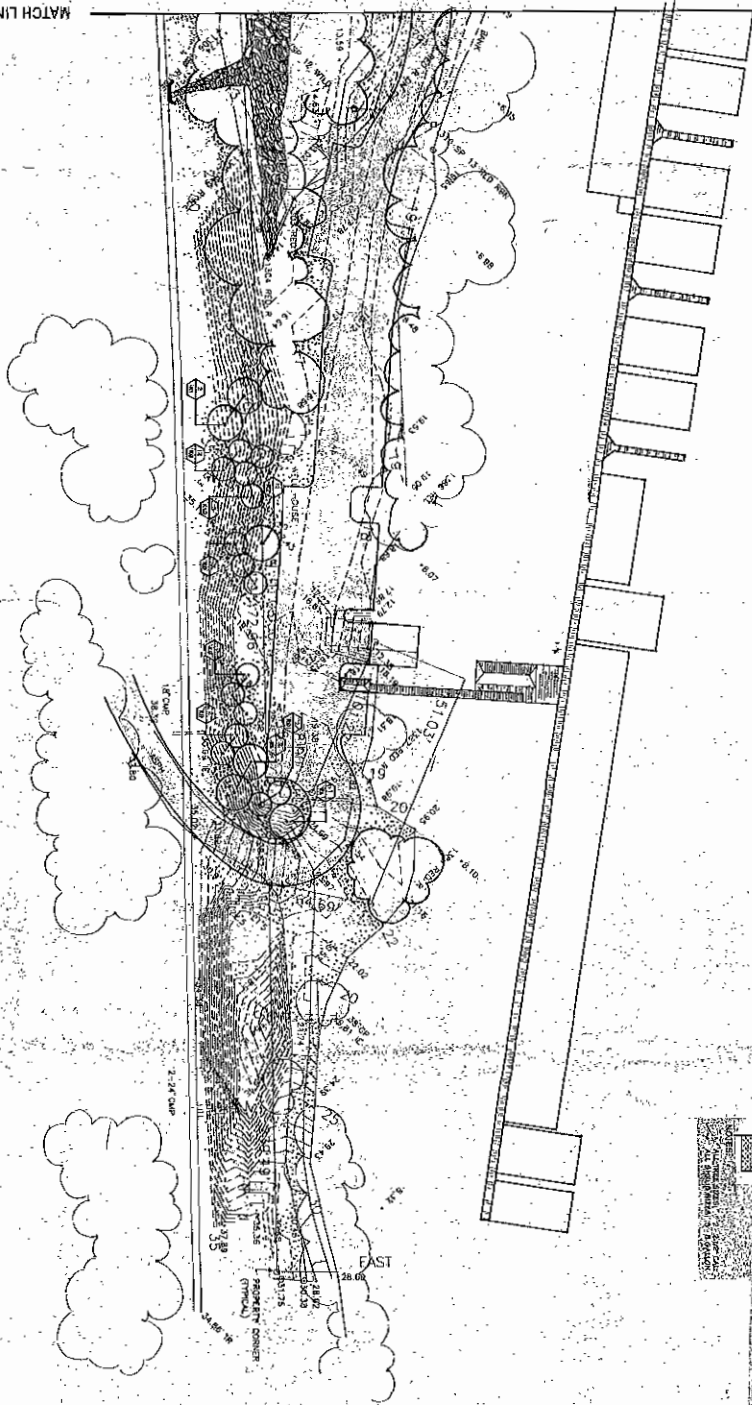
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Date: 11.12.93

NO.	REVISIONS	DATE
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PROJECT NO:	110-93-PD
DESIGNED BY:	DWJPM
DRAWN BY:	DAWJM
CHECKED BY:	PM
APPROVED BY:	<i>(Signature)</i>



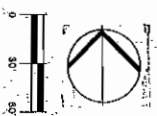
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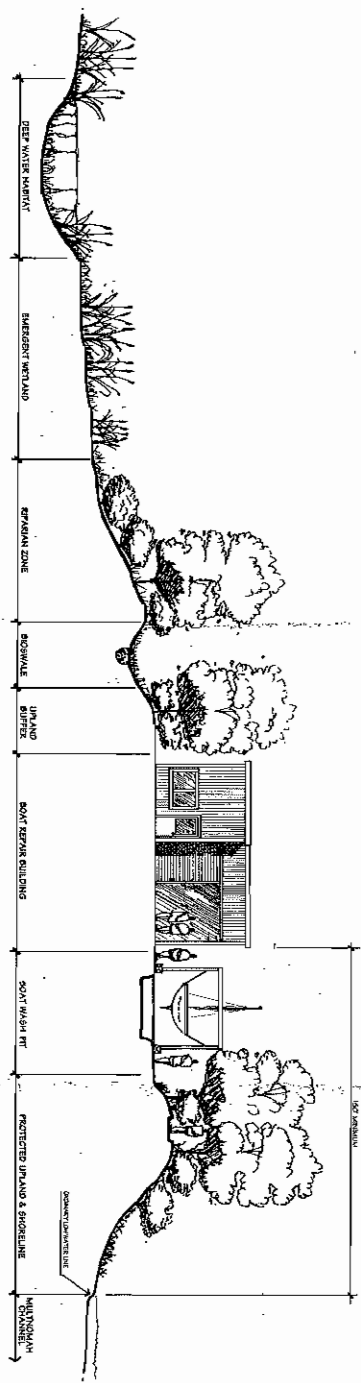
**PLANT LIST & LEGEND**

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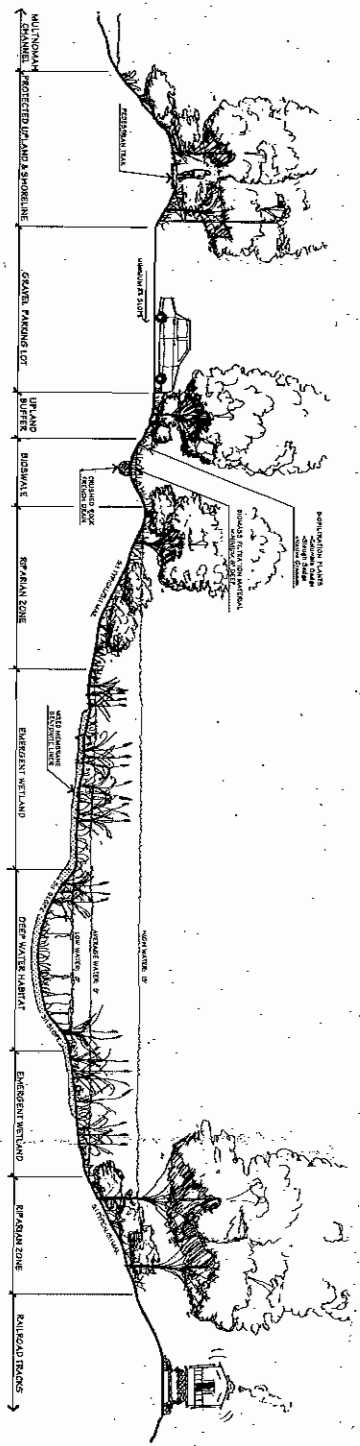
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 ALBANY, OREGON



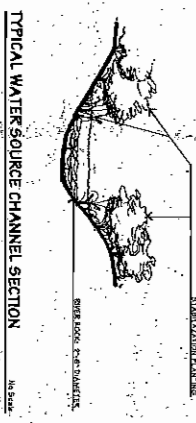
<p>McKeeverMorris, Inc.          722 S.W. Second Avenue          Suite 400          Portland, Oregon 97204          Tel: 503 228-2185          Fax: 503 228-7352</p>	<p>DATE: JUN 12 1993</p> <p>PROJECT NO.: PM-301</p> <p>SCALE: 1/8" = 1'-0"</p>	<p>SHEET TITLE: LANDSCAPE PLAN</p> <p>PROJECT TITLE: ROCKY POINTE MARINA</p>	<table border="1"> <tr> <th>NO.</th> <th>REVISIONS</th> <th>DATE</th> </tr> <tr> <td>1</td> <td></td> <td></td> </tr> <tr> <td>2</td> <td></td> <td></td> </tr> <tr> <td>3</td> <td></td> <td></td> </tr> <tr> <td>4</td> <td></td> <td></td> </tr> <tr> <td>5</td> <td></td> <td></td> </tr> <tr> <td>6</td> <td></td> <td></td> </tr> </table>	NO.	REVISIONS	DATE	1			2			3			4			5			6			<p>PROJECT NO.: 110-93-PD</p> <p>DESIGNED BY: DM/PM</p> <p>DRAWN BY: DM/DM</p> <p>CHECKED BY: PM</p> <p>APPROVED BY: </p>	<p>REGISTERED ARCHITECT</p> <p>OREGON</p> <p>12-4-93</p>
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1																										
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6																										



ILLUSTRATIVE ELEVATION: Rocky Pointe Marina Boat Repair Facilities



TYPICAL SITE CROSS SECTION



TYPICAL WATER SOURCE CHANNEL SECTION

RESERVE  
 NOW 1.3 B31  
 McKeever/Morris, Inc.  
 222 S.W. Second Avenue  
 Portland, Oregon 97204  
 503 228-7365  
 503 228-7252

	<b>DESIGN DETAILS</b> ROCKY POINTE MARINA	PROJECT NO. 110-93-PD
		DESIGNED BY: PM DRAWN BY: DM CHECKED BY: PM APPROVED BY: PM
SHEET TITLE: DESIGN DETAILS PROJECT TITLE: ROCKY POINTE MARINA	NO. 1 2 3 4 5	REVISIONS DATE

McKeever/Morris, Inc.  
 222 S.W. Second Avenue  
 Suite 400  
 Portland, Oregon 97204  
 503 228-7365  
 503 228-7252

DATE: 11 12 98

TITLE: 30'

D1

Rodney F.  
Maurina

Flaws for case files:

DR 28-93 / HDP 33-93  
FD 6-93 received 11/12/93



June 27, 2008

**OREGON STATE GOAL EXCEPTIONS  
STATE GOALS 11 and 14  
ROCKY POINTE MARINA**

**ADDRESS:** 23586 NW St Helens Road

**APPLICANT/OWNER:**

Stan Tonneson  
Jeniece Tonneson  
Rocky Pointe Marina  
23586 NW St Helens Rd SP U7  
Portland, Oregon 97231

**APPLICANT REPRESENTATIVES:**

**Planning Consultant:**

Peter Finley Fry AICP, PHd  
2153 SW Main Street #105  
Portland, Oregon 97205  
(503) 274-2744  
(503) 274-1415 FAX

**Engineer:**

Andrew Jansky  
Flowing Solutions  
3305 SW 87th Avenue  
Portland, Oregon 97225  
(503) 297-6311  
(503) 297-6053 FAX

**PROPERTY IDENTIFICATION:**

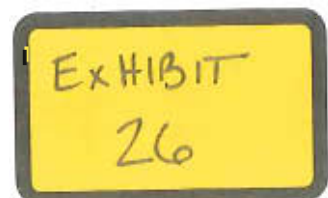
T3N, R2W, Section 36A: Tax lot 400 & T3N, R2W, Section 36D, Tax lot 100.

**APPLICABLE ZONES:**

Multiple Use Agriculture-20 (MUA-20), Willamette River Greenway (WRG), and 100-year Flood Plain.

**SPECIFIC APPLICATION:** COMPREHENSIVE PLAN TEXT (Rural Area Plan Policy 26) AND MAP CHANGE TO INCLUDE EXCEPTIONS TO GOAL 11 AND GOAL 14 FOR THE ROCKY POINTE MARINA

RECEIVED  
08 JUL -3 AM 10:51  
MULTI-NOAH COUNTY  
PLANNING SECTION



**OREGON STATE GOAL EXCEPTIONS**  
**ROCKY POINTE MARINA**  
23586 NW St Helens Road

June 27, 2008

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# OREGON STATE GOAL EXCEPTIONIONS

## ROCKY POINTE MARINA

June 27, 2008

23586 NW St Helens Road

### 1. DEVELOPMENT HISTORY AND PROPOSAL

The existing Rocky Pointe Marina site was founded in the late 1920's/early 1930's.<sup>1</sup> The original floating home and office/fuel building are still in the same use today. Rocky Pointe has been a moorage, boat repair and fueling station since that time. Rocky Pointe is now one of Oregon's largest marinas and floating home communities, providing over 200 temporary and permanent spaces with existing amenities that include showers, washers/dryers, portable pump-outs and public on the water sewage disposal. The marina has an existing boat yard that provides full service professional repairs, refits, and upgrades in fiberglass, wood, and metal. The marina also includes a Marina Store, public fueling station, and on-shore parking. In 2006, Rocky Pointe Marina became the first certified "Clean Marina" by the Oregon State Marine Board (Exhibit 1).

The application seeks approval of a "physically developed" and "irrevocably committed" exception to Goals 11 and 14, in order to allow for additional development within the existing facility and for the expansion of the marina to the south. The project proposed to install a new 520 foot +/- dock on the upstream side of the existing marina between the existing marina and the adjacent marina upstream. The overall concept is to locate boat slips on the bank side and house boats on the stream side (Exhibit 2). This accomplishes several goals; reduces the impact of shade on the areas close to shore; protects the boats from wake; protects the boats from vandalism; gives the house boats access to sun and views; and presents to the public a neighborhood. Improvements within the "physically developed" exception area will consist of:

- 21 new houseboats to replace boat slips for a total of 61 houseboats
- Marina is allowed up to 150 boat slips, with 30 to be relocated to the new dock
- Floating home repair building (dry dock)
- Add 66 new parking spaces to the already existing 166 parking spaces

Improvements within the "irrevocably committed" exception area consist of:

- Extending dock to accommodate additional houseboats and boats
- 15 new houseboats
- Relocate 30 existing boat slips to the bank side from existing dock to new dock

---

<sup>1</sup> Source: Aerial photographs from the Oregon Map Library.

# OREGON STATE GOAL EXCEPTIONS

## ROCKY POINTE MARINA

June 27, 2008

23586 NW St Helens Road

As stated, improvements include extending the existing up stream dock an additional 520 feet +/- to accommodate 21 floating homes on the outside of the existing dock with 10 new boat slips on the bank side of the dock along with the displaced outside boat slips of 20 from the existing dock to 30 slips on the bank side. The addition of 520 additional feet of dock using modern materials and techniques will not adversely impact the environment, and will provide safer conditions for users and a more functional facility.

The new marina area will consist of floating docks extended from the existing main ramp and utility services, a single emergency only gangway for emergency access to shore and 40 steel pilings up to 20 inches in diameter. The existing upriver docks and new dock will be increased from 5 feet to 8 feet wide (6 feet of wood decking and 2 feet of grating for utility access) to provide greater safety.

The results will be <sup>76</sup>67 houseboats (40 existing and 36 new), 150 boat slips (134 front in slips and 16 side slips); 7 boat houses, and 232 parking spaces (166 existing and 66 new)

The proposed work includes restoration and native re-vegetation designed to improve the existing natural resources. A maintenance plan will provide methods and guideline to protect the resource and landscaped areas. An interpretive trail is proposed for construction along the bank and lake.

In 1993, an exception to Goal 4 was approved for the terrestrial land area zoned MUA-20 and the marina facility itself. The exception to Goal 4 obtained acknowledgment from LCDC in 1993.

Rocky Pointe was originally approved by Multnomah County in 1993 as a conditional use. The marina was approved for 40 houseboats, 150 boat slips, seven boathouse spaces, and 166 parking spaces.

In 1997, Multnomah County adopted a streamlined land use review known as Policy 10 that legalized existing moorages. Rocky Pointe was inventoried, but not forced to participate, as it was a legally established moorage under a 1993 conditional use approval. Since 1993, improvements have been made to the moorage including state mandated improvements and safety and environmental quality systems.

## 2. NEED FOR EXCEPTIONS

Statewide Planning Goal 11: Goal 11 and related rule limits urban levels of

# OREGON STATE GOAL EXCEPTIONS

June 27, 2008

## ROCKY POINTE MARINA

23586 NW St Helens Road

services outside urban growth boundaries and unincorporated communities. An urban level of service includes the extension or establishment of a sewer system outside an urban growth boundary or unincorporated community boundary. A "sewer system" is defined as a system that serves more than one lot or parcel (OAR 660-011-0060(1)(f)).

A "**Physically Developed**" and "**Irrevocably Committed**" exception to Goal 11, as outlined OAR 660-004-0025 and OAR 660-004-0028, is being proposed for the marina.

Statewide Planning Goal 14: Although the channel itself was not included in this original exception to Goal 4, the moorages and the facilities supporting the houseboats (located on both sides of the channel) were part of this exception. The Multnomah County code considers houseboats and floating homes as single family dwellings. State rules specifies that the county shall not allow more than one dwelling to be placed on a lot or parcel in the MUA-20 zone (OAR 660-004-0040(7)(f)).

A "**Physically Developed**" exception to Goal 14 is being taken for the existing developed areas of the marina, and an "**Irrevocably Committed**" exception to Goal 14 is being taken for the undeveloped portion of the marina proposed for expansion (See Exhibit One showing boundaries of exceptions). The criteria for these exceptions are outlined in OAR 660-014-0030.

### 3. FINDINGS JUSTIFYING EXCEPTION TO GOAL 11, PUBLIC FACILITIES AND SERVICES

**Exception Requirements for Land Physically Developed to Other Uses (OAR 660-004-0025):**

**(1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.**

**Finding:** Rocky Pointe Marina has its own on site waste disposal facility that is permitted with the Oregon Department of Environmental Quality (DEQ) for both a level 1 treatment and level 1 collection for domestic waste water utilizing an activated sludge process. As required under permit in accordance with OAR, Chapter 340, Division 49, a certified supervisor manages the systems and reports to DEQ monthly. This disposal system services the floating homeowners, public restrooms, and public boat dump stations, which are all non-terrestrial. The boat repair facility is the only upland facility hooked up to the sewer. The existing DEQ permit allows for up to 6,500 gallons of effluent per day. Current levels are about 5000 gallons per day. Application is being filed with DEQ to increase volume to meet needs of additional homes proposed. (Exhibit 3)

# OREGON STATE GOAL EXCEPTIONS

June 27, 2008

## ROCKY POINTE MARINA

23586 NW St Helens Road

(2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

**Finding:** The sewer system on the uplands at Rocky Pointe Marina consists of 3 large underground collecting vaults (approximately 500 gallons each). One each located near each of the 3 ramps. These vaults are connected by underground pipes to the final two underground vaults prior to entering the sewage plant. The plant itself consists of tanks with a capacity of 10,000 gallons. When complete, the liquid is discharged into an evaporation pond approximately 100 feet in diameter. The plant and pond are enclosed by a 6 foot cyclone fence. The fence area is buffered by landscaping – over 100 laurel shrubs. (Exhibit 3)

**Exception Requirements for Land Irrevocably Committed to Other Uses (OAR 660-004-0028)**

(1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable

(a) “committed exception” is taken in accordance with ORS 197.732(1) (b), Goal 2 Part II (b), and with the provisions of this rule;

**Finding:** The applicant has applied for a committed exception.

(b) For the purposes of this rule, an “exception area” is that area of land for which a “committed exception is taken;

**Finding:** The applicant has applied for a committed exception for the developed areas.

(c) An “applicable goal,” as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.

**Finding:** The applicant has presented factual findings to each relevant goal to establish compatibility or no adverse impact related to the goal’s purpose.

(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

(a) The characteristics of the exception area;

**Finding:** Rocky Pointe Marina occupies a long narrow strip of waterfront land 3,150 ft long by approximately 100 feet wide at one end and increasing in width to just over 400 feet at the other end with a total of 16.22 acres of which approximately 10 acres along the water are fully developed with road, parking, boatyard and support facilities. The remaining land is a lake, wetlands, natural



# OREGON STATE GOAL EXCEPTIONS

June 27, 2008

## ROCKY POINTE MARINA

23586 NW St Helens Road

areas, and landscaping that lay between the marina road and the railroad. The land itself is primarily basalt rock.

The sewer lines are approximately 3,700 feet along all walkways connecting to floating homes, floating restrooms, laundry, showers and pump out stations. These serve 40 floating homes and four restrooms facilities with showers and laundry. It also serves the public boat pump out station located at the fuel dock along with the three portable pump out units provided for people living on their boats and the traveling public. Each home and facility has its own "honey pot" that collects sewage and pumps into the main lines. These pump into a floating vault (larger honey pot) which in turn pumps in to the next vault/station on land and then to the plant. The sewage processing plant is an air activated sludge processing system that has a capacity of 10,000 gallons per day. It was built and designed by DAVCO Engineering and installed in 1994. (Exhibit 3)

**(b) The characteristics of the adjacent lands;**

**Finding:** On the water side, Rocky Pointe Marina leases 10.76 acres of submerged land from the Department of State Lands. On the backside of the property, the rocky terrain is sloped upward to the railroad tracks and continued upward slope to Hwy 30. The ground is primarily basalt rock.

Directly south, Happy Rock Marina has their own air activated sludge processing plant that disposes of their final clear liquid into a drain field to the south of their property.

To the north, there are four marinas connected to a single air activated sludge plant with drain field. The marinas, in order started by the closest, are McCuddy's Big Oak, Pirate's Cove, Casselman's, and Riverbend. The sewage plant is located at Casselmans, about ¾ to 1 mile from Rocky Pointe.

**(c) The relationship between the exception area and the lands adjacent to it;**

**Finding:** The sewage plant at Rocky Pointe is located near midpoint of the existing marina, a minimum of 1,000 feet from either property line to the north and south. On the west side, the plant is buffered from the property line by a 5 acre lake (not evaporating pond). On the west side (riverside), there is a large driveway.

**(d) The other relevant factors set forth in OAR 660-004-0028(6)**

**Finding:** The sewer system is located on the resource zoned terrestrial land to remove waste from the residential houseboats, boats, and traveling public consistent with the legal and policy mission of the DEQ. The sewer system is

# OREGON STATE GOAL EXCEPTIONS

June 27, 2008

## ROCKY POINTE MARINA

23586 NW St Helens Road

specifically designed to divert waste from the river in an ecological and efficient manner.

**215.203(3)** Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1) (b), in Goal 2, Part II (b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:

(a) Farm use as defined in ORS 215.203.

**Finding:** The use of individual sewage treatment systems or holding tanks is not practical, efficient, or ecologically sound. There are no services available to pump out holding tanks in the floating homes. Floating home tenants only rent dock space and do not own land to create a disposal area. Multiple disposal areas would not be efficient and would damage the ecology of the river. The single sewage collection and treatment system is under daily care of professional management, minimizes the impact on the river, and reports monthly to the DEQ.

(b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120

**Finding:** Not relevant in the context of this exception to Goal 11.

(c) Forest operations or forest practices as specified in OAR 660-006-0025(2) (a)

**Finding:** Not relevant in the context of this exception to Goal 11.

(4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.

**Finding:** The applicant has presented factual findings to each criterion that assert the area committed to a sewer system because of the extent and location of the existing system and the marina it serves..

(5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.

**Finding:** All land asserted as irrevocably committed to a sewer system is based on the extent of the existing system and service it provides to the marina.

(6) Findings of fact for a committed exception shall address the following factors

(a) Existing adjacent uses;

# OREGON STATE GOAL EXCEPTIONS

June 27, 2008

## ROCKY POINTE MARINA

23586 NW St Helens Road

**Finding:** On the water side, Rocky Pointe Marina leases 10.76 acres of submerged land from the Oregon Department of State Lands (DSL). On the backside of the property, the rocky terrain is sloped upward to the railroad tracks and continued upward slope to Hwy 30. The ground is primarily basalt rock.

Directly south, Happy Rock Marina has their own air activated sludge processing plant that disposes of their final clear liquid into a drain field to the south of their property.

To the north, there are four marinas connected to a single air activated sludge plant with drain field. The marinas, in order started by the closest, are McCuddy's Big Oak, Pirate's Cove, Casselman's, and Riverbend. The sewage plant is located at Casselmans, about ¾ to 1 mile from Rocky Pointe.

(b) Existing public facilities and services (water and sewer lines, etc.);

**Finding:** All services and utilities exist on the site. Rocky Pointe Marina provides its own DEQ certified sewage collection and processing system and has its own water well, treatment and storage facility.

(c) Parcel size and ownership patterns of the exception area and adjacent lands;

**Finding:** There are currently 7 parcels of land that are owned by Stan Tonneson LLC and leased to Rocky Pointe Marina Portland LLC. At the request of Multnomah County, these lots will be consolidated to one lot of record in conjunction with the land use application. The existing lot numbers and sizes are listed below from North to South, see map for additional detail

Previous Tax Lots		Consolidated Tax Lots		Proposed Lot of Record	
Existing Lots of Record					
TL400	8.5 acres	TL400	8.73 acres	1 lot	16.22 acres
TL100	8.17	TL100	7.49		
TL200	.33				
TL300	.39				
TL400	.12				
TL500	.20				
TL600	.09				
<b>TOTAL*</b>	<b>17.8 acres</b>		<b>16.22 acres</b>		<b>16.22 acres</b>

\* Square footage was corrected when Multnomah County combined the tax lots.

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The land to the west is the railroad and then State Hwy 30. To the south is Happy Rock Marina owned by Ginger Curtis and to the north is Big Oak Marina owned by the McCuddy family.

The sewer system serves the floating homes, pump out stations for tenant and public boats, and the five restrooms (four floating and one at the boat yard) on the site.

(A) Consideration of parcel size and ownership patterns under subsection (6) (c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goal were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors makes unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and non-resource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining these parcels;

**Finding:** The current configuration of Rocky Pointe Marina was permitted by Multnomah County in 1993 as a Community Service/Conditional use. The existing roads and services date back to the 1940's were upgraded at that time. These include a paved roadway the entire length of the property.

Underground water lines, underground sewer lines, underground telephone lines, on site waste water processing and on site water well, treatment and storage to all 3 access ramps to the marina docks and to the boat repair facility at the north end. An overhead power line and easement runs the length of the property for the benefit of Columbia Public Utility District.

The parcels of land to the south, TL 400, TL500 and TL600 were acquired in 2002 and added to Rocky Pointe Marina property. There is an existing road on this land that is continuous with the Rocky Pointe roadway. This roadway leads to the marina to the south, Happy Rock Marina, for which they have a permanent easement over Rocky Pointe's property

The proposed expansion will be serviced and accessed by the existing gangway ramp.

(B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the lands actual uses. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are

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more likely to be irrevocably committed if the parcels are developed, clustered in a large group around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm of forest operations, or are buffered from such operations.

**Finding:** Rocky Pointe Marina is currently 7 lots of record and will be consolidating into one lot of record with the conditional use application. Rocky Pointe Marina treats all its property as a single entity.

**(d) Neighborhood and regional characteristics;**

**Finding:** Rocky Pointe Marina is located on the Multnomah Channel about seven miles downstream of the Willamette River and about three miles south of the small but growing community of Scappoose. The Channel has become the "other" boating facility area as an alternative option to Hayden Island at Jantzen Beach. Multnomah Channel has over 200 floating homes and boat moorage for about 2,000 boats along its 21 mile length from Linnton to St Helens.

**(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;**

**Finding:** Rocky Pointe Marina is a long narrow strip of waterfront land that is bound by Multnomah Channel and on the other side by the railroad tracks and then State Hwy 30 beyond the railroad. There is a power line easement for high voltage lines down the center of the property. There is a continuous roadway and parking from one end to the other. There are mitigated wetlands.

**(f) Physical development according to OAR 660-004-0025 and**

**Finding:** The sewer lines are approximately 3,700 feet along all walkways connecting to floating homes, floating restrooms, laundry, showers and pump out stations. These serve 40 floating homes and four restrooms facilities with showers and laundry. It also serves the public boat pump out station located at the fuel dock along with the three portable pump out units provided for people living on their boats and the traveling public. Each home and facility has its own "honey pot" that collects sewage and pumps into the main lines. These pump into a floating vault (larger honey pot) which in turn pumps in to the next vault/station on land and then to the plant. The sewage processing plant is an air activated sludge processing system that has a capacity of 10,000 gallons per day. It was built and designed by DAVCO Engineering and installed in 1994. (see exhibit 2)

**(g) Other relevant factors.**

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**Finding:** The sewer system is located on the resource zoned terrestrial land to remove waste from the residential houseboats, boats, and traveling public consistent with the legal and policy mission of the DEQ. The sewer system is specifically designed to divert waste from the river in an ecologically and efficient manner.

(7) The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.

**Finding:** The applicant has provided an aerial photograph.

(8) The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exceptions:

(a) Those adopted or amended as required by a Continuance Order dated after the effective date of section 7 of this rule; and

(b) Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.

**Finding:** The applicant has provided maps showing the boundaries of the exception area.

### **CONCLUSION FOR EXCEPTION TO GOAL 11:**

The sewer system exists and has been permitted by DEQ. The sewer system performs important ecological and public health functions. Individual systems are not practical or desirable.

### **4. FINDINGS JUSTIFYING AN EXCEPTION TO GOAL 14, URBANIZATION**

#### **Rural Lands Irrevocably Committed to Urban Levels of Development (OAR 660-014-0030)**

(1) A conclusion, supported by reasons and facts, that rural land is irrevocably committed to urban levels of development can satisfy the Goal 2 exceptions standards (e.g., that it is not appropriate to apply Goal's 14 requirement prohibiting the establishment of urban uses on rural land). If a conclusion that land is irrevocably committed to urban levels of development is supported, the 4 factors in Goal 2 and OAR 660-004-0020(2) need not be addressed.

**Finding:** Rocky Pointe Marina has been on a developed site since the late 1930's. The original shop/office/fuel dock and caretaker home are still on site and in use. There has been boat repair and fueling on site since the 1950's. Aerial photographs confirm the marina existence in 1938. The current marina was permitted by Multnomah County in 1993 as a Community Service Conditional Use. The area is 16.22 acres. The approval allowed for to 40 floating home, 150



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boat slips, 7 boatsheds and 166 auto parking spaces. Zoning for the property is Multiple Use Agriculture-20 with zoning overlays for the 100-year floodplain, the Willamette River Greenway, Sauvie Island riparian area and for wetlands designated on the National Wetlands Inventory.

The shape of the property is a narrow triangle 3,150 feet long along the water and ranging in width from 50 feet at the southern end and 500 feet at the northern end. There is a road running the entire length of the property with a boat repair facility at the northern end. Parking is on either side of the road. There is a lake on the west side of the road. The existing road, parking and upland facilities occupy approximately 10 acres of all previously disturbed land. The balance of land is landscaping and natural areas intermixed within the property. The proposed expansion is within the existing property.

Conclusion is that this property is irrevocably committed to an urban level of development as it has been developed and in use for almost 80 years. The property, mostly rock, is completely built out as a marina along the shoreline with all facilities in place

(2) A decision that land has been built upon at urban densities or irrevocably committed to urban levels of development depends on the situation at the specific site. The exact nature and extent of the areas found to be irrevocably committed to urban levels of development should be clearly set forth in the justification for the exception. The area proposed as land that is built upon at urban densities or irrevocably committed to urban levels of development must be shown on a map or otherwise described and keyed to the appropriate findings of fact.

**Finding:** The following facilities and structures exist on the property and with water lease. See attached map keyed to the following list;

### Upland

- A- roadway: approximately 2,800 feet long by 20 to 30 feet wide
- B- water well house, storage and treatment
- C- recycling/garbage/mail center upper ramp/marina
- D- recycling/garbage station middle ramp/marina
- E- recycling/garbage station lower ramp/marina
- F- security gate
- G- parking – 166 spaces
- H- trailer storage
- I- boat yard restroom
- J- sewage treatment plant
- K- evaporation pond
- L- boatyard shop/office – 3,500 square feet
- M- boat haul out pier
- N- boat wash down pad and building – 2,000 square feet

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- O- boatyard – 40,000 square feet
- P- power- Columbia River PUD
- Q- telephone- CenturyTel
- R- fuel storage tanks, above ground – 6,000 gallons

### On the Water

- 1- docks – 3,700 feet of primary walkways – 3 ramps
- 2- marina office/store – 1,500 square feet
- 3- fuel dock – 100 foot landing with two gas and one diesel pump
- 4- marine sewer pump out
- 5- restrooms/laundry – 4 sets of floating buildings each two toilets, two showers; washer and dryer.

(3) A decision that is committed to urban levels of development shall be based on findings of fact, supported by substantial evidence in the record of the local preceding, that address the following:

- (a) size and extent of commercial and industrial uses

**Finding:** The marina contains a store, office, gas dock, and public restrooms including pumpouts to the traveling public to maintain clean rivers. The marina provides a full service repair and maintenance facility.

- (b) location, number and density of residential dwellings;

**Finding:** There are 40 floating homes. The average float size is 30ft wide by 50ft deep with the house size being smaller than the float. The houses are all moored on the outside docks facing the river and are intermixed with the 150 boat slips. (See attached map.)

- (c) location of urban levels of facilities and services; including at least public water and sewer facilities;

**Finding:** All necessary utilities currently exist. See attached map for water well/storage, waste water collection and processing, power lines, phones lines and propane lines.

- (d) parcel sizes and ownership patterns

**Finding:** There are currently 7 parcels of land that are owned by Stan Tonneson LLC and leased to Rocky Pointe Marina Portland LLC. At the request of Multnomah County, these lots will be consolidated to one lot of record in conjunction with the land use application. The lot numbers and sizes are listed below from North to South, see map for additional detail

**Previous Tax Lots**

**Proposed**

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Existing Lots of Record		Consolidated Tax Lots	Lot of Record	
TL400	8.5 acres	TL400	8.73 acres	1 lot 16.22 acres
TL100	8.17	TL100	7.49	
TL200	.33			
TL300	.39			
TL400	.12			
TL500	.20			
TL600	.09			
Total	17.8		16.22 acres	16.22 acres

(4) A conclusion that rural land is irrevocably committed to urban development shall be based on all of the factors listed in section (3) of this rule. The conclusion shall be supported by a statement of reasons explaining why the facts found support the conclusion that the land in question is committed to urban uses and urban development rather than a rural level of development.

**Finding:** Rocky Pointe Marina was established in the 1930's and has been in existence on the same site providing boat moorage, floating home moorage, boat repair, boat fueling station, boathouse construction, public boat ramp, public restrooms and floating general store. There is a paved road the entire length of the property parallel to the water's edge making the waterfront land accessible. The remainder of land is either lake, wetlands, natural or landscape areas.

(5) More detailed findings and reasons must be provided to demonstrate that land is committed to urban development than would be required if the land is currently built upon at urban densities.

**Finding:** Rocky Pointe Marina is built to urban densities.

OAR 660-004-0028 Exception Requirements for Land Irrevocably Committed to Other Uses Relating to the Goal 11 exception request

(1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable

(a) "committed exception" is taken in accordance with ORS 197.732(1) (b), Goal 2 Part II (b), and with the provisions of this rule;

**Finding:** The applicant has applied for a committed exception.

(b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception is taken;

**Finding:** The applicant has applied for a committed exception for the developed areas.

(c) An "applicable goal," as used in this section, is a statewide planning goal or goal

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requirement that would apply to the exception area if an exception were not taken.

**Finding:** The applicant has presented factual findings to each relevant goal to establish compatibility or no adverse impact related to the goal's purpose.

(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

(a) The characteristics of the exception area;

**Finding:** Rocky Pointe Marina occupies a long narrow strip of waterfront land 3,150 ft long by approximately 100 feet wide at one end and increasing in width to just over 400 feet at the other end with a total of 16.22 acres of which approximately 10 acres along the water are fully developed with road, parking, boatyard and support facilities. The remaining land is a lake, wetlands, natural areas, and landscaping that lay between the marina road and the railroad. The land itself is primarily basalt rock.

(b) The characteristics of the adjacent lands;

**Finding:** On the water side, Rocky Pointe Marina leases 10.76 acres of submerged land from the DSL. On the backside of the property, the rocky terrain is sloped upward to the railroad tracks and continued upward slope to Hwy 30. The ground is primarily basalt rock.

(c) The relationship between the exception area and the lands adjacent to it;

**Finding:** Rocky Pointe Marina's moorages are a water dependant use. The railroad and State Hwy 30 separate the property from forest and farmlands and the backside of the property. On either end (upstream and downstream) are similar commercial marinas

(d) The other relevant factors set forth in OAR 660-004-0028(6)

**Finding:** The primary residential activity is on the waterway; a navigable waterway under the jurisdiction of the federal government. The residential use crosses the DSL jurisdiction with gangways and boat ramps. The residential use of terrestrial zoned land is limited to parking, walking, loading, mail, and waste services.

(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1) (b), in Goal 2, Part II (b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to

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demonstrate that only the following uses or activities are impracticable:

- (a) Farm use as defined in ORS 215.203

**Finding:** The exception area is basalt rock, wet, steeply sloped, or developed.

- (b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120

**Finding:** No logging or commercial forestry is practical. Land is either wet, basalt rock, or steeply sloped.

- (c) Forest operations or forest practices as specified in OAR 660-006-0025(2) (a)

**Finding:** No commercial forest operation is proposed or practical.

(4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.

**Finding:** The applicant presents factual findings to each criterion that assert the area devoted for houseboat and sewer development is irrevocably committed to urban use.

- (5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.

**Finding:** All land asserted is developed. The exception requests include both land that is physically developed and land irrevocably committed to urban development.

- (6) Findings of fact for a committed exception shall address the following factors  
(a) Existing adjacent uses;

**Finding:** Rocky Pointe Marina is a long narrow waterfront facility. The backside slopes upward and borders the railroad tracks and further up the hill is Hwy 30. At either end of the property are similar marinas, Happy Rock Moorage at the south and Big Oak Marina on the north

- (b) Existing public facilities and services (water and sewer lines, etc.);

**Finding:** All services and utilities exist on the site. Rocky Pointe Marina provides its own DEQ certified sewage collection and processing system and it has its own water well, treatment and storage facility.

- (c) Parcel size and ownership patterns of the exception area and adjacent lands;

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**Finding:** There are currently 7 parcels of land that are owned by Stan Tonneson LLC and leased to Rocky Pointe Marina Portland LLC. At the request of Multnomah County, these lots will be consolidated into one lot of record in conjunction with the land use application. The lot numbers and sizes are listed below from North to South, see map for additional detail

Previous Tax Lots		Consolidated Tax Lots		Proposed Lot of Record	
Existing Lots of Record					
TL400	8.5 acres	TL400	8.73 acres	1 lot	16.22 acres
TL100	8.17	TL100	7.49		
TL200	.33				
TL300	.39				
TL400	.12				
TL500	.20				
TL600	.09				
<b>Total</b>	<b>17.8 acres</b>		<b>16.22 acres</b>		<b>16.22 acres</b>

The land to the west is the railroad and then State Hwy 30. To the south is Happy Rock Marina owned by Ginger Curtis and to the north is Big Oak Marina owned by the McCuddy family

(A) Consideration of parcel size and ownership patterns under subsection (6) (c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goal were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors makes unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and non-resource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining these parcels;

**Finding:** The current configuration of Rocky Pointe Marina was permitted by Multnomah County in 1993 as a Community Service Conditional use. The existing roads and services date back to the 1940's and were upgraded at that time. These include a paved roadway the entire length of the property.

Underground water lines, underground sewer lines, underground telephone lines, on site waste water processing and on site water well, treatment and storage to all 3 access ramps to the marina docks and to the boat repair facility at the north end. An overhead power line and easement runs the length of the property for the benefit of Columbia Public Utility District.



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The parcels of land to the south; TL 400, TL500 and TL600, were acquired in 2002 and added to Rocky Pointe Marina property. There is an existing road on this land that is continuous with the Rocky Pointe roadway. This roadway leads to the marina to the south, Happy Rock Marina, for which they have a permanent easement over Rocky Pointe's property

The proposed expansion will be serviced and accessed by the existing gangway ramp.

In 2006, Statewide Planning Goal 14 administrative rule came into effect and limited permanent single-family structures to one per tax parcel outside of an UGB.

**(B)** Existing parcel sizes and contiguous ownerships shall be considered together in relation to the lands actual uses. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.

**Finding:** Rocky Pointe Marina is currently 7 lots of record and will be consolidating into one lot of record with the conditional use application. Rocky Pointe Marina treats all its property as a single entity.

**(d) Neighborhood and regional characteristics;**

**Finding:** Rocky Pointe Marina is located on the Multnomah Channel about seven miles downstream of the Willamette River and about three miles south of the small but growing community of Scappoose. The Channel has become the "other" boating facility area decades as an alternative option to Hayden Island at Jantzen Beach. Multnomah Channel has over 200 floating homes and boat moorage for about 2,000 boats along its 21 mile length from Linnton to St Helens.

**(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;**

**Finding:** Rocky Pointe Marina is a long narrow strip of waterfront land that is bound by Multnomah Channel and on the other side by the railroad tracks and then State Hwy 30 beyond the railroad. There is a power line easement for high voltage lines down the center of the property. There is a continuous roadway and

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parking from one end to the other. There are mitigated wetlands.

(f) Physical development according to OAR 660-004-0025 and

**Finding:** Rocky Pointe Marina is physically developed with roads, underground utilities, commercial buildings and related facilities to the extent that farming and forestry are not practical if not impossible considering the terrain, size and location.

(g) Other relevant factors.

**Finding:** The primary residential activity is on the waterway; a navigable waterway under the jurisdiction of the federal government. The residential use crosses the State jurisdictions with gangways and boat ramps. The residential use of terrestrial zoned land is limited to parking, walking, loading, mail, and waste services.

(7) The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.

**Finding:** The applicant has provided an aerial photograph.

(8) The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exceptions:

(a) Those adopted or amended as required by a Continuance Order dated after the effective date of section 7 of this rule; and

**Finding:** A continuance order is not in effect.

(b) Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.

**Finding:** Multnomah County's Comprehensive Plan specifically allows and supports houseboats in this area as a conditional use. The plan was acknowledged by the State.

\*OAR 660-004-0040(7) (f)

"A local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in a rural residential zone."

The Multiple Use Agriculture-20 zone that is considered a type of rural residential zone.

**Finding:** The applicant requests a goal exception for this provision.

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### **CONCLUSION FOR EXCEPTION TO GOAL 14:**

The primary residential activity is on the waterway, a navigable waterway under the jurisdiction of the federal government. The residential use crosses the State jurisdictions with gangways and boat ramps. The residential use of terrestrial zoned land is limited to parking, walking, loading, mail, and waste services.

The development is infill, filling a small stretch of vacant waterway between the existing Rocky Pointe marina and Happy Rock marina upstream. No additional expansion is possible. The expansion will not result in additional restrooms, expansion of the store, or any other "urban use"

### **5. FINDINGS FOR GENERAL GOAL (1-15) COMPLIANCE**

#### **OREGON STATE PLANNING GOALS**

*Goal 2 -(land use planning), section lib, the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the goal impracticable.*

**Finding:** This land has been used as a public marina since the 1940's. Both the south and north waterfront adjoining properties have been marinas for similar periods of time. The land is a narrow strip of waterfront land that is bounded by the railroad and Hwy 30 on the west boundary. The terrain is mostly basalt rock and steeply sloped after the first couple hundred feet inland. A lake occupies most of the open level property. The rest of the land along the shoreline is completely improved with a roadway and parking running parallel to the water and a boat repair facility at the north end of the property. Underground water, sewer, and phone lines parallel the road.

**Goal 5 – To protect natural resources and conserve scenic and historic areas and open spaces.**

**Finding:** The marina expansion in-fills existing DSL leaseholds. The expansion takes place between the existing marina and adjacent marina directly upstream. A landscape maintenance plan protects natural resources. The site is not historic nor is it designated scenic. The marina adds to the scenic quality and interest of the waterway.

**Goal 12 Transportation – To provide and encourage a safe, convenient and economical transportation system.**

**Finding:** The marina exists on Highway 30 with direct access to Scappoose and Portland, Oregon. The highway has a center turn lane to provide safe accessibility. There is an automated gated rail protection at the railroad crossing.

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Regular scheduled public transportation is available by Columbia County Rider that connects to Tri-Met.

**Goal 15 Willamette River Greenway-** to protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economical and recreational qualities of lands along the Willamette River as the Willamette River: to implement the County's responsibilities under ORS 390.310 to 390.368 to establish Greenway Compatibility Review Areas; and to establish criteria, standards and procedures for the intensification of uses, changes of uses, or the development of lands within the Greenway. (Ord.997, Repealed and Replaced, 10/31/2002; Ord.953 ~2, Reorg&Renum, 11/30/2000)

~ 34.5855 Greenway Design Plan

The elements of the Greenway Design Plan are:

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

**Finding:** The site plan illustrates that the existing parking and roadway areas are weaved into the landscape to minimize the disturbance of the bank, water features, and natural vegetation. All of the developed structures are built on land that the 1993 conditional use allowed to be disturbed. The proposed expansion of houseboats will not disturb any further land, landscape, or natural areas other than a small concrete pad to land the emergency ramp next to the roadway. Other condition uses permitted by state law may expand in the future with proper permits. The additional parking spaces will be intermixed within the existing parking areas and will not reduce any landscaping. The site retains over five acres of landscaping and natural areas which includes a lake representing 70% of that area.

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

**Finding:** The project's purpose is to provide the public with safe access to the river in an area already dominated by marine uses.

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

**Finding:** The proposed moorages are river dependant use. Parking and other accessory uses are directed away from the river as much as feasible given the rocky bank and rail line.

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

**Finding:** The property cannot be used for agriculture given the basalt rock. It is not agricultural land.

- (E) The harvesting of timber, beyond the vegetation 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

# OREGON STATE GOAL EXCEPTIONS

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Urban Growth Boundary.

**Finding:** This application does not propose harvesting of timber.

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

**Finding:** The project's purpose is to provide recreational benefits in a location that has an existing marina. The new improvements and facility shall provide safe and modern boat slips and houseboat dockage.

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

**Finding:** The construction is designed to minimize any impacts on fish and wildlife. Construction will occur within approved windows allowed for development on the rivers. The project will require approval of both federal and state agencies.

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

**Finding:** The proposed houseboat development is within a developed area. The placement of parking, re-vegetation and restoration will actually cause existing facility to be less noticeable by embracing natural areas and consolidation of development impacts.

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

**Finding:** The improvements are designed to allow public use in a manner that minimizes criminal activity. The area's entrance passes through to the secured parking and marina office area. The marina is secured by card gates that limit access to authorized persons. The boat ramp is available to the public after gaining authority to use it.

(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.

**Finding:** The proposed development is within a developed area. The re-vegetation and restoration shall cause the existing facility to be less noticeable.

(K) Extraction of known aggregate deposits may be permitted, pursuant to the provisions of MCC 34.63 00 4.6535, 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.

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**Finding:** Mining is not proposed

**(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.**

**Finding:** The improvements are engineered to address all aspects of the water impact both from the stream and upland. The moorage has operated in this area for many years with good knowledge and strategies to address typical and unforeseen circumstances.

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

**Finding:** Wetland areas are not significant and will not be developed without permission and mitigation. No wetland area will be disturbed as a consequence of more houseboats.

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

**Finding:** The site is disturbed. Undisturbed areas are not proposed for houseboat development.

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

**Finding:** All work will be conducted under permits and review in a manner that protect the river from erosion.

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

**Finding:** The quality of air, water and land resources will be preserved by the modern slips and docks with modern services constructed.

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

**Finding:** The structures developed are in direct response to community and state standards to improve the environmental quality of the existing operations. These structures are specifically designed to improve the quality of the use. The emergency ramp, docks, and boat slips are water dependant uses.

**(R) Any development, change of use or intensification of use of land classified WRG, shall be subject to design review, pursuant to MCC 34.7000 through 34.7070, to the extent that such design**



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review is consistent with the elements of the Greenway Design Plan.

**Finding:** The proposal is being reviewed through greenway and design review.

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

**Finding:** See conditional use criteria G (34.6010.G). The comprehensive plan acknowledges the importance of river utilization and economic vitality particularly when done in an ecological sound manner and results in environmental improvements.

#### ~ 34.5865 Significant Wetlands

Significant wetlands consist of those areas designated as Significant on aerial photographs of a scale of 1"=200' made a part of the supporting documentation of the Comprehensive Framework Plan. Any proposed activity or use requiring a WRG permit which would impact those wetlands shall demonstrate that the proposal:

- (1) Is water-dependent or requires access to the wetland as a central element of its basic design function, or is not water dependent but has no practicable alternative as described in subsection(C) below;
- (2) Will have as few adverse impacts as is practical to the wetland's functional characteristics and its existing contour, vegetation, fish and wildlife resources, shoreline anchoring, flood storage, general hydrological conditions, and visual amenities. This impact determination shall also consider specific site information contained in the adopted wetlands inventory and the economic, social, environmental, and energy (ESEE) analysis made part of the supporting documentation of the comprehensive plan;
- (3) Will not cause significant degradation of groundwater or surface-water quality;
- (4) Will provide a buffer area of not less than 50 feet between the wetland boundary and upland activities for the portions of regulated activities that need not be conducted in the wetland areas. This Mitigation Plan shall meet the standards of subsection (D).

**Finding:** Wetlands are not impacted by the houseboat development. Wetland delineation has been completed for the site and mitigation was approved and constructed through a previous land use approval. No new houseboat development will be developed outside the areas already disturbed except for the emergency use gangway over the rocky shoreline to the new boat slip and dock area. The moorages are a water dependant use. All disturbed areas are setback at least fifty feet from the water shoreline except water dependent and water related uses.

ORS 197.732(1)(b) Goal Exceptions- the land subject to the exception is irrevocably committed as described by LCDRC rule to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable.

**Finding:** The criteria described by LCDRC is met below under OAR 660-004-0028.

#### CONCLUSION FOR GENERAL GOAL (1-15) COMPLIANCE:

Rocky Pointe is an existing community that has been located on this site for

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almost fifty years. The proposed development is an infill development between an existing marina up stream and Rocky Pointe's existing development. The new development will utilize existing services.

### 6. FINDINGS FOR MULTNOMAH COUNTY COMPREHENSIVE PLAN AND RURAL AREA PLAN POLICIES AND CODE COMPLIANCE

#### Multnomah County Policy 10

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

- A. Generally agricultural in nature, with soils, slope and other physical factors indicative of past or present small scale farm use;
- B. Parcelized to a degree where the average lot size, separate ownerships, and non-farm uses are not conducive to commercial agricultural use;
- C. Provided with a higher level of services than a commercial agricultural area has; or,
- D. In agricultural or microclimates, which reduce, the growing season or affect plant growth in a detrimental manner (flooding, frost etc.).

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

**Finding:** The property is designated multiple use agriculture, however, due to the steepness of the slopes; the basalt rock terrain; wet areas; and proximity of Multnomah Channel agricultural use is not practical or productive.

#### Multnomah County Policy 26- Houseboats

##### Introduction

Houseboats have been a housing option in Multnomah County for nearly a hundred years. Once little more than floating shacks, houseboats today are often substantial structures with all the amenities of traditional houses, and are home to middle and upper income citizens.

Moorage sites are limited in the County, and demand for moorage space is high. Local moorages are all at or near capacity. However, demand for houseboat space should not be equated with need. Houseboats were not considered in Multnomah County's housing needs inventory, nor are they required to fulfill the County's housing obligation. Projected housing demand to the year 2000 can be met with lands already zoned for residential development. Therefore, houseboats may be considered a desired housing choice, but not a needed one.

The demand for houseboat space conflicts with other legitimate demands on the finite amount of available public waterways in the County. A houseboat location policy must attempt to reconcile the conflicting interests of houseboat owners, recreational boaters, conservationists, industrial developers, and the general public. It must ensure the protection of houseboat residents from the inherent hazards of waterway life and also provide for protection of the general public from possible negative impacts of houseboat development.

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

- A. The applicable policies in this plan, including Policies 2 (Off-Site Effects), 13 (Air Water, Noise), 15 (Significant Environmental Concern), 16 (Natural Resource), 21 (Housing Choice),

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24 (Housing Location), 32 Capital Improvements), 34 (Trafficways), 36 (Transportation System Development), 37 (Utilities), And 38 (Facilities).

- B. Any other applicable federal, state or local policies that regulate waterway area development.
- C. The following criteria for locating or expanding a houseboat moorage:
  - 1. The mean low water line exceeds five feet;
  - 2. The moorage area should be protected from siltation problems which might require costly dredging to achieve the proper water depth;
  - 3. The moorage is adequately protected from the adverse effects of wind, wave action, icy conditions, and other hazards;
  - 4. Adequate land area exists to accommodate parking and any accessory building requirements;
  - 5. The proper maintenance and operation of dikes, as determined by the army corps of engineers is not adversely affected by the moorage;
  - 6. The upland area adjacent to the moorage does not have unique recreational, ecological or wildlife habitat value; and
  - 7. The upland area adjacent to the moorage is not zoned for exclusive agricultural use.

The following areas are designated as suitable for houseboats:

- 8. Multnomah Channel (west side).
  - a. (a) From Rocky Point Moorage, or from an area 1650 feet north of the southern boundary of Section 36, T3N, R2W, known as Rocky Point, north to the Columbia County boundary.
  - b. From the City of Portland corporate limits north to 1/2 mile north of the Sauvie Island Bridge.

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

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

**Strategies**

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

J. The Zoning Ordinance should be amended to:

- 1. Allow for the location and expansion of houseboat moorages within designated areas.
- 2. Include safety and fire protection standards to provide a safe living environment for houseboat dwellers.
- 3. Provide standards, which minimize the adverse effects of houseboat development on surrounding areas.

**Finding:** Rocky Pointe Marina is in the area identified as being appropriate for houseboats; in fact, Rocky Pointe Marina is specifically identified in the adopted policy.

Sauvie Island/Multnomah Channel Rural Area Plan (adopted 10/30/1997)  
Multnomah Channel Land and Water Use Policies

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**RURAL AREA PLAN POLICY 5:** Assist METRO in development of a regional hiking, equestrian, and bicycle trail along Multnomah Channel south of Burlington Bottoms connecting to the Cornelius Pass rails-to-trails potential conversion, which runs in upland areas in the vicinity of Highway 30 and the existing Burlington Northern Railroad, and minimizes impacts to existing waterfront uses.

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

**Finding:** Rocky Pointe's property has trails on it and a paved road for hiking and biking.

**RURAL AREA PLAN POLICY 6:** The County should participate in educational information and programs to better educate Channel users on safety issues and required laws including no wake and buffer zones.

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

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

**Finding:** Rocky Pointe aggressively educates boaters regarding marina laws; prohibits any inappropriate activity on its facilities; provides educational materials; and loans out child safety vests. The repair and maintenance facility complies with all best management practices and allows potentially damaging activities to be performed in environmentally safe areas.

**RURAL AREA PLAN POLICY 7:** The County should recommend to the State Marine Board that all boaters be required to obtain licenses through the State prior to operating motorized marine craft over 25 horsepower including personal watercraft.

**Discussion:** Boat operators are not required at this time to meet any guidelines or qualifications prior to operating watercraft. Multnomah County should value the importance of safe conditions in the Channel and work through the Marine Board in establishing minimum criteria for boat operators. The amount of horsepower was chosen to include personal watercraft and exclude canoes and very small boats.

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

**Finding:** All operators who operate within the Rocky Pointe water leasehold are required to have state licenses.

**RURAL AREA PLAN POLICY 8:**

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

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

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**Discussion:** The lack of Sheriff's presence in the Channel presents a problem with regard to law enforcement. The County should prioritize enforcing the existing laws in place in the Channel and maintain a presence to enforce the laws. The County should also consider prioritizing zoning enforcement.

**STRATEGY:** Multnomah County shall consider these issues when allocating funding and budgeting proposals and integrate a performance program within the framework of a strategic plan to successfully carry out this policy.

**Finding:** Rocky Pointe Marina actively cooperates with Multnomah County river patrol and requires all boats to be properly registered and insured.

**RURAL AREA PLAN POLICY 9:** Multnomah County should begin studying the noise impacts of motorized watercraft in order to establish base levels of noise pollution in the Channel.

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

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

**Finding:** Rocky Pointe strongly discouraged loud boats; particularly to protect the existing forty residents.

**RURAL AREA PLAN POLICY 10:** For the purposes of establishing a procedure for which Multnomah County will determine the status of existing moorage/marina use, the Multnomah County Comprehensive Framework Plan Policy 26 should be amended and rewritten to include the following:

1. That moorages and marinas will only be permitted within the boundaries identified by Policy 26.
2. That the area occupied by Happy Rock Moorage, Sauvie Island Moorage, Parker Moorage, and Mayfair Moorage be included within the area where houseboats are currently permitted under Policy 26.
3. That the moorages within policy 26 and the existing Happy Rock, Sauvie Island, Parker and Mayfair moorages sites are to be treated as permitted (permitting continuation of the use and level of intensity in existence as of the Multnomah County Moorage Report Listing of Float houses and Watercraft as of July 1, 1997 produced by the Department of Assessment and Taxation and reconciled through supplemental information provided by the moorage owner) if:
  1. Proof that permits, where applicable, from the Division of State Lands, Army Corps of Engineers, Department of Environmental Quality, the State Health Department and the appropriate fire authority were obtained prior to July 1, 1997. Proof that permits from the Public Utility Commission, the Oregon Department of Transportation, County Right of Way, where applicable, have been applied for prior to December 1, 1997. Those permits that were not issued prior to July 1, 1997 shall be approved by either the Public Utility Commission, the Oregon Department of Transportation or the County Right of Way prior to the County issuance of a Willamette River Greenway Permit under this policy. All permits must have been issued for the same density and the same use requested in the Policy #10 process.

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If there are discrepancies in the Army Corps of Engineers or Division of State Land Permits between what the permit was issued for and the density/use the moorage owner is having reviewed by the County as part of this process, the moorage owner shall provide current documentation from the agency that the proposed use/density is still consistent with the agency's requirements. The proof must then be given to the County Division of Transportation and Land Use Planning for review; and

2. Multnomah County approves a Willamette River Greenway permit for the moorage.
4. That an inventory of each moorage identified in Section 3 above is to be undertaken within 120 days of the effective date of the adoption of the Sauvie Island Multnomah Channel Rural Area Plan amending Policy 26. This inventory may be performed by the County, or prepared by each moorage and verified by the County. Through this inventory, the County will:
  1. Determine the level of existing development to be considered as a permitted use (number of existing dwelling units as determined using the Multnomah County Moorage Report Listing of Float houses and Watercraft as of July 1, 1997 and reconciled through supplemental information provided by the moorage owner); and
  2. Receive proof that the non-County permits have been obtained.

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

5. That if any moorage is subsequently in violation of any non-County permit, of County zoning codes enacted after the effective date of amended Policy 26 and implementing measures, then that moorage must meet all applicable zoning codes in effect at that time, which would include the provisions of the Special Planning Area once the zoning code revisions have been made and are in effect.
6. That if those moorages that are deemed permitted subsequently seek a modification of alteration of their inventoried use, they must meet all applicable zoning codes in effect at that time. Alteration or modification does not include a reduction in the number of structures/dwellings within a moorage.
7. All moorages applying for a Willamette River Greenway Permit required pursuant to Policy #10, shall be exempted from the Design Review Process and criteria.
8. That this action does not set a precedent for acceptance of any unauthorized land use in the jurisdiction of Multnomah County. That this action by the board is done in the context of the adoption and speedy, practical implementation of the Sauvie Island/Multnomah Channel Rural Area Plan.

**Discussion:** Policy 26 currently does not include the developed marina or moorage sites listed above, allowing them to continue as existing non-conforming uses with no ability to expand or reconfigure their sites. These uses are long-term substantial facilities, which are an integral part of the Multnomah Channel environment. They should be allowed the same opportunities for change in land and water use afforded to the marinas and moorages, which currently fall within the boundaries of Policy 26. This action, along with the inclusion of marinas into the Policy 26 framework, will convert Policy 26 into a statement of where marine related development is allowed on Multnomah Channel, vs. marine conservation areas outside of the Policy 26 boundaries.

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



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**Finding:** Rocky Pointe Marina voluntarily participated in this process; however, Rocky Pointe was the only marina in this area to actually have an approved conditional use land use decision and therefore did not need the assistance of Policy 10.

**RURAL AREA PLAN POLICY 11:** The County should develop and maintain a current inventory of all marinas and moorages.

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

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

**Finding:** Rocky Pointe Marina is an active participant in the Waterfront Owners Organization who maintains an inventory of all marinas and moorages.

**RURAL AREA PLAN POLICY 12:** The County Zoning Code should be consistent with the County Assessor and the State regarding the definitions of houseboats, boathouses and combos. For purposes of density calculations, "houseboats" shall be defined as 1) any houseboat, and 2) any boathouse or combo which is used as a residence (occupied 7 or more days per month).

**Discussion:** There has been a problem with regards to the numbers of units allowed and permitted under existing approvals depending on the definition of dwelling the County uses. There have also been recent revisions to the Assessor's definitions that may be even more of a problem. The County Zoning Code decides whether a structure is a dwelling based on information regarding kitchen and restroom facilities. The County Assessor makes the determination based on different information, as does the State of Oregon. The issue becomes a problem when the County Staff uses the Assessor's information to determine the number of dwellings existing within a moorage/marina and consistency becomes an issue of real importance to the moorage owners.

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

**Finding:** Rocky Pointe's inventory of current users and proposed users are based on these definitions.

**RURAL AREA PLAN POLICY 13:** Multnomah County should adopt procedures to allow existing moorage/marina to become a 'special plan area' under MCC 11.15.6600 at the initiation of the property owner, to determine uses and densities allowed for each moorage on the channel. The special plan area designation would be allowed when the property owner requests an expansion or alteration, or for any new marina/moorage developments. The provisions of the existing Conditional Use criteria would still be in place in addition to the new special planning area procedure.

**Discussion:** Each moorage/marina shall be allowed to enter into a special plan area (an existing part of the Multnomah County Zoning Code, which needs some minor amendments to fit the Multnomah Channel situation) procedure with Multnomah County to adopt essentially a master plan or comprehensive plan for each moorage/marina. As an attempt to take all issues into consideration, special plans can determine by looking at each existing or proposed moorage/marina on a case-by-case basis regarding the density, service levels and legal status of the property. At the County's initiation (no application fees), each individual marina/moorage could receive a special plan area designation which would be an overlay designation for each moorage and marina on the Channel. The special plan area will help reduce duplication of efforts by considering the Willamette River

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Greenway concepts concurrently with other code criteria.

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

**Finding:** The result of this exception would be to make Rocky Pointe a Special Plan Area.

**RURAL AREA PLAN POLICY 14:** The overall density for each existing moorage/marina that chooses to go through the special planning area process shall not exceed the existing levels as measured by factors such as area and length of docks and number of slips (existing in the Multnomah County Moorage Report Listing of Float houses and Watercraft as of July 1, 1997 and reconciled through supplemental information provided by the moorage owner). The actual number of slips for each moorage/marina shall be determined at the time a special plan area is approved for the moorage/marina. The specific plan will look at such things as 'legally existing' issues, non-conforming status and carrying capacity of the land to determine the number of dwellings and other uses allowed in each marina/moorage.

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

**Finding:** Rocky Pointe Marina will also be reviewed through a conditional use process and, as proposed, complies with all dimensional standards.

**RURAL AREA PLAN POLICY 15:** Development on Multnomah Channel within Special Plan Areas shall be judged upon the following criteria.

**Water Environmental**

**River Bank Protection** - Development which protects the river bank from erosion caused by boat traffic.

**Water Quality** - Development which contributes to or does not significantly degrade water quality.

**Septic tanks/Sewage** - Development which is more amenable to safe and sanitary sewage disposal, along with adequate upland facilities for disposal of sewage.

**Fish and Wildlife** - Development which contributes to or does not have a significant detrimental impact to the fish and wildlife in the water.

**Land Environmental**

**Development in Wetland** - Development which does not impact wetlands.

**Traffic Increase** - Development which minimizes increases in traffic on moorage access roads, on railroad crossings, and onto Highway 30.

**Parking** - Development which minimizes the amount of parking area necessary.

**Ground Water Quality** - Development which minimizes impacts to ground water quality.

**Need for Restroom Facilities** - Development which minimizes the need for additional communal restroom facilities to serve the proposed uses.

**Land Wildlife** - Development which minimizes impacts to land wildlife.

**Necessary Utilities** - Development which requires fewer utilities to serve proposed uses.

**Floodplain Development** - Development which minimizes placement of permanent structures and uses in the floodplain.

**Accessory Structures** - Development which minimizes the need for accessory on-land structures to serve proposed uses.

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### **Aesthetic**

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

**Visibility of Shore** - Development which minimizes changes to natural shoreline features.

**Massing and Scale** - Development which has a human scale or architectural quality to it.

**Diversity/Rural character** - Development which maintains the existing diversity and rural character of Multnomah Channel.

**Lighting** - Development which minimizes night lighting of uses.

**Vegetation/landscape on Water** - Development which minimizes its visibility from the Multnomah Channel waterway.

### **Safety**

**Contribution to Channel Traffic** - Development which minimizes Channel traffic.

**Residential Link** - Development with a permanent residence component which provides a human presence to both report emergencies and violations on Multnomah Channel.

**Fire Hazard** - Development which minimizes fire hazard. **Emergency Services** - Development which minimizes the need for emergency services.

### **Economic**

Development which provides economic value to Multnomah County in the form of assessment value and reduced need for public services.

### **Recreation**

**Contribution to Public Recreation** - Development which contributes to public recreation opportunities on Multnomah Channel.

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

### **Cumulative Impacts**

The cumulative impacts of the proposed development on the overall carrying capacity of Multnomah Channel shall be considered and minimized.

The criteria listed shall be weighed and balanced by the hearing body considering each Special Plan Area so as to determine the most appropriate intensity and type of development allowed within each of these areas.

In reviewing each Special Plan Area, Multnomah County shall consult with other relevant local, state, and federal agencies, including but not limited to the following agencies:

Division of State Lands

Oregon Department of Fish and Wildlife

Oregon Parks and Recreation Department

Oregon State Marine Board

U.S. Army Corps of Engineers

Metro Parks and Greenspaces

**Discussion:** It is not intended that each proposed use strictly meet each of the criteria listed above, but rather the criteria be used by the hearing body to weigh the appropriateness of different potential uses. It is assumed that each site within the boundaries of Policy 26 is appropriate for some sort of marine related development unless a single criteria weighs so strongly upon the site that it precludes all or some of the potential marine development uses.

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

**Finding:** Rocky Pointe Marina has submitted a conditional use, site/design

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review and greenway request that will test its proposal against these criteria.

**RURAL AREA PLAN POLICY 16:** Implement code language within the special plan area criteria that incorporates the more specialized ideas in these policies. This concept should be carried out with input from citizens on the channel and should include guidelines regarding lighting, landscaping and architectural design within the special plan areas for development.

**Discussion:** Currently the WRG guidelines have vague language in them that make enforcement of them inconsistent. The County should look at adopting a set of design guidelines that the Planning Section can use to help interpret the WRG guidelines. This will allow for consistency in interpretation of the existing guidelines. These guidelines should specifically address the guidelines on lighting, landscaping and architectural design. The Citizens' Advisory Committee was very concerned about maintaining the character of the area of the channel and avoiding urban type marinas and moorages in the area.

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

**Finding:** Rocky Pointe Marina has submitted a conditional use and greenway request that will test its proposal against these criteria.

**RURAL AREA PLAN POLICY 17:** Multnomah County should promote responsible recreational uses in the channel by allowing public access or boat launches to occur as part of any redevelopment or development of public recreation facilities.

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

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

- (1) 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 under this subsection. The existence of home occupations shall not be used as justification for a zone change.

**Finding:** No mistakes were made. Proposed expansion is consistent with all of Multnomah County's Comprehensive Plan.

**Multnomah County Comprehensive Plan**

**Comprehensive Plan Policy 10 (MUA-20)** The purpose of the Multiple Use Area Classification is to conserve those lands agricultural in character which have been heavily impacted by non-farm uses are not predominantly Agricultural Land as defined in Statewide Planning Goal 3. This conservation is necessary to protect adjacent exclusive farm uses and in some cases, the fragile nature of the lands themselves. These lands are conserved for diversified agricultural uses and other uses such as outdoor recreation, open space, residential development, and forestry when these uses are shown to be compatible with the natural resource base, character of the area, and to other applicable policies.

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**Finding:** The marina's activities are directed riverward and do not impact farm activities. The rocky banks are not conducive to farming. A highway and railroad separate the marina from farming activities upland. An adjacent marina exists at either end.

**Comprehensive Plan Policy 14 (Development Limitations)** The County's policy is to direct development and land form alterations away from areas with development limitations except upon showing that design and construction techniques can mitigate any public harm or associated public cost and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:

a-slopes exceeding 20%

b- Severe soil erosion

c -land within the 100 year flood plain

d- A high seasonal water table within 0-24 inches of the surface for 3 or more weeks per year

e- A fragipan less than 30 inches

F-land subject to slumping, earth slides or movement.

**Finding:** The proposed project is water based and will not require any alterations to the land area.

**Comprehensive Plan Policy 20 (Arrangement of Lands)** The County's policy is to support higher densities and mixed land uses within the framework of scale, location and design standards which:

1. Assure a complementary blend of uses:
2. Reinforce community identity:
3. Create a sense of pride and belonging: and
4. Maintain or create neighborhood long term stability.

**Finding:** The expansion of adding more houseboats will create much higher density within the same footprint of land and will utilize all existing services. Additional homeowners within the moorage will allow for more social interaction.

**Comprehensive Plan Policy 24 (Housing Location)** The County's policy is to accommodate the location of a broad range of housing types in accordance with the applicable policies in this plan and the locational criteria applicable to project scale and standards.

**Finding:** The marina provides houseboat spaces which are an affordable type of housing and adds to the diversity of the County's housing stock.

**Comprehensive Plan Policy 26 (Houseboats)** The County, in order to provide a broad range of housing opportunities for its citizens, recognizes houseboats as a housing option. Therefore, it is the County's policy to provide for the location of houseboats in a manner which accords with the applicable policies in this plan, including Policies 2 (Off-Site Effects), 13(Air, Water, Noise, 15 Significant Environmental Concern), 16 (Natural Resource), 21 (Housing Choice), 24( Housing Location), And 38 (Facilities), any other applicable federal, state or local policies that regulate waterway area development.

The following criteria for locating or expanding a houseboat moorage:

1. Encourage the provision of housing affordable to residents of all incomes
2. Support the provision of housing for the elderly, including low maintenance, small units within existing communities.
3. Support the provision of housing in sizes which suit the needs of smaller households including single adults and couples without children.

# OREGON STATE GOAL EXCEPTIONS

June 27, 2008

## ROCKY POINTE MARINA

23586 NW St Helens Road

4. Encourage more efficient utilization of housing communities to eliminate over-housing of the elderly and under-housing of large families.
5. Maintain a non-exclusionary housing policy
6. Re-evaluate its regulations and, where possible, streamline or eliminate requirements to reduce development costs.
7. Take a direct role in conserving the existing housing stock.
8. Accommodate innovative housing construction techniques which decrease development costs.
9. Cooperate with the private sector to expand the supply of housing which is affordable to low and moderate income residents. The following areas are designated as suitable for houseboats;
  - B- From Rocky Pointe Moorage, or from an area 1650 feet north of the southern boundary of Section 36, T3N, R2W, known as Rocky Pointe, north to the Columbia County line.

**Finding:** The marina expansion is located at Rocky Pointe Marina in an area designated by the County as suitable for houseboats. The mean low water line exceeds five feet; the area is an existing moorage area without siltation problems; protected from all adverse environmental impacts; with ample land for parking and boat repair; the marina is on a rocky bank opposite Sauvie Island dike; with no unique ecological values; and all commercial forest and farm activities are separated from the marina by a state highway and railroad line.

### Comprehensive Plan Policy 37 (Utilities)

#### Water and Disposal Systems

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

**Finding:** Rocky Pointe Marina existing water and sewage facilities are adequate for the increased volume from 23 floating homes. Rocky Pointe has applied to DEQ for permission to increase volume. The existing equipment is sufficiently sized. The artesian well is a deep well and provides adequate volume.

#### Drainage

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

**Finding:** Storm water from the site is directed toward grassy shoulders along the paved areas and toward swales for treatment. A large constructed wetland receives portions of the site water, the remaining water is filtered along the riverbank in the existing vegetation. In general, the water is not concentrated in pipes. Due to the sites linear characteristics, contaminants are not concentrated and do not adversely affect water quality.

# OREGON STATE GOAL EXCEPTIONS ROCKY POINTE MARINA

June 27, 2008

23586 NW St Helens Road

## Energy and Communications

- (h) There shall be an adequate energy supply to handle the needs of the proposal and the development level projected by the plan; and
- (i) Communication facilities are available

**Finding:** Existing utilities are in place and are underground. New utilities for the new moorage may be overhead.

**Comprehensive Plan Policy 38 (Facilities)** It is the County's Policy to coordinate and encourage involvement of applicable agencies and jurisdiction in the land use process to ensure:

Public Service Provider Comments

Transportation (ODOT)

Sewer (DEQ)

Water,

Fire

Police

Schools

**Finding:** As a part of the conditional use requirements; Rocky Pointe acquired service comment letters of no objection from affected public service providers. ODOT may require a 2" lift in the road grade at the railroad crossing.

## **CONCLUSION FOR MULTNOMAH COUNTY COMPREHENSIVE PLAN AND RURAL AREA POLICIES AND CODE COMPLIANCE:**

Multnomah County's acknowledged Comprehensive Plan specifically identifies the Rocky Pointe location as where marinas are intended to go. The plan actually specifies Rocky Pointe marina. The development does not adversely impact farm or forest uses, nor would it impact other surrounding uses. The Marina's existence predates the Comprehensive Plan. The conditional use process ensures that new development is consistent with current regulations and the process reexamines all existing development for compliance.

## **7. FINDINGS FOR ZONING AND RULE COMPLIANCE**

Planning and Zoning for Exception Areas (OAR 66-004-0018)

(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.



# OREGON STATE GOAL EXCEPTIONS

## ROCKY POINTE MARINA

June 27, 2008

23586 NW St Helens Road

**Finding:** The applicant is proposing physically developed and irrevocably committed exceptions to Goal 11 and 14 that is intended to recognize existing marina development and sewer system. No change in the existing zoning is proposed.

(2) For "physically developed" and "irrevocably committed" exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those:

- (a) That are the same as the existing land uses on the exception site;
- (b) That meet the following requirements:
  - (A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and
  - (B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-004-0028; and
  - (C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;
- (c) For which the uses, density, and public facilities and services are consistent with OAR 660-022-0030, "Planning and Zoning of Unincorporated Communities", if applicable, or
- (d) That are industrial development uses, and accessory uses subordinate to the industrial development, in buildings of any size and type, provided the exception area was planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

**Finding:** The zoning limits the uses, density and public facilities on the subject property and marina to those that are the same as the existing land uses on the exception site/marina pursuant to OAR 660-004-0018(2)(a).

(3) Uses, density, and public facilities and services not meeting section (2) of this rule may be approved only under provisions for a reasons exception as outlined in section (4) of the rule and OAR 660-004-0020 through 660-004-0022.

**Finding:** This rule is not applicable because the uses, density and public facilities and services meet section (2) of this rule.

(4) "Reasons" Exceptions:

- (a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;
- (b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required;
- (c) When a local government includes land within an unincorporated community for which an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, which ever is more stringent.

**OREGON STATE GOAL EXCEPTIONS  
ROCKY POINTE MARINA**

June 27, 2008

23586 NW St Helens Road

**Findings:** No “reasons” exception is being proposed, and therefore, this rule is not applicable.

**Multnomah County Code 37.0705- Type IV Quasi-judicial Plan and Zone Changes**

**(B) Quasi-judicial Plan review Revision.** The burden of proof is upon the person initiating a quasi-judicial plan revision. That burden shall be to persuade that the following standards are met:

1) The plan revision is consistent with the standards of OARS 197.732 if a goal exception is required, including any OAR’s adopted pursuant to these statutes;

**Finding:** The applicant has applied for two state goal exceptions through Multnomah County.

2) 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:

**Finding:** The proposed houseboat expansion is a residential use.

And

3) The uses allowed by the proposed changes will:  
(a) Not destabilize the land use pattern in the vicinity;

**Finding:** The surrounding land uses are very stable with a marina upstream and downstream; and a railroad and state highway between the marina and upland properties that grade steeply up into heavily forested mountains. The proposed expansion is an in-fill on the water lease. Additional land will not be disturbed.

(b) Not conflict with existing or planed uses on adjacent lands;

**Finding:** The marina is isolated from any properties where there could be a conflict.

(b) That necessary public services are or will be available to serve allowed uses.

**Finding:** All utilities are currently in place

(3) 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 under this subsection.

**Finding:** There are no errors or mistakes in planning. Multnomah County has clearly identified Rocky Pointe Marina in a zone for floating homes as outlined in both the Sauvie Island Plan and the Multnomah County Comprehensive Plan Policy 26 which is part of the county’s adopted and acknowledged comprehensive plan.

**OREGON STATE GOAL EXCEPTIONS**  
**ROCKY POINTE MARINA**  
23586 NW St Helens Road

June 27, 2008

(C) Quasi-Judicial Zone Change. The burden of proof is upon the person initiating a zone change request. That burden shall be to persuade that:

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

**Finding:** The public benefits from a diversity of housing types; stewardship of the river; access to the river; and the provision of efficient waste treatment systems.

(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;

**Finding:** The site is committed to the proposed use for over fifty years. The exception is to allow additional houseboats and continued improvements to the existing sewer system.

(3) The proposed action fully accords with the applicable elements of the Comprehensive Plan;

**Finding:** The applicant submitted findings in support of each applicable element of Multnomah County's Comprehensive Plan.

**CONCLUSION FOR ZONING AND RULE COMPLIANCE:**

The conditional use and greenway review process ensures that the proposed development complies with the zoning; or the development will not be allowed.

**OVERALL SUMMARY:**

The marina has existed at this site for almost fifty years. Multnomah County's Comprehensive Plan acknowledges that this area is appropriate for Marinas. The proposed development is infill development between an existing marina upstream and Rocky Pointe Marina. The sewer system is permitted and monitored by the DEQ. The sewer system protects the river's ecology from human waste and provides a practical and environmentally sound method to retrieve and process the waste. The conditional use process, design review, and greenway review ensured that all proposed and existing development complies with Multnomah County's rules and regulations.

Neighbor  
Property-McCuddys  
Big Oak Marina



"Physically Developed" Exception  
to Goal 11&14 04-0025

"Physically Developed"  
"Irrevocably Committed"

Irrevocably Committed Exception  
to Goal 11&14 04-0028

Neighbor Property- Happy Rock Marina

SCALE 1"=250'

RECEIVED  
08 JUL -3 AM 10:53  
MULTNOMAH COUNTY  
PLANNING SECTION

**Flowing solutions**  
Flowing Solutions  
3355 SW 87th Avenue  
Portland, OR 97225  
Phone (503) 297-6331  
Fax (503) 297-6053

TITLE: EXHIBIT '2' - IRREVOCABLY COMMITTED AREA MAP

REVISED:  
6/30/08

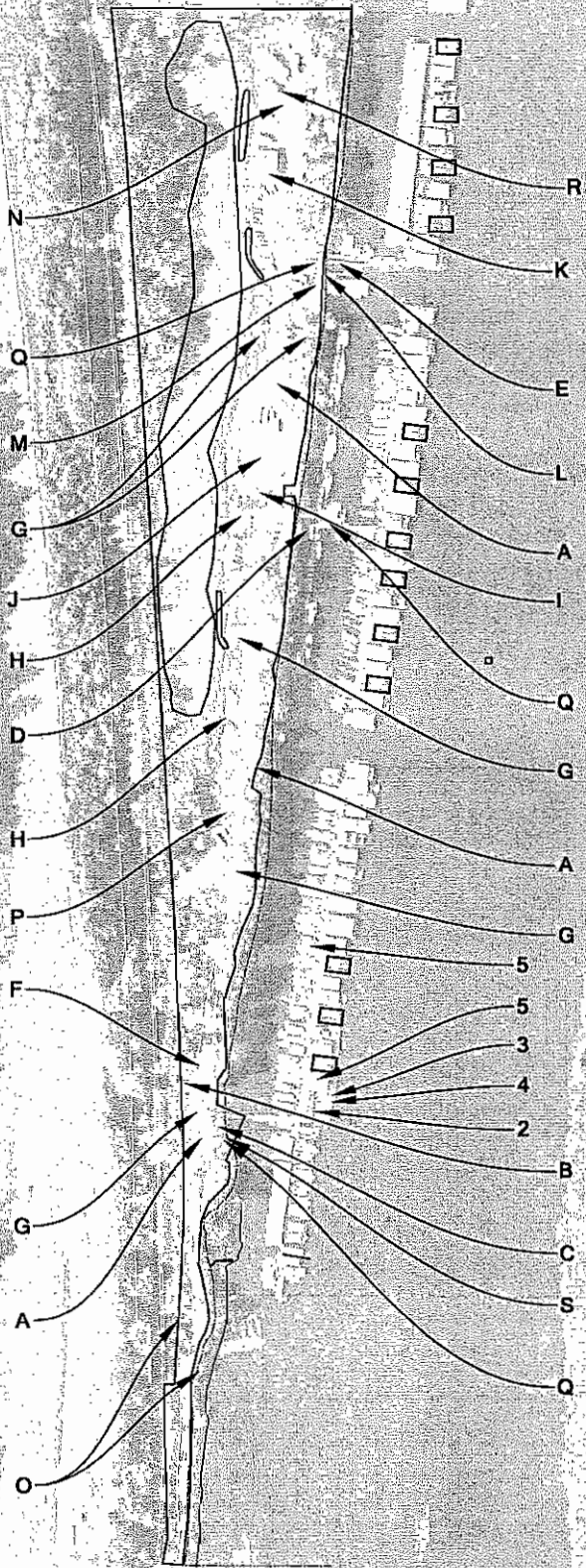
ROCKY POINT MARINA  
23586 NW ST. HELENS ROAD  
PORTLAND, OR 97231

RIVER: MULTNOMAH CHANNEL  
DATUM: NGVD

SHEET NO.  
2

EXHIBIT  
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NOTE: Boxes Indicate Proposed House Boat Conversion/Additions




- A. roadway
  - B. water well house, storage and treatment
  - C. recycling/garbage/mail center (upper)
  - D. recycling/garbage station (middle)
  - E. recycling/garbage station (lower)
  - F. security gate
  - G. parking (166 space)
  - H. trailer storage
  - I. sewage treatment plant
  - J. evaporation pond
  - K. boatyard shop/office
  - L. boat haul out pier
  - M. boat wash down pad and building
  - N. boatyard
  - O. power- Columba PUD
  - P. telephone - CenturyTel
  - Q. fuel storage tanks
  - R. boat yard restroom
  - S. propane storage tanks
- 
- 1. docks
  - 2. marina office/store
  - 3. fuel dock
  - 4. marine sewer pump out
  - 5. restrooms/laundry (4 bldg)

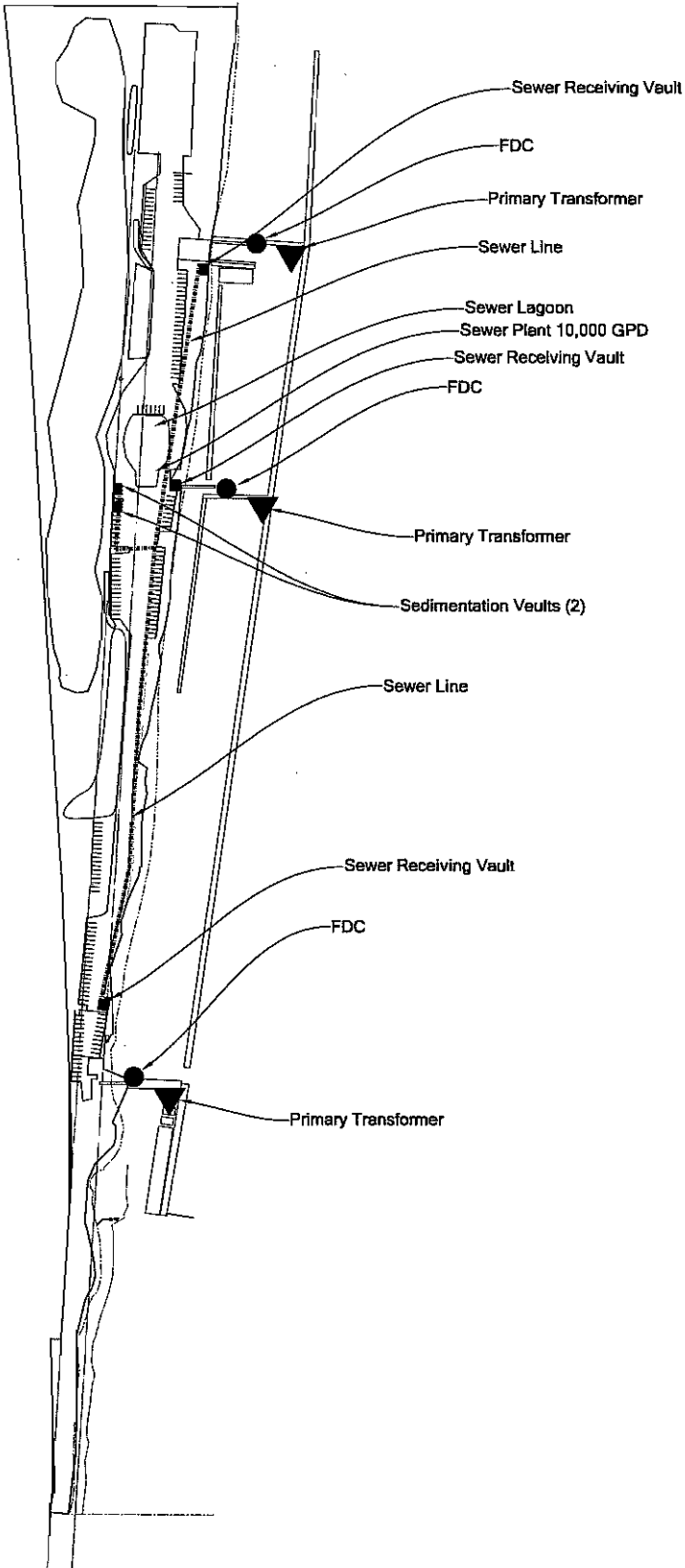
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 MULTNOMAH COUNTY  
 PLANNING SECTION  
 RECEIVED

NOTE: Utilities Are Underground, Both Sides of Road From Main Ramp to Boat Yard

SCALE 1"=250'


 Flowing Solutions 3305 SW 87th Avenue Portland, OR 97225 Phone (503) 297-6331 Fax (503) 297-8053	TITLE: EXHIBIT '1' KEY MAP		REVISED: 6/30/08
	ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97251	RIVER: MULTNOMAH CHANNEL DATUM: NGVD	SHEET NO. 1





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 MULTNOMAH COUNTY  
 PLANNING SECTION

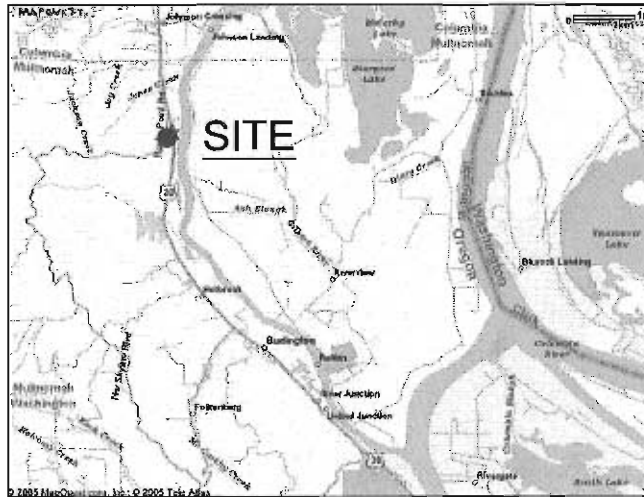
SCALE 1"=250'

 Flowing Solutions 3325 SW 87th Avenue Portland, OR 97225 Phone (503) 297-8331 Fax (503) 297-6033	TITLE: EXHIBIT '3" COMBINATION UTILITY PLAN (SEWER-FIRE-TRANSFORMERS)		REVISED: 6/30/08
	ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231	RIVER: MULTNOMAH CHANNEL DATUM: NGVD	SHEET NO. 3

LOCATOR MAPS



LOCATOR MAP



VICINITY MAP

MULTNOMAH COUNTY  
PLANNING SECTION

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OREGON STATE GOAL EXC...


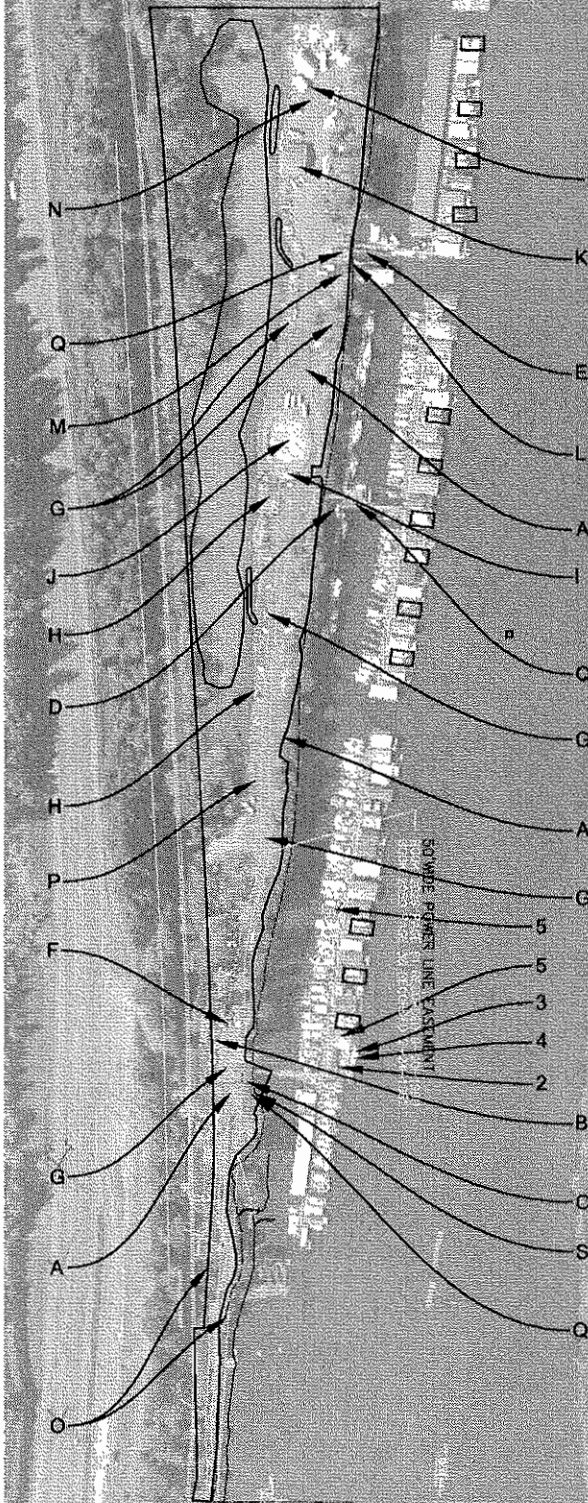
 <p><b>Flowing solutions</b> Flowing Solutions 3305 SW 87th Avenue Portland, OR 97225 Phone (503) 387-6331 Fax (503) 297-6053</p>	TITLE: LOCATOR MAPS	
	ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231	RIVER: MULTNOMAH CHANNEL DATUM: NGVD

EXHIBIT  
28



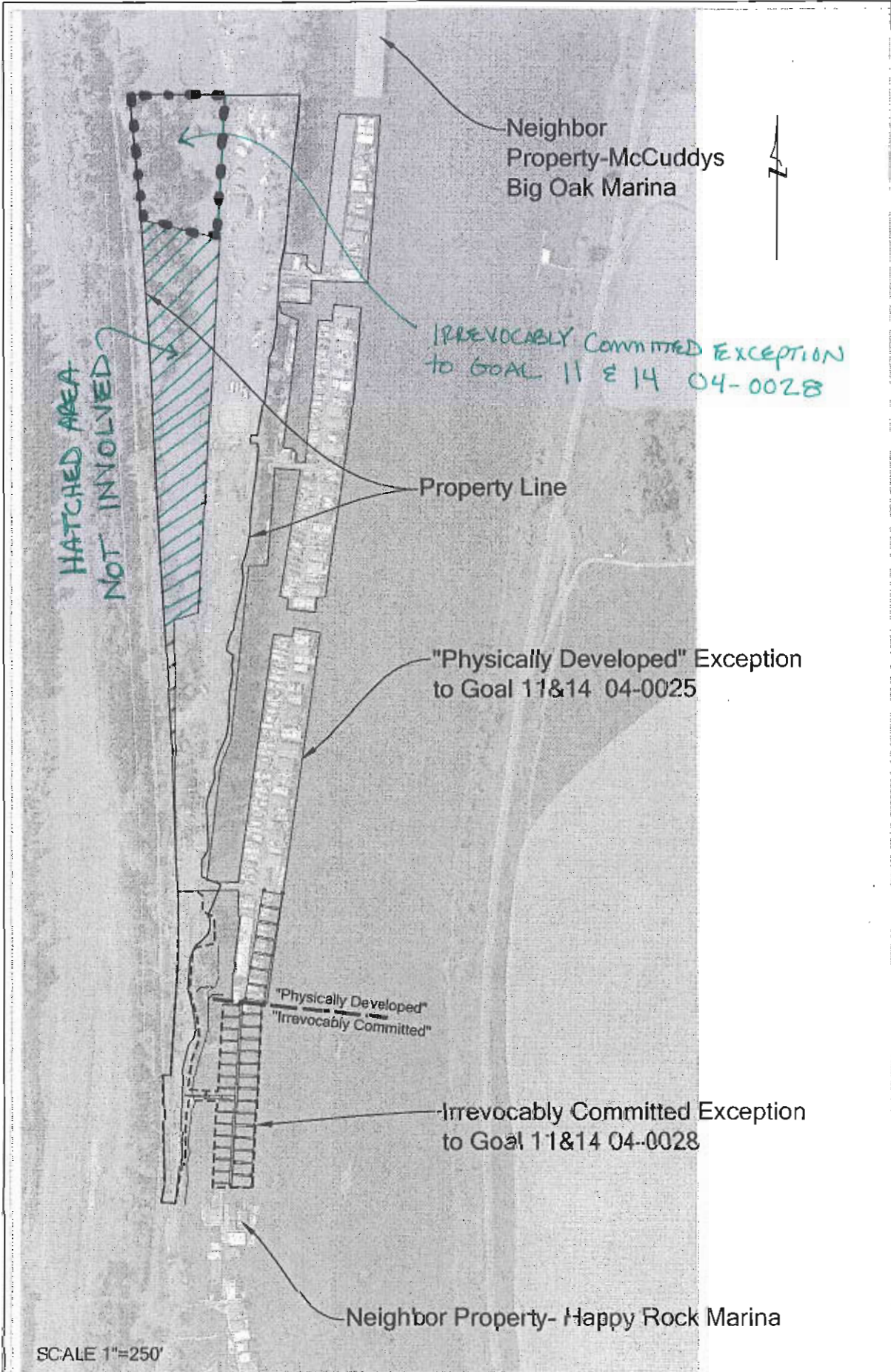
NOTE: Boxes Indicate Proposed House Boat Conversion/Additions



- A. roadway
  - B. water well house, storage and treatment
  - C. recycling/garbage/mail center (upper)
  - D. recycling/garbage station (middle)
  - E. recycling/garbage station (lower)
  - F. security gate
  - G. parking (167 space)
  - H. trailer storage
  - I. sewage treatment plant
  - J. evaporation pond
  - K. boatyard shop/office
  - L. boat haul out pier
  - M. boat wash down pad and building
  - N. boatyard
  - O. power- Columba PUD
  - P. telephone - CenturyTel
  - Q. fuel storage tanks
  - R. boat yard restroom
  - S. propane storage tanks
1. docks
  2. marina office/store
  3. fuel dock
  4. marine sewer pump out
  5. restrooms/laundry (4 bldg)

NOTE: Utilities Are Underground, Both Sides of Road From Main Ramp to Boat Yard

SCALE 1"=250'



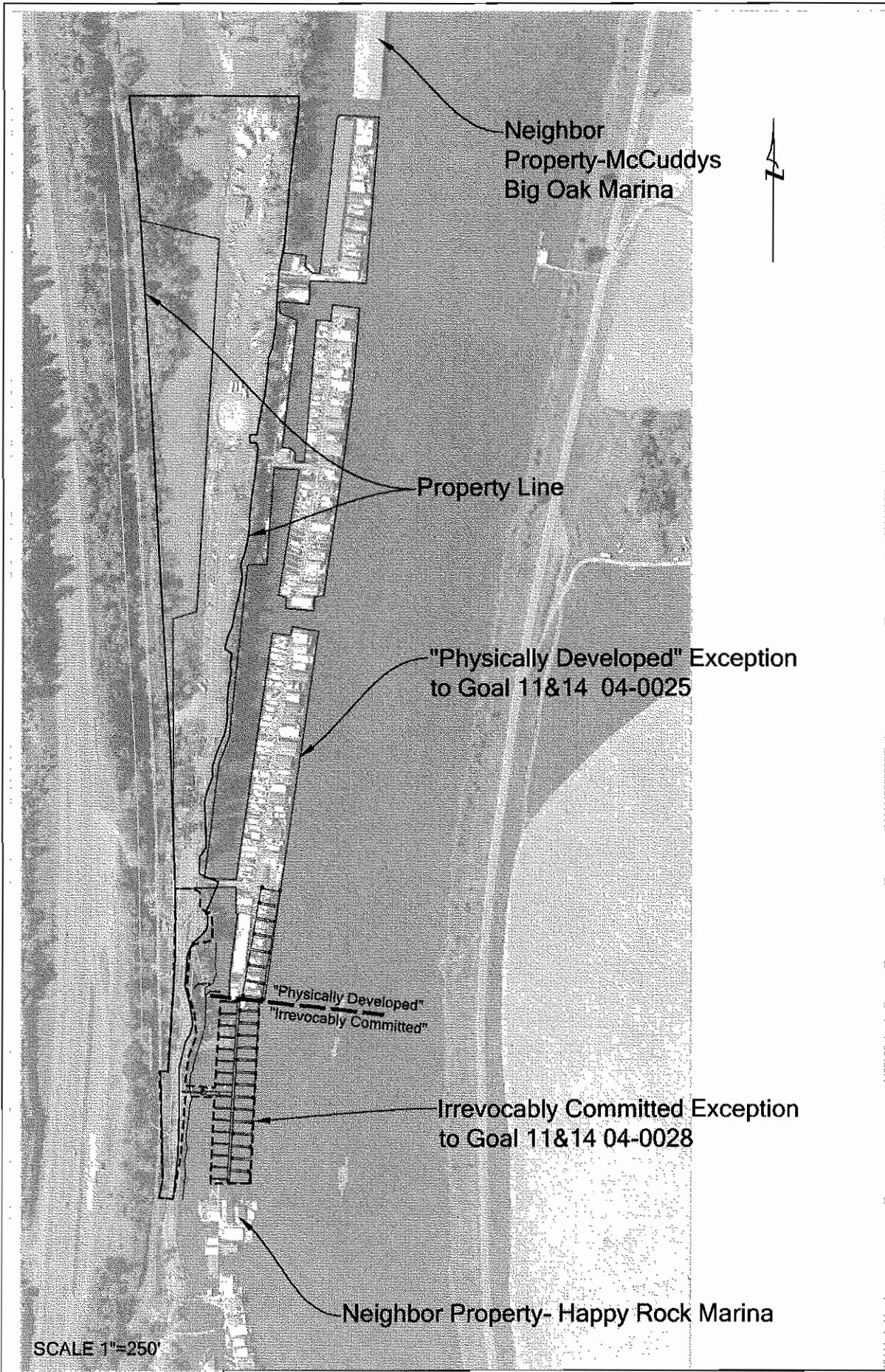
SCALE 1"=250'

**Flowing solutions**  
 Flowing Solutions  
 2355 SW 87th Avenue  
 Portland, OR 97225  
 Phone (503) 297-8331  
 Fax (503) 297-8063

TITLE: EXHIBIT '2' - IRREVOCABLY/PHYSICALLY DEVELOPED COMMITTED AREA MAP  
 ROCKY POINT MARINA  
 23586 NW ST. HELENS ROAD  
 PORTLAND, OR 97231  
 RIVER: MULTNOMAH CHANNEL  
 DATUM: NGVD

REVISED:  
 9/29/08  
 8/5/08  
 SHEET NO.  
 2





SCALE 1"=250'

**Flowing solutions**  
 Flowing Solutions  
 3305 SW 87th Avenue  
 Portland, OR 97225  
 Phone (503) 297-5331  
 Fax (503) 297-8053

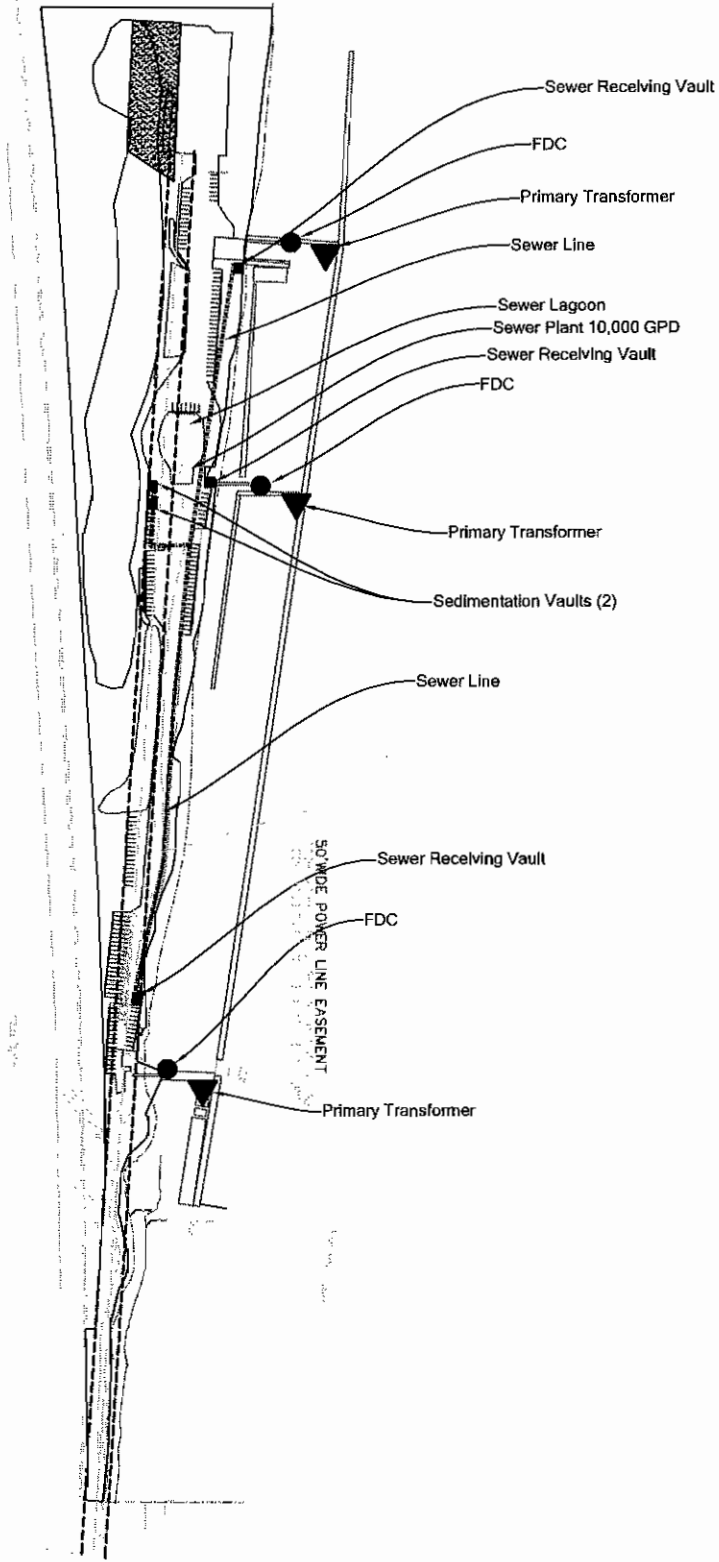
TITLE: EXHIBIT '2' - IRREVOCABLY/PHYSICALLY DEVELOPED  
 COMMITTED AREA MAP

ROCKY POINT MARINA  
 23586 NW ST. HELENS ROAD  
 PORTLAND, OR 97231

RIVER: MULTNOMAH CHANNEL  
 DATUM: NGVD

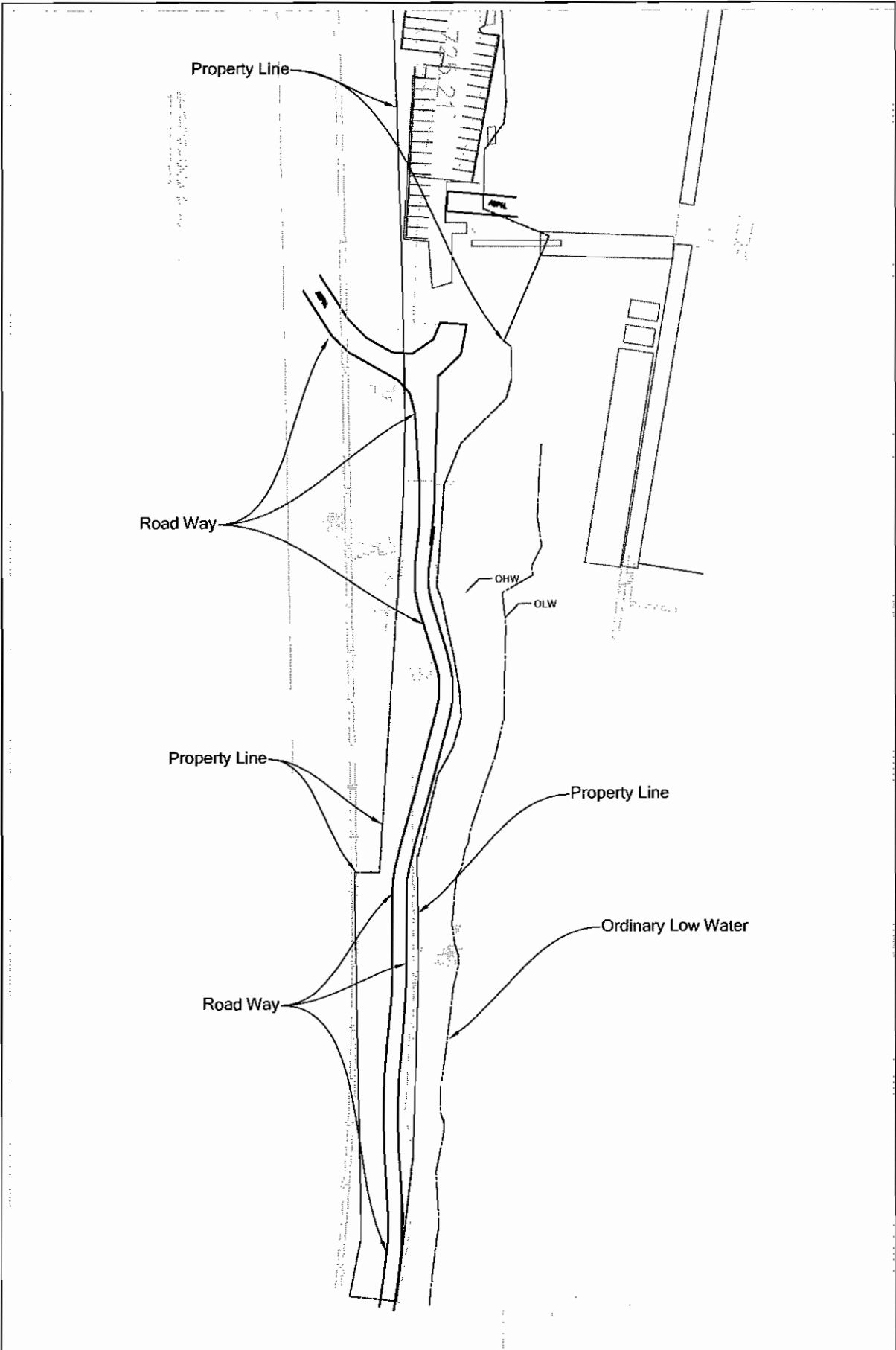
REVISED:  
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 8/5/08

SHEET NO.  
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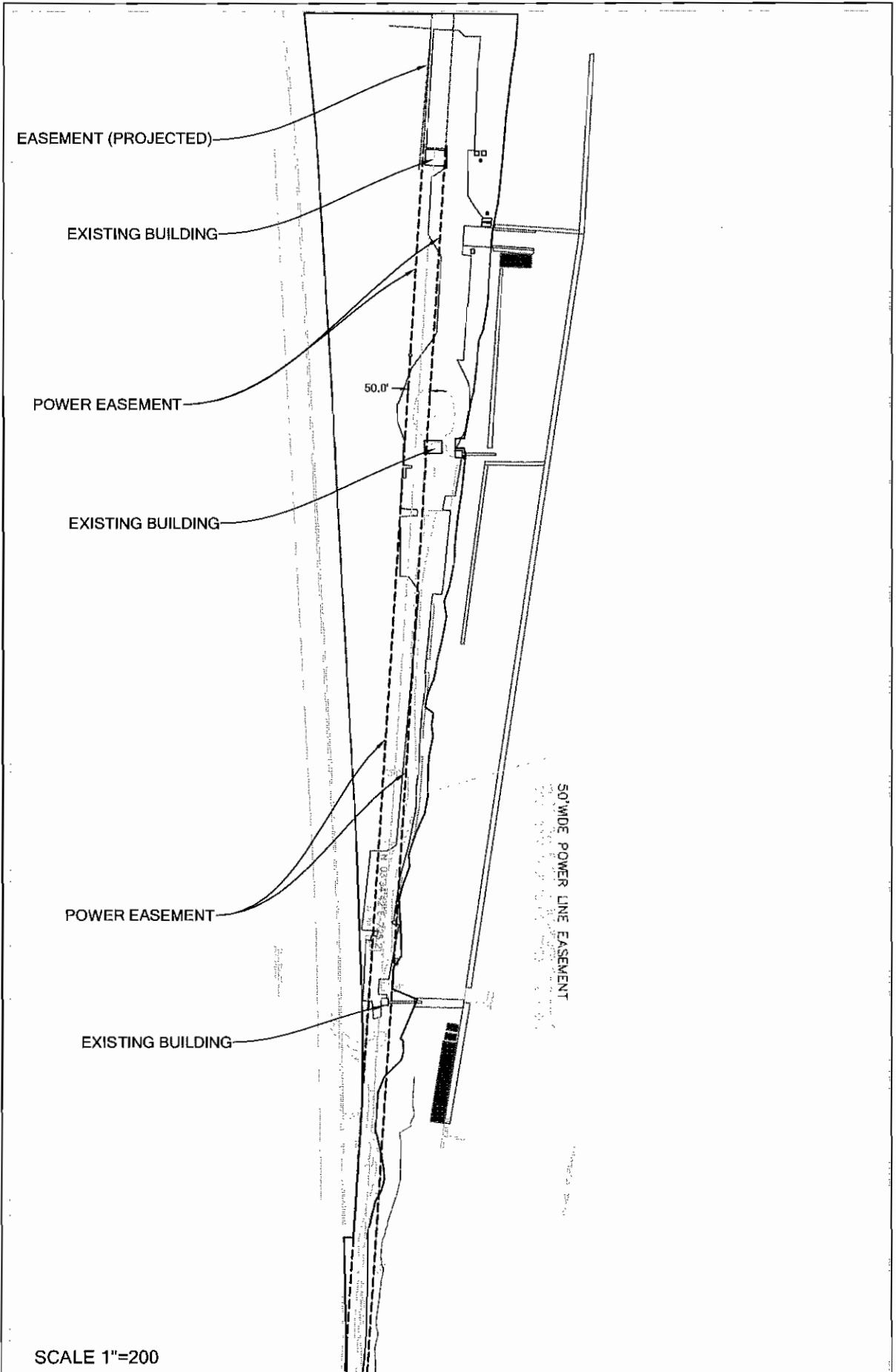
SCALE 1"=250'

 <p>Flowing solutions 3305 SW 87th Avenue Portland, OR 97225 Phone: (503) 287-8331 Fax: (503) 287-8053</p>	TITLE: EXHIBIT '3' COMBINATION UTILITY PLAN (SEWER-FIRE-TRANSFORMERS)		REVISED: 9/29/08
	ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231	RIVER: MULTNOMAH CHANNEL DATUM: NGVD	SHEET NO. 3




SCALE 1"=75'

 Flowing solutions 3305 SW 87th Avenue Portland, OR 97225 Phone (503) 297-6331 Fax (503) 297-6063	TITLE: EXHIBIT 'A' PROPERTY LINE-ROAD LOCATION		REVISED: 9/29/08 8/5/08
	ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231	RIVER: MULTNOMAH CHANNEL DATUM: NGVD	SHEET NO. 4



SCALE 1"=200

 Flowing solutions 3305 SW 87th Avenue Portland, OR 97223 Phone (503) 297-6331 Fax (503) 297-6053	TITLE: EXHIBIT '4' POWER LINE EASEMENT		REVISED: 9/29/08 8/5/08
	ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231	RIVER: MULTNOMAH CHANNEL DATUM: NGVD	SHEET NO. 5



STEVE C. MORASCH

Admitted in Oregon and Washington

Direct Line: 360-905-1433

E-Mail: smorasch@schwabe.com

November 13, 2008

MULTNOMAH COUNTY  
PLANNING SECTION

08 NOV 14 PM 2:16

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VIA FIRST CLASS MAIL

Adam Barber,  
Sr. Planner  
Department of Community Services  
Multnomah County Land and Transportation  
Program  
1600 SE 190th Avenue  
Portland, OR 97233-5910

Re: Application for a Zone Change and Revision to the Comprehensive Plan  
Associated With a Request for an Exception to Statewide Planning Goals 11 and  
14 at the Rocky Pointe Marina (Case No. T4-08-001)

Dear Mr. Barber:

We represent the Tonnesons and Rocky Pointe Marina. We have been asked to provide a written analysis of the density issues pertaining to the proposed marina expansion, including an analysis of MCC 34.6755 and policies 13 and 14 of the Sauvie Island Rural Area Plan.

Our analysis, which is described in more detail below, is that Policies 13 and 14 allow overall density for a marina expansion to be based on the existing density. Further, the applicant has demonstrated that the proposed expansion of the Rocky Pointe Marina will not exceed the previously existing density, and therefore may be approved under Policies 13 and 14.

MCC section 34.6755 provides a maximum density of one houseboat for each 50 feet of waterfront frontage. However, policies 13 and 14 of the Sauvie Island Rural Area Plan provide a mechanism for expanding existing marinas that supersedes the density restriction in MCC section 34.6755. MCC section 34.6755 would apply to a new marina, or an existing marina that did not choose to become a "special plan area." However, when a marina owner invokes the "special plan area" process, the more specific provisions of policies 13 and 14 control over the general density limitation in MCC 34.6755.

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Policy 13 states, in relevant part:

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

In addition, the discussion under policy 13 states that:

“Each moorage/marina shall be allowed to enter into a special plan area (an existing part of the Multnomah County Zoning Code, which needs some minor amendments to fit the Multnomah channel situation) procedure with Multnomah County to adopt essentially a master plan or a comprehensive plan for each moorage/marina. As an attempt to take all issues into consideration, special plans can determine by looking at each existing or proposed moorage/marina on a case by case basis regarding the density, service levels and legal status of the property. At the County’s initiation (no application fees), each individual marina/moorage could receive a special plan area designation which would be an overlay designation for each moorage and marina on the channel. The special plan area will help reduce duplication of efforts by considering the Willamette River Greenway concepts concurrently with other code criteria.”

Thus, policy 13 allows the County to allow density for a proposed expansion of an existing marina to be based on a case by case basis through the special plan area procedures, rather than relying on the more general density provision in MCC 34.6755. The special plan area designation becomes an “overlay” zone for each moorage and marina, and the specific overlay zone applicable to the Rocky Pointe Marina will supersede the general density provision of MCC 34.6755.

Policy 14 specifies that the density levels that may be allowed for an expansion of an existing marina shall be based on the existing density levels, not the more general provisions of MCC 34.6755.<sup>1</sup> Policy 14 states:

“The overall density for each existing moorage/marina that chooses to go through the special planning area process shall not exceed the existing levels as measured by factors such as area and length of docks and number of slips (existing in the Multnomah County moorage report listing of float houses and water craft as of July 1, 1997 and reconciled through supplemental information provided by the moorage owner). The actual number of slips for each moorage/marina shall be

---

<sup>1</sup> A basic rule of statutory construction is that when two provisions conflict, the terms of the more specific provision govern over the more general provision.

determined at the time a special plan area is approved for the moorage/marina. The specific plan will look at such things as ‘legally existing’ issues, nonconforming status and carrying capacity of the land to determine the number of dwellings and other uses allowed in each marina/moorage [emphasis added.]”

Therefore, policy 14 specifically states that the actual number of slips for each moorage/marina shall be determined at the time the special plan area is approved, rather than as specified in MCC 34.6755. Additionally, policy 14 states that the “overall density” for each moorage/marina “shall not exceed the existing levels as measured by factors such as area and length of docks and number of slips. . . .” Thus, it is these factors that determine the density level allowed through the special planning area process, rather than the more general statement in MCC 34.6755.

As contemplated by policies 13 and 14, the marina owner has supplied supplemental information (discussed below) regarding the length of docks and number of slips, and the following analysis demonstrates that the overall density for the proposed marina expansion does not exceed the existing levels as measured by length of docks and number of slips.

There are currently three docks, the upper dock (which is 1011 feet long), the middle dock (which is 803 feet long) and the lower dock (which is 462 feet long), for a total of 2,276 feet of dock length. There is also a transient dock, but it is being left out of these density calculations, since it is not going to change with the proposed Marina expansion.

Although the existing docks are a total of 2,276 feet in length, both sides of the docks are used, so it is more appropriate to base the density calculations on dock frontage, rather than dock length. To calculate dock frontage, the total dock length (2,276) is multiplied by two ( $2,276 * 2 = 4,552$ ). Thus, there is a total of 4,552 feet of existing dock frontage. Uses of the existing dock frontage are as follows:

39 floating homes utilizing a total of 1202 feet of dock frontage,

150 boat slips utilizing a total of 2606 feet of dock frontage,

8 boathouses utilizing a total of 172 feet of dock frontage, and

Other uses including restrooms, store, office, fuel dock, utility docks, etc. utilizing a total of 572 feet of dock frontage.

Thus, the existing density for floating homes is 30.821 feet of dock frontage per floating home ( $1,202/39 = 30.821$ ), and the existing density for boat slips is 17.373 feet of dock frontage per boat slip ( $2,606/150 = 17.373$ ). Existing density for boathouses and other uses will not change, since no boathouses or other uses are proposed to be added or eliminated with the proposed expansion.

The proposed marina expansion contemplates that 16 boat slips will be eliminated, and the dock frontage that will be freed up by the elimination of these 16 boat slips can be devoted to

Adam Barber,  
November 13, 2008  
Page 4

new floating homes. Since boat slips average 17.373 feet of dock frontage per boat slip, this frees up about 278 feet of existing dock frontage ( $16 * 17.373 = 278$ ) that can be devoted to new floating homes.

In addition, the proposed new dock (the upper upper dock) will be 520 feet long. Multiply by two (since both sides of the new dock will be used) equals 1,040 feet of new dock frontage ( $520 * 2 = 1,040$ ). When the new dock frontage is added to the existing dock frontage that is being freed up by the removal of 16 boat slips, the total dock frontage that will be available for new floating homes is 1,318 feet ( $1,040 + 278 = 1,318$ ).

Under the current density of 30.821 feet of dock frontage, a total of 42.76 new floating homes could be added without increasing the density ( $1,318 * 30.821 = 42.76$ ). However, only 36 new floating homes are proposed. Thus, the proposed expansion decreases density by 6.76 ( $42.76 - 36 = 6.76$ ) floating homes. This additional space will be used to provide larger setbacks between the floating homes. Overall density will be decreased slightly with the new expansion.

Further, the proposal is to move some of the boat slips to the new dock and to put some of the new floating homes on the existing dock, so the mix of uses will be similar to the existing docks.

Therefore, as specified in policies 13 and 14, the proposed marina expansion maintains an overall density that does not exceed the existing levels as measured by factors such as the area and length of docks and number of slips.

Please let me know if I can provide any further useful information or analysis.

Sincerely,



Steve C. Morasch

SCM:tag

cc: Peter Finley Fry, PhD AICP MUP  
Stan and Jeniece Tonneson

To- ADAM BARBER

# Rocky Pointe Marina

23586 NW St. Helens Hwy.  
Portland, OR 97231

Marina  
tel 503-543-7003  
fax 503-543-5170  
Boatyard  
tel 503-543-2785

## Population Density Reduction at Rocky Pointe Marina

2-1-09

We purchased Rocky Pointe Marina in July 2006. The marina was permitted to have 40 floating homes, 150 boat slips and 7 boatsheds. At the time of our purchase, there were 72 of the 150 boats with people living full time as their permanent residence. We were not aware of any regulations that restricted this style of living other than DEQ requiring restroom services. Typically there are 1 or 2 people on each boat but in some cases a family. Each person living on the boat of legal driving age was allowed 1 vehicle in the parking lot and rent another parking space to use the vehicle for storage. Most all of the liveaboards used the restrooms to shower and do their laundry. These people had their own mail boxes in the marina mail center at the marina with their own unique mailing address. Many had phones and satellite television service installed on the dock in front of their boat. Some had semi permanent water and sewer connections. The marina provided portable pump out carts to wheel over to boats to offload their black water tanks.

We soon realized that having liveaboards, boat slips and floating homes all together was not the best use of our facility and resources. The liveaboards used as much of our sewer, water, garbage and parking as the floating homes, yet they paid only a fraction of what a floating home paid. We decided to change the demographics of our marina population by reducing the number of liveaboards and increase the number of floating homes. At that time we modified our conditional use plan to add more floating homes and started reducing the liveaboards. By the end of December 2007, the number of boats with people living on them was down to 42 and down to 23 boats by the end of 2008. Our goal is to have no liveaboards and to increase the number of floating homes by 36 for a total of 76. The calculations used by our engineer utilize this reduced number of liveaboards and increase of floating homes to determine that the existing on site sewer and water will meet the needs of our expansion.

The net result of eliminating the 72 boats with people living on them and adding 36 floating homes will be a huge reduction of the population density and burden on our facilities. With 40 floating homes and 72 boats with people living full time on them equates to 112 fulltime residence units.( actually many floating homes, about 25% ,are vacation homes). Our proposal of no liveaboards and 36 additional floating homes reduces our total living units to 76, a reduction of over 32%.

RECEIVED  
09 FEB -2 PM 4:28  
MULTI-COUNTY  
PLANNING SECTION



Stan and Jen Tonneson  
Rocky Pointe Marina

More than just a great marina!  
Boat Yard • Professional Boat Repair • Fuel Dock



EXHIBIT  
30

Policy 14 Dock Analysis  
 Rocky Pointe Marina Expansion

RECEIVED  
 FEB 11 2009  
 BY:

EXHIBIT  
 31

	river frontage ft	inside frontage ft	entrance dock ft	ramp length	totals ft
Lower	463		117	71	
Middle	803		163	65	684
transient		684			
Upper	1011		93	85	
sub total	2277		373	221	2871
Land Frontage ft existing marina	2580				
New Marina area Land frontage		520	0	0	520
expanded marina		570			4075
Total Land Frontage		3150			

land frontage ratio to dock length

existing- frontage only	2277/2580	.8826 ft of dock per ft of land
existing all docks	3555/2580	1.38 ft of dock per ft of land
new docks only	520/570	.912 ft of dock per ft of land
combined	4075/3150	1.29 ft of dock per ft of land

What if new dock reduced 35ft from 520ft to 485ft and butting up last floating home to end of dock  
485/570 .851ft of dock per ft of land



**BARBER Adam T**

---

**From:** KEVLIN Ross P [Ross.P.KEVLIN@odot.state.or.us]  
**Sent:** Monday, July 28, 2008 1:49 PM  
**To:** BARBER Adam T  
**Subject:** Rock Point Marina

Hi, Adam --

As we just discussed, ODOT has no concerns regarding the UGB assessment that's part of the proposed marina expansion. Once the actual development proposal is active again, we may have concerns about traffic and safety impacts from the development, in which case we'd provide comments to the county. Please notify me by e-mail or mail once the development proposal is active, including a description of the proposed development. Thanks!

-- Ross

7/28/2008

EXHIBIT  
32



**Department of Community Services**  
**MULTNOMAH COUNTY OREGON**

Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Avenue  
Portland, Oregon 97233-5910  
(503) 988-5050

**MEMORANDUM**

**TO:** Peter Fry, Applicant  
Adam Barber, Senior Planner

**CC:** Jane McFarland, Principal Planner  
Pat Hinds, Program Manager  
Greg Kirby, Engineer  
Brian Vincent, Engineering Services Manager  
Alan Young, Permit Specialist

**FROM:** Ken Born, Transportation Planner

**DATE:** September 10, 2008

**SUBJECT:** Goal Exception - Oregon Statewide Planning Goals (Goals 11 & 14)  
Rocky Point Marina  
23586 NW St. Helens Rd.  
3N 2W 36D Tax Lot 100, 3N 2W 36A Tax Lot 400  
EP 2008056

The comments provided in this memorandum are based on the application materials submitted to County land use staff. While every effort has been made to identify all related standards and issues, additional issues may arise and other standards not listed may become applicable as more information becomes available.

The site's access, Old Lower Rocky Point Road, is a public road under the County's jurisdiction. County Transportation does not require any conditions of approval at this time. However, please note the following requirements which must be addressed in conjunction with any future conditional use application directly related to this request for a Goal Exception:

**Dedication Requirements**

1. No right-of-way dedications are required.

**Traffic Impact Study**

2. If the Goal Exception is approved, County Transportation staff will require a traffic impact study in order to determine what, if any, traffic mitigation is needed as a result of this proposal.

EXHIBIT  
33

The County Engineer may require that a transportation impact study be submitted to the County as a part of a land development proposal [MCRR 7.100]. It is the understanding of Transportation Planning staff that no new development is proposed at this time. However, if the subject application is approved, the applicant will still need to activate the pending conditional use permit in order to authorize the expansion of the moorage operation. County Transportation Planning will require the submittal of a transportation impact study in conjunction with this conditional use permit application, if the goal exception request is authorized.

The traffic study will need to be coordinated with and developed in cooperation with staff at the Oregon Department of Transportation (ODOT) (Ross Kevlin, 503-731-8232) since the project has the potential to impact NW St. Helens Road (Highway 30) -- a roadway under the jurisdiction of the State of Oregon. The study must address both the requirements outlined in the County Design and Construction Manual (DCM) section 1.1.3, in addition to applicable ODOT requirements.

A traffic study is required to determine the impact of this proposed development on the public roadway system and to identify mitigation measures needed to address those impacts. Needed mitigation measures could include on and/or off-site improvements. Prior to commencement of the traffic study, please contact the Multnomah County Engineer, Brian Vincent, at (503) 988-5050 x. 29642 to determine the scope.

### **Other Requirements/Issues**

#### **3. Obtain an Access/Encroachment permit from Multnomah County for all work in the public right of way.**

Multnomah County has jurisdiction over the Lower Rocky Point Road right-of-way. A permit is required for any activity in the county right-of-way that involves the construction of a facility, structure or otherwise permanently alters any physical aspect of the right-of-way, in order to assure that all work meets County standards. [MCRR 18.200]

#### **4. If the Goal Exception is approved, a condition of approval may be imposed on your pending conditional use permit to remove and reconstruct the sub-standard railroad crossing to meet current ODOT standards, prior to the issuance of permits for any new floating homes on the subject property.**

The Oregon Department of Transportation (ODOT) has advised Multnomah County that the rail crossing where the Burlington Northern right of way crosses over Old Lower Rocky Point Road will require improvements, consistent with ODOT standards. Rail crossing improvement requirements are set by ODOT via OAR 860-42-215(1) (superseded by OAR 74-120-0020(3)), which requires that the surface of the roadway be "in the same plane as the top of rails for a distance of at least two feet outside the rails, and not more than three inches higher nor six inches lower than the top of the nearest rail at a point thirty feet from the rail, measure at right angles thereto." ODOT Rail Division has further advised the County that your development may be subject to the new Federal Standards for "at grade" rail crossings; where the approach roadway can be no lower than three inches lower than the top of the nearest rail at a point thirty feet from the rail, measure at right angles thereto.

It is the understanding of County Transportation staff that in the near future, the ODOT Rail Division may be providing you with a letter outlining rail crossing improvements required in conjunction with the an approved conditional use permit to expand the Rocky Point Marina. After you receive this letter, County staff would be happy to coordinate a meeting between all interested parties in this matter to discuss ODOT's position as it relates to the potential approval of your Goal Exception application and/or pending conditional use permit application.

---

The comments provided in this memorandum are based on the application packet submitted to County staff. While every effort has been made to identify all related standards and issues, additional issues may arise and other standards not listed may become applicable as more information becomes available.



# Oregon

Theodore R. Kulongoski, Governor

## Department of Transportation

Rail Division  
555 13th Street NE Suite 3  
Salem, OR 97301-4179  
(503) 986-4321  
Fax: (503) 986-3183

File Code:

November 8, 2007

Multnomah County Oregon  
Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Avenue Portland, OR 97223

RE: Lower Rocky Point Rd. 445  
ODOT Crossing No. 5A-015.70  
U.S. DOT No. 5788P  
Multnomah County Case File No. PA-07-013

RECEIVED  
07 NOV 16 AM 9:08  
MULTNOMAH COUNTY  
PLANNING SECTION

This letter acknowledges receipt of your transmittal of NOTICE OF PRE-APPLICATION MEETING for case file number PA-07-013. ODOT Rail Division staff is responding to the notice regarding the crossing safety issues related to the future houseboat expansion at the Rocky Point Marina.

ORS 824.202 states:

It is the policy of this state to achieve uniform and coordinated regulation of railroad-highway crossings and to eliminate crossings at grade wherever possible. To these ends, authority to control and regulate the construction alteration, and protection of railroad-highway crossings is vested exclusively in the state, and in the Department of Transportation as provided in ORS 824.200 to 824.256.

Attached is copy of Order No. 95-1383, which authorized alterations to the Lower Rocky Point Road grade crossing. Paragraph 2. of Order No. 95-1383 authorized a variance from the requirements of OAR 860-42215(1) for the northwest roadway approach to the crossing as requested by Multnomah County's letter dated 12/15/1995. OAR 860-42-215(1) is superceded by OAR 741-120-0020 (3) in 1995, OAR 860-42-215 (1) stated:

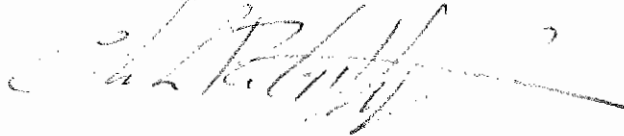
(3) Unless authorized in writing by the Department, the surface of the roadway shall be in the same plane as the top of rails for a distance of at least two feet outside the rails, and not more than three inches higher nor six inches lower than the top of the nearest rail at a point thirty feet from the rail, measured at right angles thereto.

By reference, Order No. 95-1383, did not authorize a variance from OAR 860-42-215 (1) for the northeast roadway approach to the crossing. According to staff inspection records, that approach is not in compliance with the Order in that the surface of the roadway of the plane of the top of the rails measures more the 6 inches below the top of the nearest rail at a point 30 feet from the rail. That roadway approach is 8 inches low, 2 inches more than the required minimum of 6 inches. It must be raised a minimum of 2 inches to comply with Order No. 95-1383. Multnomah County, as the road authority for Lower Rocky Point Road, is responsible for correcting this deficiency at the crossing.

Any proposed houseboat expansion plans at Rocky Point Marina will exacerbate the known deficiency cited above.

If you have any questions regarding the above matters, please telephone me at (503) 986-3101 at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Charles R. Gilbert', with a long horizontal flourish extending to the right.

Charles R. Gilbert  
Rail Crossing Compliance Specialist  
Crossing Safety Section  
(503) 986-3183

Enclosure,

cc: Mr. Dale Hansen – Portland & Western Railroad



ORDER NO. **95-1383**

ENTERED **DEC 27 1995**

PUC CROSSING NO. 5A-15.7

DOT CROSSING NO. 57 887 P

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**RX 556**

In the Matter of the Railroad-Highway Grade )  
Crossing at Lower Rocky Point Road 445 and )  
Burlington Northern Railroad Company, Astoria )  
Line, near Holbrook, Multnomah County, Oregon. )

**ORDER**

In the furtherance of its duties in the administration of ORS 763.030, the Commission Staff has investigated the adequacy of the safety at the subject grade crossing. The public authority in interest is Multnomah County (hereafter "County"). The affected railroad is Burlington Northern Railroad Company, Astoria Line (hereafter "Railroad").

Order No. 94-833, entered May 24, 1994, authorized installation of vehicle STOP and STOP AHEAD signs at the subject grade crossing. The County notified the Commission by letter dated June 16, 1994, the ordered signs had been installed. Since that time, the County has surveyed and developed a safer design for the roadway that would facilitate the installation of flashing light and automatic gate signals at the crossing.

By letter dated December 15, 1995, the County provided plans to staff entitled "N.W. LOWER ROCKY POINT ROAD AT CROSSING NO. 5A-015.70," Sheets 2, 3, 4 and 5 of 5. Staff served the plans on Burlington Northern Railroad Company and Richard Tonneson, by letter dated December 19, 1995. Staff advised the parties that an Order in this matter should be entered prior to December 31, 1995.

All parties have agreed the proposed crossing alterations are required by the public safety, necessity, convenience and general welfare. Therefore, under ORS 763.080 no hearing is required and the Commission may enter this Order without hearing.

ORDER NO. **95 - 1383**

Appendix A to this Order depicts the scope of the work involved in the proposed project. The alignment of the roadway and track in the vicinity of the crossing is shown. The realigned roadway will intersect the track at an angle of approximately 60 degrees. It is proposed that flashing light and automatic gate signals be installed at the crossing. The automatic signals will be installed to accommodate a roadway 28 feet wide at the crossing, consisting of two 12-foot wide paved travel lanes and a variable width (from 2 to 7 feet wide) aggregate shoulder on the north side of the road. An additional flashing light signal will be installed in the southeast quadrant due to the sharp curvature in the roadway east of the crossing. Barrier curbing or guardrail will be installed adjacent to the automatic signals as shown on Appendix A.

From the foregoing, the Commission finds the proposed crossing alterations are required by the public safety, convenience and general welfare, and that it is appropriate to authorize expenditure of funds from the Grade Crossing Protection Account, as provided by ORS 763.290, in the amount agreed upon by the parties. The Commission further finds that a variance from the requirements of OAR 860-42-215(1) should be granted for the northwest approach to the crossing as requested by the County.

IT IS ORDERED that:

1. The subject grade crossing shall be altered as set forth below. All alterations shall be completed within 15 months from the entered date of this Order.
2. A variance from the requirements of OAR 860-42-215(1) is granted for the northwest roadway approach to the crossing as requested by Multnomah County's letter dated December 15, 1995, in this matter.
3. Multnomah County shall:
  - a. Subject to reimbursement as set forth below, reconstruct that portion of the crossing lying outside lines drawn two feet outside each rail to accommodate a 28-foot wide roadway as depicted on Appendix A. The construction shall be accomplished according to the plans entitled "N.W. LOWER ROCKY POINT ROAD AT CROSSING NO. 5A-015.70," Sheets 2, 3, 4 and 5 of 5.
  - b. Subject to reimbursement as set forth below, furnish and install guardrail adjacent to the automatic signals located in the northeast and southeast quadrants at the crossing. The devices shall be located according to OAR 860-42-070(13) and installed according to ODOT Drawing No. 2115, urban standard.
  - c. Subject to reimbursement as set forth below, furnish and install 7-inch high barrier curbing adjacent to the set of flashing light and automatic

ORDER NO. **95 - 1383**

gate signals at the southwest quadrant of the crossing. The curbing shall be constructed according to OAR 860-42-060, commencing not less than 10 feet from the centerline of track and extending away from the crossing not less than 50 feet.

- d. Subject to reimbursement as set forth below, furnish and install stop clearance lines at the crossing according to OAR 860-42-070(10).
  - e. Subject to reimbursement as set forth below, furnish and install advance warning signs and advance warning pavement markings on each roadway approach to the crossing. The devices shall be installed according to OAR 860-42-070(11).
  - f. Subject to reimbursement as set forth below, remove the vehicle STOP and STOP AHEAD signs previously authorized by Order No. 94-833. Said signs shall be removed upon the completion of the County's project and activation of the ordered automatic warning devices at the crossing.
  - g. Maintain the ordered barrier curb and guardrail, and that portion of the crossing lying outside lines drawn two feet outside each rail, and bear all the costs.
4. Burlington Northern Railroad Company shall:
- a. Subject to reimbursement as set forth below, reconstruct that portion of the crossing lying between lines drawn two feet outside each rail to accommodate a roadway 28 feet wide.
  - b. Subject to reimbursement as set forth below, furnish and install the following automatic warning devices at the crossing:
    - (1) Two Standard No. 2 flashing light signals and two Standard No. 4 automatic gate signals, located in the northeast and southwest quadrants of the crossing.
    - (2) One Standard No. 2 flashing light signal located in the southeast quadrant of the crossing.

The location and activation of the crossing signals shall comply with OAR 860-42-070(7) and OAR 860-42-090, respectively.

ORDER NO. **95-1383**

- c. Maintain the ordered automatic signals and circuitry, and that portion of the crossing lying between lines drawn two feet outside each rail, and bear all the costs.
  - d. Notify the Commission in writing or by facsimile transmission not less than five working days prior to the date that the ordered automatic signals will be activated and placed in service.
- 5. Each party shall notify the Commission upon completion of its portion of the project.
  - 6. Each party shall comply with the provisions of ORS 757.541 to 757.571, Excavation Regulations.
  - 7. Oregon Department of Transportation, Highway Division, using federal Section 130 funds shall bear 90 percent of the cost of reconstructing the crossing and its roadway approaches according to the County's plans entitled "N.W. LOWER ROCKY POINT ROAD AT CROSSING NO. 5A-015.70," Sheets 2, 3, 4 and 5 of 5, furnishing and installing the ordered automatic signals, circuitry, barrier curb, guardrail, and removing the previously authorized vehicle STOP and STOP AHEAD signs.
  - 8. Pursuant to ORS 763.290, the Grade Crossing Protection Account shall bear the 10 percent match of the items listed in paragraph 7 above.
  - 9. Upon completion of the ordered reimbursable work, Multnomah County, or Burlington Northern Railroad Company, whichever advances the share of the cost apportioned to the Grade Crossing Protection Account, shall present its claim for reimbursement for Commission approval.

**DEC 27 1995**

Made, entered, and effective



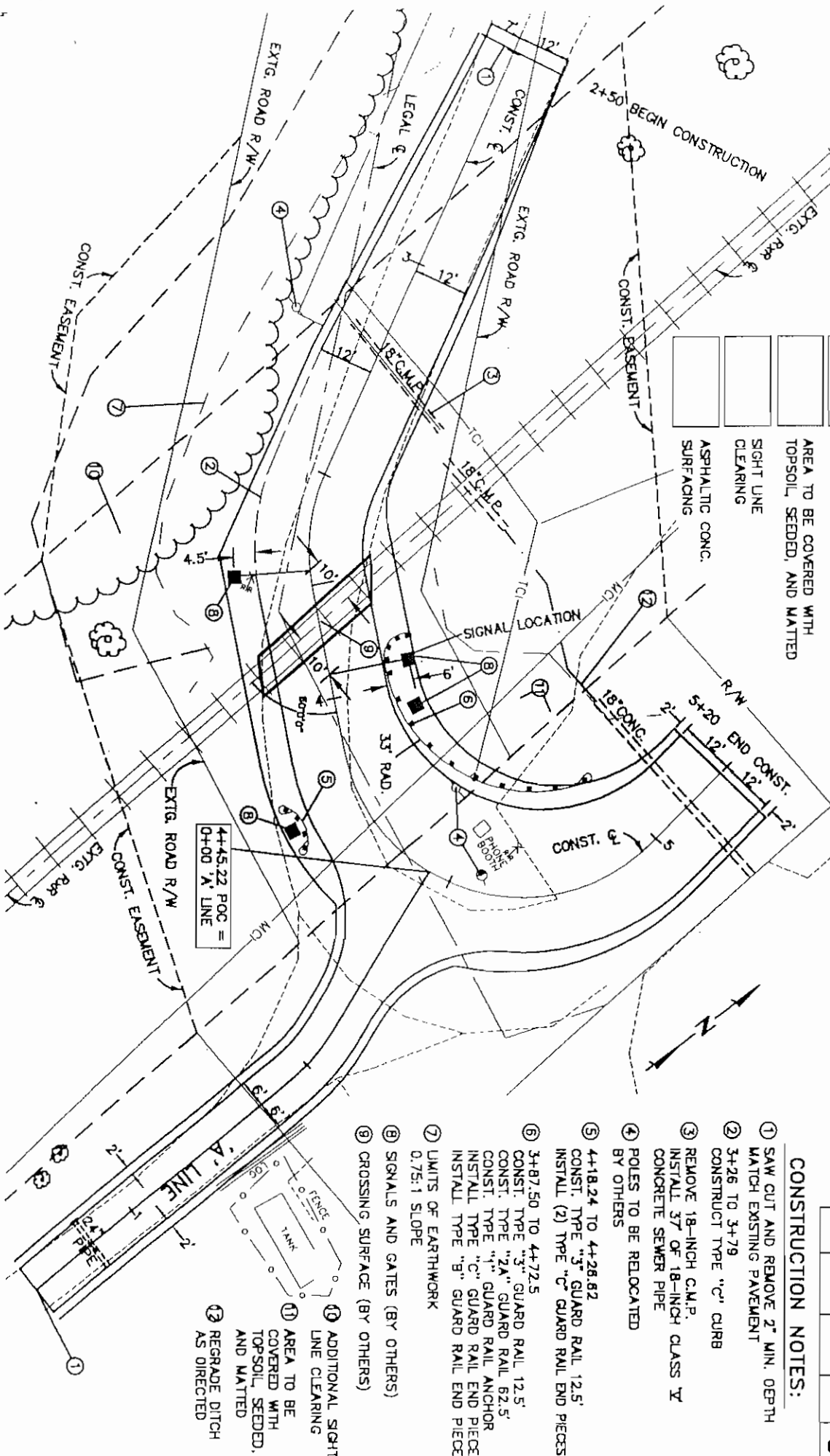
A handwritten signature in cursive script, reading "Gregg Dal Ponte", is written over a horizontal line.

Gregg Dal Ponte  
Acting Assistant Commissioner  
Transportation

95-1383

ORDER NO.

APPENDIX A  
RX 556



LEGEND:

- ROCK OUTCROP EXPOSURES
- AREA TO BE COVERED WITH TOPSOIL, SEED, AND MATTED
- SIGHT LINE CLEARING
- ASPHALTIC CONC. SURFACING

FOR REVIEW ONLY  
NOT FOR CONSTRUCTION

CONSTRUCTION NOTES:

- 1 SAW CUT AND REMOVE 2" MIN. DEPTH MATCH EXISTING PAVEMENT
- 2 3+26 TO 3+79 CONSTRUCT TYPE "C" CURB
- 3 REMOVE 18-INCH C.M.P. INSTALL 37 OF 18-INCH CLASS "Y" CONCRETE SEWER PIPE
- 4 POLES TO BE RELOCATED BY OTHERS
- 5 4+18.24 TO 4+28.82 CONST. TYPE "3" GUARD RAIL 12.5' INSTALL (2) TYPE "C" GUARD RAIL END PIECES
- 6 3+87.50 TO 4+72.5 CONST. TYPE "3" GUARD RAIL 12.5' CONST. TYPE "2A" GUARD RAIL 82.5' CONST. TYPE "1" GUARD RAIL ANCHOR INSTALL TYPE "C" GUARD RAIL END PIECE INSTALL TYPE "B" GUARD RAIL END PIECE
- 7 LIMITS OF EARTHWORK 0.75:1 SLOPE
- 8 SIGNALS AND GATES (BY OTHERS)
- 9 CROSSING SURFACE (BY OTHERS)
- 10 ADDITIONAL SIGHT LINE CLEARING
- 11 AREA TO BE COVERED WITH TOPSOIL, SEED, AND MATTED
- 12 REGRADE DITCH AS DIRECTED

N.W. LOWER ROCKY POINT ROAD		3	
AT CROSSING NO. 5A-015.70			
DATE	PROJECT NO.	SCALE	
			5

Lower Rocky Point Rd  
5A-015.70  
Multnomah County

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

FAX Transmittal Memorandum

No. of Pages: 1  
Date: September 7, 2006

To: Stan Tommeson @ Rocky Pointe Marina	From: Lyle Christensen <i>[Signature]</i>
Phone: 503-543-7003	Phone: 503-229-5295
FAX: 503-543-5170	FAX: 503-229-6957

Message: Stan, in the fax received on September 5, 2006, you indicate that the addition of 38 boat slips will result in little additional flow to the wastewater treatment facility. During the past two years reported average daily flows when reviewed as a monthly average have ranged from around 2000 gallons per day to around 6400 gallons per day. The higher flows were reported to have been the result of a defective sewage tank allowing river water to enter the system. Though the engineer who designed this facility expected the plant to treat up to 10000 gallons per day, the permit issued for this facility limits flow to the treatment facility to 6500 gallons per day as a monthly average. Additionally the permit has limits for biochemical oxygen demand, total suspended solids and bacteria (E. coli). I appreciate receiving the missing monitoring reports but am somewhat dismayed that no explanation was given for reported violations on these reports. I recognize that as of August you have contracted new operational support for the treatment system (Steve and Aaron Wabschall) and fully believe they will keep this facility operating compliant with its permit in the future. I will address the permit violations in future correspondence. You have asked that I respond to Multnomah County's request for verification of adequacy of the treatment system. This fax is intended to do that. The treatment system provided is adequate to treat the flows reported at your marina provided the proper operational steps are taken and the additional slips are not used for permanent occupancy. If Multnomah County would like to discuss this further please have them contact me.

↓  
NO ~~THE~~ LIVE ABOARD OR HOUSEBOATS



TOTAL P. 01

EXHIBIT  
35



RECEIVED

08 OCT 27 AM 8:39

MULTNOMAH COUNTY  
PLANNING SECTION**BARBER Adam T**

**From:** Stan Tonneson [stan@rptmarina.com]  
**Sent:** Saturday, October 25, 2008 10:40 AM  
**To:** BARBER Adam T  
**Subject:** Rocky Pointe Sewer/DEQ

Adam,

I am forwarding the response from DEQ and have attached my letter requesting authorization. Their approval is subject to an engineer approving our system, perhaps with some modification. I believe this satisfies your need for now. I have started working with an engineer to get the information needed. I did not want to invest too much time and money in system design pending the outcome on the total house allowed.

Thanks,

Stan Tonneson  
Rocky Pointe Marina

----- Original Message -----

**From:** SAGE Garry  
**To:** stan@rptmarina.com  
**Cc:** CHRISTENSEN Lyle ; SAGE Garry ; MOORE Beth  
**Sent:** Wednesday, October 22, 2008 3:51 PM  
**Subject:** Rocky Pointe Marina Expansion Request

Stan DEQ received your letter dated September 12, 2008. Your letter requests Department approval to add 36 floating homes to your current marina configuration of 40 floating homes and appurtenances. Sewage from the existing and proposed floating homes will be treated in your Davco wastewater treatment plant that is currently rated at 10,000 gpd capacity by its manufacturer.

Stan before DEQ can approve any additional floating homes, we must be sure that your treatment plant can reliably handle the flow increase. An engineering report is required. The report must be prepared by an Oregon registered professional engineer per the Department's guidance for pre-design/design reports that can be found at:

<http://www.deq.state.or.us/wq/rules/div052/guidelines/designrpts.pdf>

Please have your engineer prepare a predesign report and submit it to me at the DEQ-NWR address below. Your engineer must evaluate your entire system relative to the proposed location of the additional 36 floating homes to ensure that sewage piping and pumping stations can handle the projected flow increase. Also, it may be apparent to your engineer that some additions are required at your treatment plant to handle flow surges associated with weekend visitors on holidays, etc. Please contact me if you need additional explanation or have questions. Thanks!

Garry L. Sage, EIT

Senior Engineering Technician

Northwest Region, Water Quality

Source Control Section

2020 SW 4<sup>th</sup> Avenue, Suite 400

10/27/2008

EXHIBIT  
36

Portland, OR 97201

(503) 229-5690 (Office)

(503) 229-6957 (FAX)

sage.garry@deq.state.or.us

# Scappoose School District No. 1J

## BOARD OF DIRECTORS

CHAIRPERSON - DIANE KUNKEL  
MICHELLE GRAHAM  
SARAH HAVLIK  
JIM HOAG  
WILL KESSI  
JOE LEWIS  
MARK PARSONS

33589 SE HIGH SCHOOL WAY  
SCAPPOOSE, OREGON 97056-3326  
TELEPHONE (503) 543-6374  
FAX (503) 543-7011  
[www.scappoose.k12.or.us](http://www.scappoose.k12.or.us)

## DISTRICT OFFICE

PAUL PETERSON  
Superintendent  
Clerk  
  
MARY CRUM  
Business Manager  
Custodian of Funds

January 16, 2008

Rocky Pointe Marina  
23586 NW St Helens Hwy.  
Portland, OR 97231

Re: Marina expansion

To Whom It May Concern:

The Scappoose School District is in support of the Rocky Pointe Marina expansion project.

Currently, there are multiple residences in the marina housing Scappoose School District students. The expansion would increase the possibility of additional families coming into our community.

In addition to the expansion, the improvements planned will add to the integrity and safety of the existing facility.

Sincerely,



Paul Peterson  
Superintendent

**Stan Tonneson**

**From:** "Ken Smith" <smithkl@wrd.state.or.us>  
 "Stan Tonneson" <stan@rppmarina.com>; "webmaster" <webmaster@wrd.state.or.us>; "Darrell Hedin" <hedindc@wrd.state.or.us>  
**Sent:** Thursday, August 14, 2008 7:52 AM  
**Subject:** RE: Rocky Pointe Marina Well

Dear Mr. Tonneson,

In general the exceptions to requiring a water right for a well are as follows:

Quote from our Water Rights in Oregon  
[http://www.wrd.state.or.us/OWRD/PUBS/aquabook\\_laws.shtml](http://www.wrd.state.or.us/OWRD/PUBS/aquabook_laws.shtml) )

Ground water exempt uses include:

- 1. Stock watering.
- 2. Lawn or noncommercial garden: watering of not more than one-half acre in area.
- 3. Single or group domestic purposes: not exceeding 15,000 gallons per day.
- 4. Single industrial or commercial purposes: not exceeding 5,000 gallons per day.
- 5. Down-hole heat exchange uses.
- 6. Watering school grounds: ten acres or less, of schools located within municipal ground water area.

Note: While these water uses do not require a permit, the use is only allowed if the water is used for a "beneficial purpose without waste" and may be subject to regulation in times of water shortage.

You may fall into the exempt use described in number 3 as a single or group domestic not exceeding 15,000 gallons per day. To ensure this is correct, you would need to contact the local watermaster for confirmation. I am cc'ing this message to him, but should you wish to reach him directly, his contact information is:

District 18  
 Darrell Hedin, District 18  
 400 SW Walnut St, Suite 240  
 Hillsboro, Oregon 97123  
 Ph: 503-846-7780  
 Fax: 503-846-7785

Hope this helps!

Stan

EXHIBIT  
 38

-----Original Message-----

From: Stan Tonneson [mailto:stan@rpmarina.com]

Sent: Wednesday, August 13, 2008 4:54 PM

To: webmaster

Subject: Rocky Pointe Marina Well

Our well # is Mult 2138

located at Rocky Pointe Marina 23586 NW St Helens Rd, Portland, Or 97231.

We are in the process of expanding our facility by adding another 36 floating homes. Currently we have 50 floating homes and houses and public restrooms serving our 150 boat tenants. Our daily use of water is measured daily and averages about 5000 gallons per day. Anticipated future use about 9000 gallons per day.

Multnomah County has requested written confirmation from your office that we have the legal right to this water. Can you please provide this information.

Thank you,

Stan Tonneson

Rocky Pointe Marina

23586 NW St Helens Rd

Portland, Or 97231



MULTNOMAH COUNTY  
 LAND USE & TRANSPORTATION PROGRAM  
 1600 S.E. 190TH AVENUE  
 PORTLAND OR 97233  
 503-988-3043 FAX 503-988-3389  
 www.co.multnomah.or.us/dbcs/LUT/land\_use

**CERTIFICATION OF WATER SERVICE**

Take this form to the Water District that serves the property.

RECEIVED

JUN 30 2006

Address of Site 23586 NW St. Helens Hwy  
 Map & Tax Lot Number \_\_\_\_\_  
 Well No. \_\_\_\_\_

If Residential Use, Total Number of Units N/A 4101251

Applicant's Name Rocky Pointe Marina LLC Rich Tanneson  
 Mailing Address 23586 NW St. Helens Hwy City Portland  
 State OR Zip Code 97231

**-TO THE APPLICANT-**

Approval of most land uses involving a new or expanded use or involving creation of a new parcel requires a determination that the water system is adequate.  
 If you propose to use a public water system, deliver this form to the appropriate water district prior to making any land use application. After the water district fills in the following section and returns it to you, include this form with your application.  
 If you will be using a private water system, complete the bottom section of this form.

**-TO BE COMPLETED BY A DISTRICT OFFICIAL AND RETURNED TO THE APPLICANT-**

The District will provide service from a \_\_\_\_\_ inch line located \_\_\_\_\_

The proposed use should be required to make the following water system improvements:  
N/A

Name of District \_\_\_\_\_ Name of Official \_\_\_\_\_

Date \_\_\_\_\_ Office held by Official \_\_\_\_\_

**-TO BE COMPLETED BY THE APPLICANT IF A PRIVATE WATER SYSTEM WILL BE USED-**

If you propose to use a private water system, a determination that the system is adequate must be made to satisfy Comprehensive Plan Policy 37. There are two different times that determination can be made:  
 (1) In the initial review of your proposal if the on-site well or other form of private system is existing at the time of the land use application, OR  
 (2) After the initial review but before issuance of a building permit when documentation is provided to the Planning Director that a water system is in place. At that time public notification will again be given which may result in a new public hearing.

Describe Water Source, Including Location Artesian Well - No.  
3 N, 2W, sec. 36

Describe Supply of Water Available (i.e., Gallons Per Minute) N/A



**BARBER Adam T**

---

From: Stan Tonneson [stan@rpmarina.com]  
Sent: Monday, February 02, 2009 3:20 PM  
To: BARBER Adam T  
Subject: Rocky Pointe Happy Rock

----- Original Message -----

From: "Stan Tonneson" <stan@rpmarina.com>  
To: <jen@rpmarina.com>  
Sent: Monday, February 02, 2009 12:45 PM  
Subject: Re: Rocky Pointe

> Adam,

We are glad to respond to the concern's of Happy Rock. As you know, we shifted gears completely from the new covered marina proposal that we inherited with the purchase of the marina in 2006. One of the reasons that we shifted gears was to address the issues that Happy Rock Moorage was concerned about, ie parking and congestion. Our current proposal is to extend

our existing upstream dock to the south by 520ft and adding floating home spaces on the outside and relocating the boat slips to the inside. This will

provide a minimin 50ft fairway on our property for boats to exit to the river, either from our marina or Happy Rock. The new dock will all be accessed from our existing main ramp. An emergency only ramp is all that would be placed on the access road going to Happy Rock Moorage. This ramp will not even be connected to the new dock. There will be a floating ramp that connects the new dock and the emergency ramp in the event of an evacuation. There will be a gate at the top of the emergency ramp with a one way out panic bar. This ramp cannot be accessed by land and there will not be any parking or staging area set aside at the top. There will be a small concrete pad only to anchor the ramp. This is the only proposed work planned for anywhere along the access road to Happy Rock.

To further ease traffic and density impacts we have committed to reduce all liveaboards at Rocky Pointe Marina which was at one time 72 boats with well over 100 cars. We are reducing the total number of boat slips from 150 down to 134. The only increase in parking spaces for boat slips will be behind our security gate in the field area on the west side of our road. We have not and will not promote any parking on the access road to Happy Rock Moorage.

At any time, now or in the future, our neighbors are all welcome to call us directly or come by our office to share any concerns, ideas, suggestions or ask any questions.

Stan Tonneson  
Rocky Pointe Marina

>  
>

> ----- Original Message -----

> From: "BARBER Adam T" <adam.t.barber@co.multnomah.or.us>  
> To: "Stan Tonneson" <stan@rpmarina.com>  
> Cc: <PFINLEYFRY@aol.com>



> Sent: Monday, February 02, 2009 9:20 AM

> Subject: FW: Rocky Pointe

>

>

> Stan,

>

> Ginger Curtis wanted to make sure her concerns below were forwarded to  
> you for comment, if you wanted to respond. Feel free to send any  
> responses me way for the record.

>

> Sincerely,

>

> Adam Barber, CPESC

> Senior Planner

>

> Multnomah County Land Use Planning

> 1600 SE 190th Avenue, Suite 116

> Portland, Oregon 97233

> ph: 503-988-3043 x 22599

> fax: 503-988-3389

> adam.t.barber@co.multnomah.or.us

>

>

>

> -----Original Message-----

> From: happyh@centurytel.net [mailto:happyh@centurytel.net]

> Sent: Saturday, January 31, 2009 4:25 PM

> To: BARBER Adam T

> Subject: Re: Rocky Pointe

>

>

>

>

> Quoting happyh@centurytel.net:

>>

>>

>> Quoting happyh@centurytel.net:

>> >

>> >

>> > Dear Adam,

>> >

>> > In regard to the Rocky Pointe Expansion, I am concerned about the  
>> > following

>> > items:

>> >

>> > 1. A adequate space of 50 feet or preferably more is left between  
>> Happy Rock

>> > Moorage and the new expansion.

>> >

>> > 2. No parking for Rocky Pointe tenants shall be allowed in the  
>> > open

>> >

>> > areas and along the entrance road to Happy Rock Moorage.

>> >

>> > 3. Rocky Pointe tenants shall not use Happy Rock Moorage property

>> for a turn  
>> > around area.  
>> >  
>> > 4. No increased traffic that will accelerate detracton of Happy  
>> > Rock Moorage access road.  
>> >  
>> > Respectfully, Estella (Ginger) Curtis  
>> >  
>> >  
>>  
>>  
>>  
>>  
>  
>  
>

RECEIVED RECEIVED

JUN 30 2005

JUN 29 2005



MULTNOMAH COUNTY  
DEPT. OF BUSINESS & COMMUNITY SERVICES  
LAND USE & TRANSPORTATION PROGRAM  
1600 SE 190th AVENUE  
PORTLAND, OR 97233 (503) 988-3043

**POLICE SERVICES REVIEW**  
Take this form to the Police Services  
Provider that serves the property.

Address of Site 23586 NW ST Helens Rd

Tax Roll Description of Property T3N, RAW, Section 36A, TL 400

Description of Proposed Use Addition of 38 slips to an  
existing moorage.

If Residential Use, Total Number of Dwelling Units 0

**—TO THE APPLICANT—**

Approval of most land uses involving a new or expanded use, or involving the creation of a new parcel requires verification from the local police services provider that there will be adequate police protection. Complete the applicable sections of this form and take it to the police department serving the property. After receiving a response, include this form with your application.

Applicant's Name Peter F Fry

Mailing Address 2153 SW Main #105 Phone 503-274-2744

City Portland State OR Zip Code 97205

**—TO BE COMPLETED BY A LOCAL POLICE OFFICIAL—**

The level of police service available to serve the proposed project is ADEQUATE.  
Comment (Optional): \_\_\_\_\_

The level of police service available to serve the proposed project is NOT ADEQUATE.  
(Please indicate why.) \_\_\_\_\_

Date 10-4-05

MULTNOMAH CO. SHERIFFS OFFICE  
Name of Police Services Provider  
Bonnie Muir  
Name of Official  
SHERIFF  
Office held by Official

RETURN THIS FORM TO THE APPLICANT

EXHIBIT  
40



**MULTNOMAH COUNTY**  
**LAND USE & TRANSPORTATION PROGRAM**  
 1600 SE 190<sup>TH</sup> AVENUE  
 PORTLAND, OREGON 97233  
 503-988-3043 FAX: 503-988-3389  
 www.co.multnomah.or.us/dbcs/LUT/land\_use

**FIRE DISTRICT ACCESS  
 REVIEW**

**TO THE APPLICANT**

The Oregon Uniform Fire Code Section 10.207 and the Multnomah County Code Chapter 29.012 require safe access to a proposed dwelling site prior to issuance of a building permit. These requirements are to ensure that fire protection equipment can reach the site during the construction phase and after the occupancy of the structure. Take this form to the Fire District that serves the property, along with a site plan of the development that also shows driveway information. After the fire official signs this form, include it with your application. See the reverse side of this form for a list of fire-related access standards.

Address of Site: 23586 NW ST HELENS HWY, PORTLAND OR

Map & Tax Lot: \_\_\_\_\_ R Number: \_\_\_\_\_

Description of Proposed Use: MARINA EXPANSION

If Residential Use, Total Number of Units: \_\_\_\_\_

Applicant Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

**FIRE APPARATUS MEANS OF APPROACH (ACCESS) REVIEW**

Site plan must be attached.

Choose one of the three options below.

1. The proposal is in compliance with the adopted Fire District standards for access or the standards of Multnomah County Code Section 29.012 (on the following pages), **which ever is more stringent.**  
 \_\_\_\_\_ N/A (Fire official's initials)

OR

2. Access improvements will be required.  
 The following improvements must be completed prior to issuance of a building permit:  
 \_\_\_\_\_ SEE ATTACHED LETTER \_\_\_\_\_

A re-inspection must occur prior to occupancy. \_\_\_\_\_ Yes \_\_\_\_\_ No  
 \_\_\_\_\_ [Signature] (Fire official's initials)

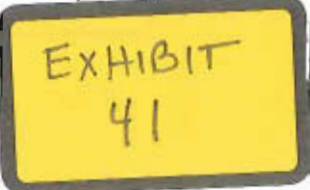
OR

3. The proposal is **not** in compliance with the adopted Fire District standards for access or the standards of Multnomah County Code Section 29.012 (on the following pages), **which ever is more stringent.** The proposed new dwelling is required to have a water sprinklering fire suppression system installed.  
 \_\_\_\_\_ N/A (Fire official's initials)

\_\_\_\_\_ Site plan is attached and verified

MICHAEL S. GREYSON  
 Name of Official  
SCAPPOOSE FIRE DISTRICT  
 Fire District  
FIRE CHIEF  
 Title  
FEBRUARY 17, 2007  
 Date

10/18/04





**MULTNOMAH COUNTY**  
 LAND USE & TRANSPORTATION PROGRAM  
 1600 SE 190<sup>TH</sup> AVENUE  
 PORTLAND, OREGON 97233  
 503-988-3043 FAX: 503-988-3389  
 www.co.multnomah.or.us/dbcs/LUT/land\_use

**FIRE DISTRICT REVIEW**  
**Fire Flow Requirements**

**TO THE APPLICANT**

Multnomah County Code Chapter Section 29.003 requires a fire official review of proposed building plans for new structures and substantial additions to existing structures, including dwellings and accessory structures. The review is for either determining that adequate water amount and pressure (fire flow) is available at the building site or the building permit applicant will use an approved alternative to meeting the fire flow requirement. Take this form to the Fire District that serves the property, along with the building plans of the development. After the fire official reviews the plans for meeting the fire flow standards and signs this form, then include the form with your building permit application. See the code standards and the alternative credits on the pages following the fire official signature blocks.

Address of Site: 23586 NW STELLONS HWY PORTLAND OR

Tax Roll Description: \_\_\_\_\_

Description of Proposed Use: MARINA EXPANSION AT ROCKY POINT MARINA

If Residential Use, Total Number of Units: \_\_\_\_\_

Applicant Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

**FIRE FLOW REVIEW**

The fire official will sign the appropriate initials and signature lines confirming which of the standards in either parts A, B or C below are met. Fire flow requirements may be modified only upon approval by both the fire chief and the building official. This form is to stay with all building plans through the permit review process.

- A.** The structure is exempt from the fire flow standards in MCC Chapter 29 because:
- The structure is an "exempt farm structure" which qualifies as a farm building that is exempt from building permit requirements by meeting the requirements of ORS 455.315(2).
  - The structure or portion of the structure is a residential garage and attic.
  - The structure is an addition to an existing house that adds 50 percent or less floor area to an existing house.

N/A  
 Signature of fire official verifying compliance of this standard

**OR**

- B.** New houses of less than 3,600 square feet in floor area and additions to an existing house of more than 50 % of floor area are required to meet 1 of the following 3 alternate methods of fire prevention or suppression:

1. There is 500 gallons per minute of fire-flow available from public water lines.

N/A  
 Signature of fire official verifying compliance of this standard

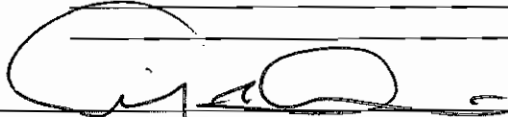
**OR**



2. The fire protection service provider has available for use a water tanker truck of at least 3,000 gallon capacity and at least 2 of the following are a condition of permit approval (clearly shown on the site plan and building plans):

- A monitored alarm will be installed. \_\_\_\_\_ Fire official initials
- Class A or non-combustible roof materials will be installed. \_\_\_\_\_ Fire official initials
- Defensible space of 30 feet around the house (100 feet on slopes of 20% or greater).  
\_\_\_\_\_ Fire official initials
- Fire official recognition of other particular circumstances that warrant alternative credit, due to attributes of site, building materials, or fire detection or suppression features not listed. This must be in conjunction with a monitored alarm installation. \_\_\_\_\_ Fire official initials  
Fire official's description of feature: \_\_\_\_\_

\_\_\_\_\_  
SEE ATTACHED LETTER  
\_\_\_\_\_

  
\_\_\_\_\_  
Signature of fire official verifying compliance of this standard

OR

3. A sprinklering fire suppression system will be installed and at least 1 of the following are an additional condition of approval (clearly shown on the site plan or building plans):

- A monitored alarm will be installed. \_\_\_\_\_ Fire official initials
- Class A or non-combustible roof materials will be installed. \_\_\_\_\_ Fire official initials
- Defensible space of 30 feet around the house (100 feet on slopes of 20% or greater).  
\_\_\_\_\_ Fire official initials
- Fire official recognition of other particular circumstances that warrant alternative credit, due to attributes of site, building materials, or fire detection or suppression features not listed. This must be in conjunction with a monitored alarm installation. \_\_\_\_\_ Fire official initials  
Fire official's description of feature: \_\_\_\_\_

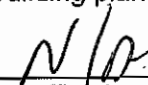
\_\_\_\_\_  
N/A  
\_\_\_\_\_

- Fire protection provider has a tanker truck of at least 3,000 gallon capacity.  
\_\_\_\_\_ Fire official initials

\_\_\_\_\_  
Signature of fire official verifying compliance of this standard

OR

C. All new houses of 3,600 square feet or more in floor area, all additions of 3,600 square feet or more to existing houses, and all other non-residential structures not exempted above are required to meet the fire flow requirements of Division II, Appendix Chapter 9, to the Uniform Building Code. For houses that will most often require the installation of a water sprinklering system. All structural features required to meet the standards of Division II shall be a condition of approval and be shown clearly on all building plans.

  
\_\_\_\_\_  
Signature of fire official verifying compliance of this standard



## SCAPPOOSE RURAL FIRE PROTECTION DISTRICT

P.O. Box 625 • 52751 Columbia River Hwy. • Scappoose, Oregon 97056  
Phone: (503) 543-5026 • FAX: (503) 543-2670 • srfid@opusnet.com

February 16, 2007

Multnomah County Land Use & Transportation  
1600 SE 190<sup>th</sup> Ave  
Portland, Oregon 97233

To Whom It May Concern:

The Scappoose Fire District will support the development of a new marina facility for Rocky Point Marina. The requirements for this marina are different than other marinas due to the property's inability to provide a correct fire apparatus access road width, apparatus staging area near the gangway, which is restricted for other public access. The emergency apparatus turnaround is more than 150 feet from the gangway, downhill and on curves. The Fire District is more than willing to work with the developer to make this development work, which requires the understanding that fire codes need to be met. The following will need to be considered:

### Fire Apparatus Access Road

- The fire apparatus access road has to be designed to meet the intent of the 20-foot width and 75,000-weight design (IFC 503.2.1). The Fire District realizes that the road width cannot meet the 20-foot width requirement at all the locations due to permanent obstructions that cannot be removed; as in; rock walls, railroad bed, and primary transmission line poles. Before building permits are issued the fire apparatus access road will require to be surveyed or temporary painted markings showing the dimensions of the fire access road, fire apparatus staging area and emergency apparatus turnaround in relationship to the head of the gangway. The Fire Chief shall approve this process.
- The fire apparatus access road will need "No Parking" signs posted on both sides of the road, apparatus staging area and emergency apparatus turnaround as required by the Fire Chief.

## Fire Protection Standpipe System

- Prior to the installation of any standpipe system, the design and installation of the standpipe system shall be in accordance with the latest edition of NFPA 14: "Installation of Standpipe and Hose System" and approved by the Fire Chief.
- The fire department connection needs to be located within 150 feet of fire apparatus set up (head of gangway) and not more than 150 feet from the top of the marina access ramp. The fire department connection shall be of a double clapper design.
- Fire protection standpipes shall have pipe sized to provide 250 gallons per minute at 100 psi pressure at the most hydraulically remote outlet on the standpipe system. The maximum input pressure at the fire department connection (FDC) shall be 150 psi.
- Fire protection standpipes shall have adequate drain valves, or alternate system as approved by the Fire Chief, installed to ensure complete drainage.
- Fire protection standpipes shall have gated valve assemblies made of noncorroding metal, 2-1/2 inch I.D. with National Standard male threads and metal caps. Valve assemblies shall be spaced at the intersection of the marginal walkway and main walkway. Valve assemblies shall be placed 50 feet from the end of the main walkway and the end tie float. If Multnomah County allows live aboard on this marina, then the valve assemblies will be spaced every 100 feet and 50 feet from the end of each main walkway.
- The fire protection standpipe system will need to be tested by an agreed upon company for final acceptance. Standpipe system shall be inspected and tested annually in accordance with the current edition of NFPA 25 "Standards for the Testing of Water Based Fire Protection Systems".
- Water for fire protection standpipes shall be supplied by pumping water from the Multnomah Channel with an on site pump or pumps capable of providing 250 gpm at 100 psi to the most hydraulically remote outlet on the standpipe system. Pumps are to be of a type approved by the Fire Chief and shall be listed for their intended use.

## Other Requirements

There shall be obvious signage at the head of the gangway. The signage shall clearly identify the locations and numbering of all walkways and slips.

75-foot aluminum gangway with a maximum allowed slope of 2.5 foot horizontal and 1 foot vertical with 5 foot clear width is acceptable as designed.

20-foot property line offset is acceptable as designed.

There may be other fire codes that may not be addressed in this document which may be required.

If you have any questions or concerns, please feel free to contact me at 503.543.5026.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Michael S. Greisen', with a long horizontal line extending to the right.

Michael S. Greisen  
Fire Chief

**Stan Tonneson**

---

**From:** "Mike Greisen" <mgreisen@srfd.us>  
"Stan Tonneson" <stan@rpfmarina.com>  
**Sent:** Wednesday, October 24, 2007 8:13 PM  
**Subject:** RE: Rocky Pointe Marina

Sounds good. At one time your dad was talking about having a verticle ramp that would fall in the river during an emergency only, in alarm would sound if activated. It was going to have a counter weight on it and connect with a dock or ramp on the other side.

-----Original Message-----

**From:** Stan Tonneson [mailto:stan@rpfmarina.com]  
**Sent:** Wednesday, October 24, 2007 3:54 PM  
**To:** mgreisen@srfd.us  
**Subject:** Rocky Pointe Marina

We have come up an idea we hope meets your approval which is an emergency only ramp near the end of the new docks that has a 30' bridge, either a floating swing bridge or a tilt up bridge that would remain open most of the time (for baot traffic) and closed by a hand winch during an emergency. The shore ramp would have a small floating dock it rests on at one end. The upper end would set on a 6'x10' pad with no othet parking or pullout. A gate at the top with a panic bar on the inside and a firemans key on the outside.

How does this sound?

Thanks,  
Stan

**BARBER Adam T**

---

**From:** Mike Greisen [mgreisen@srfd.us]  
**Sent:** Thursday, February 05, 2009 3:27 PM  
**To:** BARBER Adam T  
**Subject:** Rocky Pointe Marina

Hi Adam,

This e-mail was requested by you in reference to a letter I wrote to you on February 16, 2007 for the Rocky Pointe Moorage Expansion. I went over to the site and also talked to Mr. Tonneson, he stated he will not have any problem meeting the first two requirements on fire apparatus access and signage code . He stated that he will not be developing any public or private parking in the areas of the new expansion. The other fire code issues in the letter will still need to be completed. The Fire District agrees that Mr. Tonneson can complete all fire code requirements during the construction of the expanded moorage and nothing needs to be completed before building permits are issued. I hope this letter is what is need for the completion of your report. If you need any additional information, please let me know.

Thanks  
Mike

Michael S. Greisen  
Fire Chief  
Scappoose Rural Fire District  
52751 Columbia River Highway  
PO Box 625  
Scappoose, Oregon 97056  
(503)543-5026



**BARBER Adam T**

---

**From:** Mike Greisen [mgreisen@srfd.us]  
**Sent:** Friday, February 06, 2009 2:23 PM  
**To:** BARBER Adam T  
**Subject:** RE: Rocky Pointe Marina

Adam,

They will not need to do a survey of the access road as it was already done, Stan dropped off copies this week.

Thanks  
Mike

---

**From:** BARBER Adam T [mailto:adam.t.barber@co.multnomah.or.us]  
**Sent:** Friday, February 06, 2009 1:00 PM  
**To:** Mike Greisen  
**Cc:** Stan Tonneson  
**Subject:** RE: Rocky Pointe Marina

Thanks Mike. This helps me quite a bit. I will try to defer any access road survey requirements to the end of the process and before building permits are issued as recommended in your Feb. 16th letter.

Sincerely,

**Adam Barber, CPESC**  
Senior Planner

Multnomah County Land Use Planning  
1600 SE 190th Avenue, Suite 116  
Portland, Oregon 97233  
ph: 503-988-3043 x 22599  
fax: 503-988-3389  
adam.t.barber@co.multnomah.or.us

-----Original Message-----

**From:** Mike Greisen [mailto:mgreisen@srfd.us]  
**Sent:** Thursday, February 05, 2009 3:27 PM  
**To:** BARBER Adam T  
**Subject:** Rocky Pointe Marina

Hi Adam,

This e-mail was requested by you in reference to a letter I wrote to you on February 16, 2007 for the Rocky Pointe Moorage Expansion. I went over to the site and also talked to Mr. Tonneson, he stated he will not have any problem meeting the first two requirements on fire apparatus access and signage code. He stated that he will not be developing any public or private parking in the areas of the new expansion. The other fire code issues in the letter will still need to be completed. The Fire District agrees that Mr. Tonneson can complete all fire code requirements during the construction of the expanded moorage and nothing needs to be completed before building permits are issued. I hope this letter is what is need for the

completion of your report. If you need any additional information, please let me know.

Thanks  
Mike

Michael S. Greisen  
Fire Chief  
Scappoose Rural Fire District  
52751 Columbia River Highway  
PO Box 625  
Scappoose, Oregon 97056  
(503)543-5026

Department of State Lands  
775 Summer Street NE, Suite 100  
Salem, OR 97301-1279  
☎ 503-378-3805

Permit No.:	<b>33595-RF Modified Renewal</b>
Permit Type:	<b>Removal/Fill</b>
Waterway:	<b>Multnomah Channel</b>
County:	<b>Multnomah</b>
Expiration Date:	<b>January 11, 2010</b>
Corps No.:	<b>2004-00812</b>

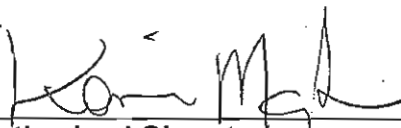
**ROCKY POINT MARINA**

**IS AUTHORIZED IN ACCORDANCE WITH ORS 196.800 TO 196.990 TO PERFORM THE OPERATIONS DESCRIBED IN THE ATTACHED COPY OF THE APPLICATION, SUBJECT TO THE SPECIAL CONDITIONS LISTED ON ATTACHMENT A AND TO THE FOLLOWING GENERAL CONDITIONS:**

1. This permit does not authorize trespass on the lands of others. The permit holder shall obtain all necessary access permits or rights-of-way before entering lands owned by another.
2. This permit does not authorize any work that is not in compliance with local zoning or other local, state, or federal regulation pertaining to the operations authorized by this permit. The permit holder is responsible for obtaining the necessary approvals and permits before proceeding under this permit.
3. All work done under this permit must comply with Oregon Administrative Rules, Chapter 340; Standards of Quality for Public Waters of Oregon. Specific water quality provisions for this project are set forth on Attachment A.
4. Violations of the terms and conditions of this permit are subject to administrative and/or legal action which may result in revocation of the permit or damages. The permit holder is responsible for the activities of all contractors or other operators involved in work done at the site or under this permit.
5. A copy of the permit shall be available at the work site whenever operations authorized by the permit are being conducted.
6. Employees of the Department of State Lands and all duly authorized representatives of the Director shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this permit.
7. Any permit holder who objects to the conditions of this permit may request a hearing from the Director, in writing, within twenty-one (21) calendar days of the date this permit was issued.
8. In issuing this permit, the Department of State Lands makes no representation regarding the quality or adequacy of the permitted project design, materials, construction, or maintenance, except to approve the project's design and materials, as set forth in the permit application, as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196, 390 and related administrative rules.
9. Permittee shall defend and hold harmless the State of Oregon, and its officers, agents, and employees from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.

**NOTICE:** If removal is from state-owned submerged and submersible land, the applicant must comply with leasing and royalty provisions of ORS 274.530. If the project involves creation of new lands by filling on state-owned submerged or submersible lands, you must comply with ORS 274.905 - 274.940. This permit does not relieve the permittee of an obligation to secure appropriate leases from the Department of State Lands, to conduct activities on state-owned submerged or submersible lands. Failure to comply with these requirements may result in civil or criminal liability. For more information about these requirements, please contact the Department of State Lands, 503-378-3805.

Lori Warner-Dickason, W Region Manager  
Wetlands & Waterways Conservation Div  
Oregon Department of State Lands

  
Authorized Signature

February 11, 2010  
Date Issued

**EXHIBIT**  
42

## ATTACHMENT A

Permittee: Rocky Point Marina

Special Conditions for Removal/Fill Permit No. 33595-RF (Modified February 18, 2009)

**PLEASE READ AND BECOME FAMILIAR WITH CONDITIONS OF YOUR PERMIT.** This project may be site inspected by the Department of State Lands as part of our monitoring program. The Department has the right to stop or modify the project at any time if you are not in compliance with these conditions. A copy of this permit shall be available at the work site whenever authorized operations are being conducted.

1. This permit authorizes the placement of up to 43 (20" maximum) pilings and removal of 6 pilings in T 03N, R 02W, Section 36D, Tax Lot 100 in the Multnomah Channel, Multnomah County, as outlined in the attached permit application, map and drawings, dated February 10, 2009. *This modification reduces the indirect impacts (shading) to 36,200 square feet, in contrast to the indirect impacts of 48,000 square feet authorized November 28, 2008.*
2. Fill or removal activities in the Multnomah Channel shall be conducted between November 1 and February 28, unless otherwise coordinated with ODFW and approved in writing by ODSL.
3. **Mitigation Plantings.** Mitigation for temporary impacts shall consist of site restoration and re-vegetation with native plants, as described in Sheet 20 and Sheet 4, and as outlined in the attached permit application, map and drawings, dated August 21, 2006. The plantings shall be maintained for at least three years.
4. **TURBIDITY/EROSION CONTROLS.** The authorized work shall not cause turbidity of affected waters to exceed 10% over natural background turbidity 100 feet downstream of the fill point. For projects proposed in areas with no discernible gradient break (gradient of 2% or less), monitoring shall take place at 4 hour intervals and the turbidity standard may be exceeded for a maximum of one monitoring interval per 24 hour work period provided all practicable control measures have been implemented. This turbidity standard exceedance interval applies only to coastal lowlands and floodplains, valley bottoms and other low-lying and/or relatively flat land.
5. For projects in all other areas, the turbidity standard can be exceeded for a maximum of 2 hours (limited duration) provided all practicable erosion control measures have been implemented. These projects may also be subject to additional reporting requirements.
6. Turbidity shall be monitored during active in-water work periods. Monitoring points shall be at an undisturbed site (representative background) 100 feet upstream from the turbidity causing activity (i.e., fill or discharge point), 100 feet downstream from the fill point, and at the point of fill. A turbidimeter is recommended, however, visual gauging is acceptable. Turbidity that is visible over background is considered an exceedance of the standard.
7. The following erosion control measures (and others as appropriate) shall be observed:
  - a. Filter bags, sediment fences, sediment traps or catch basins, leave strips or berms, or other measures shall be used sufficient to prevent movement of soil from uplands into waterways or wetlands.



- b. To prevent erosion, use of compost berms, impervious materials or other equally effective methods, shall be used to protect soil stockpiled during rain events or when the stockpile site is not moved or reshaped for more than 48 hours.
  - c. Erosion control measures shall be inspected and maintained daily, or more frequently as necessary, to ensure their continued effectiveness and shall remain in place until all exposed soil is stabilized.
  - d. Unless part of the authorized permanent fill, all construction access points through, and staging areas in, riparian or wetland areas shall use removable pads or mats to prevent soil compaction. However, in some wetland areas under dry summer conditions, this requirement may be waived upon approval by DSL. At project completion, disturbed areas with soil exposed by construction activities shall be stabilized by mulching and native vegetative plantings/seeding. Sterile grass may be used instead of native vegetation for temporary sediment control. If soils are to remain exposed more than seven days after completion of the permitted work, they shall be covered with erosion control pads, mats or similar erosion control devices until vegetative stabilization is installed.
  - e. Where vegetative erosion control is being done on cut slopes steeper than 1H:2V, a tackified seed mulch shall be used so the seed does not wash away before germination and rooting.
  - f. Dredged or other excavated material shall be placed on upland areas having stable slopes and shall be prevented from eroding back into waterways or wetlands.
8. Erosion control measures shall be maintained as necessary to ensure their continued effectiveness, until soils become stabilized. All erosion control structures shall be removed when project is complete and soils are stabilized and vegetated.
9. HAZARDOUS, TOXIC AND WASTE MATERIALS. Petroleum products, chemicals, fresh cement sandblasted material and chipped paint or other deleterious waste materials shall not be allowed to enter waters of the state. No wood treated with leachable preservatives shall be placed in the waterway. Machinery refueling is to occur off-site or in a confined designated area to prevent spillage into waters of the state. Project-related spills into water of the state or onto land with a potential to enter waters of the state shall be reported to the Oregon Emergency Response System (OERS) at 1-800-452-0311.
10. Pilings must be placed by means of impact or vibratory methods or removed (to the extent regulated as material pursuant to OAR 141-085-0010(125)) by means of vibratory method only.
11. Pilings must be piles fitted with devices to effectively prevent perching by piscivorous bird species;
12. Pilings must be placed from a barge-mounted or above top-of-bank position. If barge-mounted, barge shall not at any time be grounded on the bed or banks,
13. Sound attenuation measures, such as vibration dampeners and bubble curtains shall be used during piling installation.
14. The dock shall be designed to allow light penetration.
15. Fish salvage from the isolated work area shall occur in coordination with Oregon Department of Fish and Wildlife (i.e. in the presence of an ODFW biologist or with a Scientific collection Permit issued by ODFW).

16. Issuance of this permit is contingent upon acquisition of the required permits and approvals from Multnomah County.
17. When listed species are present, the authorization holder must comply with the Federal Endangered Species Act. If previously unknown listed species are encountered during the project, the authorization holder shall contact the appropriate agency as soon as possible.
18. If any archaeological resources and/or artifacts are uncovered during excavation, all construction activity shall immediately cease. The State Historic Preservation Office shall be contacted (phone: 503-986-0669).
19. The permit holder shall notify the Department in writing of any operating conditions imposed by other required permits that would be inconsistent with the approved plan of operation. The Department will review these requirements and, if appropriate to ensure compliance with state regulations, require modification of the approved work plan and/or revise the conditions of this permit.
20. The Department of State Lands retains the authority to temporarily halt or modify the project in case of unforeseen damage to natural resources.
21. The permittee is responsible for carrying-out the terms and conditions of this permit unless the permit is transferred to another party as approved by the Department.

Permit Modified: February 18, 2009

Department of State Lands  
775 Summer Street NE, Suite 100  
Salem, OR 97301-1279  
☎ 503-378-3805

Permit No.:	<u>33595-RF Renewal</u>
Permit Type:	<u>Removal/Fill</u>
Waterway:	<u>Multnomah Channel</u>
County:	<u>Multnomah</u>
Expiration Date:	<u>January 11, 2010</u>
Corps No.:	<u>2004-00812</u>

**ROCKY POINT MARINA**

**IS AUTHORIZED IN ACCORDANCE WITH ORS 196.800 TO 196.990 TO PERFORM THE OPERATIONS DESCRIBED IN THE ATTACHED COPY OF THE APPLICATION, SUBJECT TO THE SPECIAL CONDITIONS LISTED ON ATTACHMENT A AND TO THE FOLLOWING GENERAL CONDITIONS:**

1. This permit does not authorize trespass on the lands of others. The permit holder shall obtain all necessary access permits or rights-of-way before entering lands owned by another.
2. This permit does not authorize any work that is not in compliance with local zoning or other local, state, or federal regulation pertaining to the operations authorized by this permit. The permit holder is responsible for obtaining the necessary approvals and permits before proceeding under this permit.
3. All work done under this permit must comply with Oregon Administrative Rules, Chapter 340; Standards of Quality for Public Waters of Oregon. Specific water quality provisions for this project are set forth on Attachment A.
4. Violations of the terms and conditions of this permit are subject to administrative and/or legal action which may result in revocation of the permit or damages. The permit holder is responsible for the activities of all contractors or other operators involved in work done at the site or under this permit.
5. A copy of the permit shall be available at the work site whenever operations authorized by the permit are being conducted.
6. Employees of the Department of State Lands and all duly authorized representatives of the Director shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this permit.
7. Any permit holder who objects to the conditions of this permit may request a hearing from the Director, in writing, within twenty-one (21) calendar days of the date this permit was issued.
8. In issuing this permit, the Department of State Lands makes no representation regarding the quality or adequacy of the permitted project design, materials, construction, or maintenance, except to approve the project's design and materials, as set forth in the permit application, as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196, 390 and related administrative rules.
9. Permittee shall defend and hold harmless the State of Oregon, and its officers, agents, and employees from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.

**NOTICE:** If removal is from state-owned submerged and submersible land, the applicant must comply with leasing and royalty provisions of ORS 274.530. If the project involves creation of new lands by filling on state-owned submerged or submersible lands, you must comply with ORS 274.905 - 274.940. This permit does not relieve the permittee of an obligation to secure appropriate leases from the Department of State Lands, to conduct activities on state-owned submerged or submersible lands. Failure to comply with these requirements may result in civil or criminal liability. For more information about these requirements, please contact the Department of State Lands, 503-378-3805.

Lori Warner Dickason, W Region Manager  
Wetlands & Waterways Conservation Div  
Oregon Department of State Lands

  
Authorized Signature

November  
Date Issued





## ATTACHMENT A

Permittee: Rocky Point Marina

### Special Conditions for Removal/Fill Permit No. 33595-RF

**PLEASE READ AND BECOME FAMILIAR WITH CONDITIONS OF YOUR PERMIT.** This project may be site inspected by the Department of State Lands as part of our monitoring program. The Department has the right to stop or modify the project at any time if you are not in compliance with these conditions. A copy of this permit shall be available at the work site whenever authorized operations are being conducted.

1. This permit authorizes the placement of up to 48 cubic yards of pilings and removal of up to 30 cubic yards of pilings in T 03N, R 02W, Section 36D, Tax Lot 100 in the Multnomah Channel, Multnomah County, as outlined in the attached permit application, map and drawings, dated August 21, 2006.
2. Fill or removal activities in the Multnomah Channel shall be conducted between November 1 and February 28, unless otherwise coordinated with ODFW and approved in writing by ODSL.
3. **TURBIDITY/EROSION CONTROLS.** The authorized work shall not cause turbidity of affected waters to exceed 10% over natural background turbidity 100 feet downstream of the fill point. For projects proposed in areas with no discernible gradient break (gradient of 2% or less), monitoring shall take place at 4 hour intervals and the turbidity standard may be exceeded for a maximum of one monitoring interval per 24 hour work period provided all practicable control measures have been implemented. This turbidity standard exceedance interval applies only to coastal lowlands and floodplains, valley bottoms and other low-lying and/or relatively flat land.
4. For projects in all other areas, the turbidity standard can be exceeded for a maximum of 2 hours (limited duration) provided all practicable erosion control measures have been implemented. These projects may also be subject to additional reporting requirements.
5. Turbidity shall be monitored during active in-water work periods. Monitoring points shall be at an undisturbed site (representative background) 100 feet upstream from the turbidity causing activity (i.e., fill or discharge point), 100 feet downstream from the fill point, and at the point of fill. A turbidimeter is recommended, however, visual gauging is acceptable. Turbidity that is visible over background is considered an exceedance of the standard.
6. The following erosion control measures (and others as appropriate) shall be observed:
  - a. Filter bags, sediment fences, sediment traps or catch basins, leave strips or berms, or other measures shall be used sufficient to prevent movement of soil from uplands into waterways or wetlands.
  - b. To prevent erosion, use of compost berms, impervious materials or other equally effective methods, shall be used to protect soil stockpiled during rain events or when the stockpile site is not moved or reshaped for more than 48 hours.
  - c. Erosion control measures shall be inspected and maintained daily, or more frequently as necessary, to ensure their continued effectiveness and shall remain in place until all exposed soil is stabilized.

- d. Unless part of the authorized permanent fill, all construction access points through, and staging areas in, riparian or wetland areas shall use removable pads or mats to prevent soil compaction. However, in some wetland areas under dry summer conditions, this requirement may be waived upon approval by DSL. At project completion, disturbed areas with soil exposed by construction activities shall be stabilized by mulching and native vegetative plantings/seeding. Sterile grass may be used instead of native vegetation for temporary sediment control. If soils are to remain exposed more than seven days after completion of the permitted work, they shall be covered with erosion control pads, mats or similar erosion control devices until vegetative stabilization is installed.
  - e. Where vegetative erosion control is being done on cut slopes steeper than 1H:2V, a tackified seed mulch shall be used so the seed does not wash away before germination and rooting.
  - f. Dredged or other excavated material shall be placed on upland areas having stable slopes and shall be prevented from eroding back into waterways or wetlands.
7. Erosion control measures shall be maintained as necessary to ensure their continued effectiveness, until soils become stabilized. All erosion control structures shall be removed when project is complete and soils are stabilized and vegetated.
  8. HAZARDOUS, TOXIC AND WASTE MATERIALS. Petroleum products, chemicals, fresh cement sandblasted material and chipped paint or other deleterious waste materials shall not be allowed to enter waters of the state. No wood treated with leachable preservatives shall be placed in the waterway. Machinery refueling is to occur off-site or in a confined designated area to prevent spillage into waters of the state. Project-related spills into water of the state or onto land with a potential to enter waters of the state shall be reported to the Oregon Emergency Response System (OERS) at 1-800-452-0311.
  9. All exposed soils shall be stabilized during and after construction in order to prevent erosion and sedimentation.
  10. Mitigation for temporary impacts shall consist of site restoration and re-vegetation with native plants, as described in Sheet 20 as outlined in the attached permit application, map and drawings, dated August 21, 2006. The plantings shall be maintained for at least three years.
  11. Pilings must be piles fitted with devices to effectively prevent perching by piscivorous bird species;
  12. Pilings must be placed from a barge-mounted or above top-of-bank position. If barge-mounted, barge shall not at any time be grounded on the bed or banks,
  13. Pilings must be placed by means of impact or vibratory methods or removed (to the extent regulated as material pursuant to OAR 141-085-0010(125)) by means of vibratory method only.
  14. Sound attenuation measures, such as vibration dampeners and bubble curtains shall be used during piling installation.
  15. The dock shall be designed to allow light penetration.
  16. Fish salvage from the isolated work area shall occur in coordination with Oregon Department of Fish and Wildlife (i.e. in the presence of an ODFW biologist or with a Scientific collection Permit issued by ODFW).

17. Issuance of this permit is contingent upon acquisition of the required permits and approvals from Multnomah County.
18. When listed species are present, the authorization holder must comply with the Federal Endangered Species Act. If previously unknown listed species are encountered during the project, the authorization holder shall contact the appropriate agency as soon as possible.
19. If any archaeological resources and/or artifacts are uncovered during excavation, all construction activity shall immediately cease. The State Historic Preservation Office shall be contacted (phone: 503-986-0669).
20. The permit holder shall notify the Department in writing of any operating conditions imposed by other required permits that would be inconsistent with the approved plan of operation. The Department will review these requirements and, if appropriate to ensure compliance with state regulations, require modification of the approved work plan and/or revise the conditions of this permit.
21. The Department of State Lands retains the authority to temporarily halt or modify the project in case of unforeseen damage to natural resources.
22. The permittee is responsible for carrying-out the terms and conditions of this permit unless the permit is transferred to another party as approved by the Department.

Renewal Issued: November 28, 2008



**Flowing solutions**



Flowing Solutions  
 3305 SW 87th Avenue  
 Portland, OR 97225  
 Phone (503) 297-6331  
 Fax (503) 297-6053

TITLE:

SITE PHOTO

ROCKY POINT MARINA  
 23586 NW ST. HELENS ROAD  
 PORTLAND, OR 97231

RIVER: MULTNOMAH CHANNEL  
 DATUM: NGVD 1"=300'

REVISED:  
 8/19/06  
 DATE: 9/14/05  
 SHEET NO.  
 2

Department of State Lands  
775 Summer Street NE, Suite 100  
Salem, OR 97301-1279  
503-378-3805

Permit No.:	33595-RF Renewal
Permit Type:	Removal/Fill
Waterway:	Multnomah Channel
County:	Multnomah
Expiration Date:	January 11, 2009
Corps No.:	2004-00812

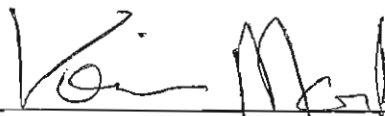
**ROCKY POINT MARINA**

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1. This permit does not authorize trespass on the lands of others. The permit holder shall obtain all necessary access permits or rights-of-way before entering lands owned by another.
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3. All work done under this permit must comply with Oregon Administrative Rules, Chapter 340; Standards of Quality for Public Waters of Oregon. Specific water quality provisions for this project are set forth on Attachment A.
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5. A copy of the permit shall be available at the work site whenever operations authorized by the permit are being conducted.
6. Employees of the Department of State Lands and all duly authorized representatives of the Director shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this permit.
7. Any permit holder who objects to the conditions of this permit may request a hearing from the Director, in writing, within twenty-one (21) calendar days of the date this permit was issued.
8. In issuing this permit, the Department of State Lands makes no representation regarding the quality or adequacy of the permitted project design, materials, construction, or maintenance, except to approve the project's design and materials, as set forth in the permit application, as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196, 390 and related administrative rules.
9. Permittee shall defend and hold harmless the State of Oregon, and its officers, agents, and employees from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.

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Kevin Moynahan, Assistant Director  
Wetlands & Waterways Conservation Div  
Oregon Department of State Lands

  
Authorized Signature

December  
Date Issued



Multnomah County Planning



## ATTACHMENT A

Permittee: Rocky Point Marina

### Special Conditions for Removal/Fill Permit No. 33595-RF

**PLEASE READ AND BECOME FAMILIAR WITH CONDITIONS OF YOUR PERMIT.** This project may be site inspected by the Department of State Lands as part of our monitoring program. The Department has the right to stop or modify the project at any time if you are not in compliance with these conditions. A copy of this permit shall be available at the work site whenever authorized operations are being conducted.

1. This permit authorizes the placement of up to 48 cubic yards of pilings and removal of up to 30<sup>00</sup> cubic yards of pilings in T 03N, R 02W, Section 36D, Tax Lot 100 in the Multnomah Channel, Multnomah County, as outlined in the attached permit application, map and drawings, dated August 21, 2006.
2. Fill or removal activities in the Multnomah Channel shall be conducted between November 1 and February 28, unless otherwise coordinated with ODFW and approved in writing by ODSL.
3. **TURBIDITY/EROSION CONTROLS.** The authorized work shall not cause turbidity of affected waters to exceed 10% over natural background turbidity 100 feet downstream of the fill point. For projects proposed in areas with no discernible gradient break (gradient of 2% or less), monitoring shall take place at 4 hour intervals and the turbidity standard may be exceeded for a maximum of one monitoring interval per 24 hour work period provided all practicable control measures have been implemented. This turbidity standard exceedance interval applies only to coastal lowlands and floodplains, valley bottoms and other low-lying and/or relatively flat land.
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  - a. Filter bags, sediment fences, sediment traps or catch basins, leave strips or berms, or other measures shall be used sufficient to prevent movement of soil from uplands into waterways or wetlands.
  - b. To prevent erosion, use of compost berms, impervious materials or other equally effective methods, shall be used to protect soil stockpiled during rain events or when the stockpile site is not moved or reshaped for more than 48 hours.
  - c. Erosion control measures shall be inspected and maintained daily, or more frequently as necessary, to ensure their continued effectiveness and shall remain in place until all exposed soil is stabilized.



- d. Unless part of the authorized permanent fill, all construction access points through, and staging areas in, riparian or wetland areas shall use removable pads or mats to prevent soil compaction. However, in some wetland areas under dry summer conditions, this requirement may be waived upon approval by DSL. At project completion, disturbed areas with soil exposed by construction activities shall be stabilized by mulching and native vegetative plantings/seeding. Sterile grass may be used instead of native vegetation for temporary sediment control. If soils are to remain exposed more than seven days after completion of the permitted work, they shall be covered with erosion control pads, mats or similar erosion control devices until vegetative stabilization is installed.
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20. The permit holder shall notify the Department in writing of any operating conditions imposed by other required permits that would be inconsistent with the approved plan of operation. The Department will review these requirements and, if appropriate to ensure compliance with state regulations, require modification of the approved work plan and/or revise the conditions of this permit.
21. The Department of State Lands retains the authority to temporarily halt or modify the project in case of unforeseen damage to natural resources.
22. The permittee is responsible for carrying-out the terms and conditions of this permit unless the permit is transferred to another party as approved by the Department.

Renewal Issued: December 21, 2007



# Oregon

Theodore R. Kulongoski, Governor

## RECEIVED

JUN 30 2006

Department of State Lands  
775 Summer Street NE, Suite 100  
Salem, OR 97301-1279  
(503) 378-3805  
FAX (503) 378-4844  
www.oregonstatelands.us.

December 16, 2005

cc - Andy 297-6053  
Peter 274-1415  
~~RECEIVED~~  
JAN 20 2006

Adam Barber  
Multnomah County Planning  
1800 SE 180<sup>th</sup> Avenue, Room 116  
Portland, OR 97233

State Land Board  
Theodore R. Kulongoski  
Governor  
Bill Bradbury  
Secretary of State  
Randall Edwards  
State Treasurer

RE: Rocky Point Moorage  
Multnomah Channel

Dear Mr. Barber:

You have requested a letter from the Department of State Lands (DSL) regarding our position on the proposed expansion of Rocky Point Moorage on Multnomah Channel, Multnomah County.

The Department of State Lands is not opposed to the proposal by Rich Tonneson to expand Rocky Point Moorage. Prior to authorizing such expansion, the DSL must have signoff by Multnomah County stating that the expansion proposal is in compliance with the local comprehensive plan and zoning ordinance.

Mr. Tonneson, with land use and DSL approval, would be allowed to build his moorage up to the southerly boundary of his proposed expansion area. The owners of waterfront properties are provided by statute a preference right to lease the waterway fronting their property if made available for lease by DSL. They are not required to provide ingress and egress for abutting waterway developments. Owners of developments on state owned land are expected to provide ingress and egress within their own preference right areas.

The proposal to place fill to create parking appears to be outside the jurisdiction of the Land Management Division of DSL as the plans indicate the fill will be above the line of ordinary low water which is the line of state ownership. It will, however, still be within the jurisdiction of our Wetlands and Waterways Conservation Division who will approve or deny the request for a state Removal/Fill permit.

If you have any questions, please call me at (503) 378-3805.

Sincerely,

Tami Hubert  
Property Manager  
Willamette Metropolitan Region

C: Rich Tonneson

EXHIBIT  
45

**BARBER Adam T**

---

**From:** MCCABE Mike [Mike.MCCABE@state.or.us]  
**Sent:** Tuesday, February 17, 2009 2:59 PM  
**To:** MCCABE Mike; BARBER Adam T  
**Cc:** Debra.J.Henry@usace.army.mil; James.A.Holm@usace.army.mil  
**Subject:** RE: Rocky Point Expansion; 23586 NW St. Helens Road

Hi All,

I just spoke with Andrew Jansky on the phone and cleared up this matter. In short, the newest modification that we received (Feb 10, 2009) reduces the amount of square feet project area compared to what we authorized in November 2008.

Feel free to call me if you wish to discuss.

**Mike**

Michael V. McCabe  
Senior Resource Coordinator  
Wetland & Waterways Conservation Division  
Oregon Department of State Lands

phone: 503.986.5255  
fax: 503.378.4844  
cell: 503.798.7645  
[www.oregonstatelands.us/](http://www.oregonstatelands.us/)

<<MCCABE Mike.vcf>>

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**From:** MCCABE Mike  
**Sent:** Tuesday, February 17, 2009 2:10 PM  
**To:** adam.t.barber@co.multnomah.or.us  
**Cc:** Debra Henry (Debra.J.Henry@usace.army.mil); MCCABE Mike; James Holm (James.A.Holm@usace.army.mil)  
**Subject:** Rocky Point Expansion; 23586 NW St. Helens Road

Re: DSL File # 33595-RF

Hi Adam,

Lori Warner passed correspondence on to me regarding the project referred to above. We issued a permit on November 28, 2009 for an expansion of this facility; however, we recently received another application to modify the previously authorized activity. It appears that the modification will expand the previously authorized expansion. The first authorization (November 28, 2009) allowed for new pilings and removing pilings, the proposed modification is for 43 (20") new steel pilings (resulting in more single slips and house boath

2/18/2009



equaling 36,200 square feet).

I am going to confirm the accuracy of the new proposal with the consultant and will copy both of you on the e-mail. If my interpretation of the new proposal is accurate, we will send the proposed modification out for a 30-day public review.

Feel free to call me if you wish to discuss this project.

Regards,

**Mike**

Michael V. McCabe  
Senior Resource Coordinator  
Wetland & Waterways Conservation Division  
Oregon Department of State Lands

phone: 503.986.5255

fax: 503.378.4844

cell: 503.798.7645

[www.oregonstatelands.us/](http://www.oregonstatelands.us/)

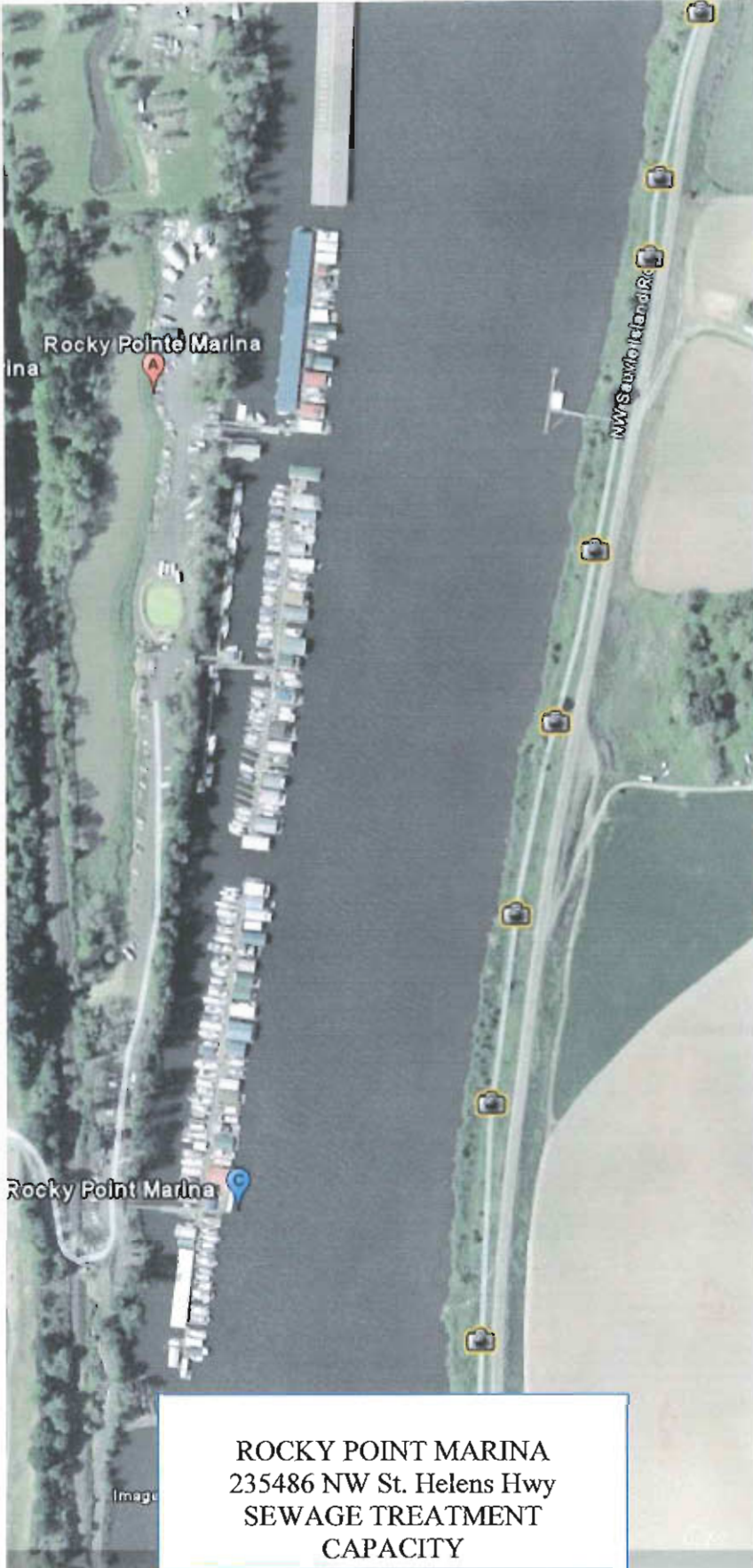
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MULTNOMAH COUNTY  
PLANNING SECTION



ROCKY POINT MARINA  
235486 NW St. Helens Hwy  
SEWAGE TREATMENT  
CAPACITY

EXHIBIT  
47



**ROCKY POINTE MARINA**  
**SEWAGE TREATMENT CAPACITY**

December 2008

TABLE OF CONTENTS

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2. PLANT RECORDS; Flow, BOD & TSS
3. PLANT DESIGN DATA
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6. OWNERS LETTER ON OCCUPANCY & SEWAGE FACILITIES
7. TVA MARINA AND CAMPGROUND WASTERWATER CHARACTERIZATION SCREENING STUDY

HULLINGHAM COUNTY  
PLANNING SECTION

09 JAN 15 PM 3:36

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**ROCKY POINTE MARINA**  
**SEWAGE TREATMENT CAPACITY**

December 2008

MULTNOMAH COUNTY  
PLANNING SECTION

09 JAN 15 PM 3:36

RECEIVED

**Scope**

The scope of this report is to evaluate the present sewage treatment facilities capability to accommodate an increase the number of floating home connections by 36 for a total of 76 floating homes. The 150 boat slips including slips with live-on residents will be reduced. The capacity of the existing plant is not to be increased by the addition of more floating homes. This report only covers the ability of the treatment plant to accept increased flows from adding additional floating homes and eliminating live-on occupancy of boats. The floats and collection system for the additional floating homes will be covered in a separate report when the expansion of floating homes is approved by the various regulatory agencies based on the ability of the treatment plant to handle the additional connections.

**Conclusion**

Based on the existing flows and treatment levels it is our opinion that the proposed addition of 36 more floating homes will not overload the package treatment plant with a permitted average monthly flow of 6,500 GPD.

**Existing Facilities**

The existing treatment facilities consist of two 3,000 gallon septic tanks providing pretreatment and surge control for flow to a DAVCO package treatment plant. The plant is rated at a total daily flow of 10,000 gallons per day (GPD). Effluent for the plant goes to a 0.4 acre lagoon with zero discharge.

## **SEWAGE TREATMENT CAPACITY**

The existing marina has the following occupancy:

1. 40 floating homes
2. 150 boat slips
  - a. 120 slips, boat only
  - b. 30 slips for live-on boats
3. 4 floating restroom's with showers
4. 1 upland restroom

### **Proposed Facilities**

The proposed occupancy would consist of:

1. 76 floating homes
2. 136 boat slips
  - a. 136 slips, boat only
  - b. 0 slips for live-on boats
3. 4 floating restrooms with showers
4. 1 upland restroom.

On water and some upland collection facilities would have to be installed for the additional floating homes. The location of additional docks, sizing and location of these collections facilities is not part of this report.

### **Treatment Capacity**

The present DEQ permit number 10156 is for an average monthly flow not to exceed 6,500 gallons per day (GPD) and total suspended solids (TSS) and 5-day biological oxygen demand (BOD) not to exceed 30 mg/l.

Monthly sewage flow, BOD and TSS data for the last 11 months were provided by the plant operator. The 11 month average flow is 4,681 GPD. The average monthly influent TSS was 173mg/l and BOD 262 mg/l. The average monthly effluent TSS was 11.5 mg/l and BOD 3.5 mg/l.

## **SEWAGE TREATMENT CAPACITY**

The plant currently meets the discharge standards and operated at an average monthly flow of 4,681 GPD which is 72% of the permitted flow. TSS and BOD were substantially below the permitted values of 30 mg/l at TSS = 11.5 and BOD = 3.5 mg/l respectively.

The permitted flow is at 65% of the package treatment plant design capacity of 10,000 GPD. The plant has the ability to handle a peak flow 2.5 times the average daily design flow of 10,000 GPD. The existing average monthly flow is 47% of the package plant average daily design capacity. The plant is designed to treat to an effluent standard of 30mg/L TSS and BOD with the daily influent BOD loading of 16 lb/day or 192 mg/l at the flow of 10,000 GPD.

The existing BOD loading is 262 mg/l at an average monthly follow of 4,681 GPD. This results in a BOD loading of 10 lb/day. If the flow were increased to 6,500 GPD the BOD loading would be 14 lb/day. We did a BOD loading based on a BOD of 300 mg/l assuming more floating homes and less live-on boats may increase the strength. The BOD loading calculated to 16 lb/day which is the design capacity of the plant.

The evaporative lagoon has not had any overflow from hydraulic overloading according to the operator. The operator reports that there has been no noticeable increase in water elevation. Based on design criteria for the treatment system for a design flow rate of 10,000GPD and permitted flow rate of 6,500 GPD it is our opinion the evaporative lagoon is adequately sized for the permitted flow of 6,500 GPD.

### **Design Population and Flows**

Flow rates were established using water records, treatment plant flow records and flow rates from published studies on sewage flows for parks and marinas.

Contributing flows were estimated using the existing average monthly flow and values for typical contributing flows from floating homes, live-on boats and moored boats. The present and estimated future total flow is shown in the table A below.

**SEWAGE TREATMENT CAPACITY**

The typical occupancy of floating homes and Boats averaged less than two people, with one boat having a family of four living aboard.

**TABLE A**

**ROCKY POINT  
MARINA**

**Sewage Flow**

<u>Item</u>	<u>Present #</u>	<u>Flow Rate</u>	<u>Present Flow</u>	<u>Future #</u>	<u>Future Flow</u>
		Gallons	Gallons		Gallons
Slips	120	5	600	136	680
Floating Homes	40	76	3040	76	5776
Floating Rest Rooms	4	inc in slips	-	4	-
Live on Boats	30	30	900	0	0
Restrooms	1	inc in slips	-	1	-
<b>Total Flow in Gallons/Day</b>			<b>4,540</b>		<b>6,456</b>

**Assumed Flow Rates**

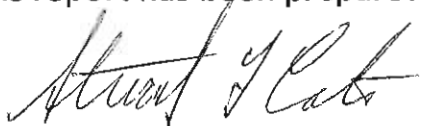
Very little data is available for sewage flow rates from marinas. We used the average water use and several published reports to establish the flow in this report. Published data for Parks and Marinas with regard to Sub Surface Disposal Systems was the source of information on contributing flows.

Complete water usage reports for the Rocky Pointe Marina were not available so we used data from a typical marina with primarily floating homes to determine the contribution from a floating home. The Janzen Beach Marina has 700 floating homes and the reported water use is 90 GPCD. There sewage flows are approximately 85% of the water use or 76.6 GPD/home. We used this rate to establish 76 GPD for floating homes in this report.

## SEWAGE TREATMENT CAPACITY

We used values published in a study titled "Tennessee Valley Marina and Campground Wastewater Characterization Screening Study, October 2003, M. Matassa, C. McIntyre and J. Watson" to establish the sewage flows for marina and live-on boats. This study compiled values used by seven states in the TVA service area. The value for slips with toilet facilities and shower ranged from 16 to 30 GPD/slip with four out of six being 30 GPD/slip. The value for slips without shower facilities ranged from 10 to 20 GPD/slip with three out of four being 10 GPD/slip. We used the value of 30 GPD/slip for live-on boats. Initially we calculated flow using 10 GPD/slip for the remaining slips. The marina had a total of five showers for 130 slips and the live-on boats. After calculating flows at 10 GPD for the 130 slips we determined 5 GPD was more appropriate for the remaining 130 boat slips. Also the showers will be reduced to a total of three when the live on boat slips are eliminated. This flow rate is the same that of a picnic area.

This report has been prepared by



Stuart L Cato PE/WRE OR 6156/151

*Expires 12/31/09*  
Slca Consulting Civil Engineers

8555 SW Katherine Lane

Portland Oregon 97225

[slca@onemain.com](mailto:slca@onemain.com) tel/fax: 503 292-0383



## Rock Point Marina

Date	Influent to Treatment Plant			Effluent Post CL2	
	Flow	BOD	TSS	BOD	TSS
Jan.	5,000 <sup>1</sup>	240	100	3.0	19.0
Feb.	4,400 <sup>2</sup>	100	105	4.0	24.0
March	3,400 <sup>3</sup>	130	87	9.0	12.0
April	4,100 <sup>2</sup>	220	115	5.0	17.0
May	5,600	290	135	4.0	5.0
June	4,400 <sup>3</sup>	420	180	2.0	11.0
July	4,700	320	300	4.0	8.0
Aug.	4,300 <sup>4</sup>	320	196	2.0	7.0
Sept.	5,300 <sup>2</sup>	400	155	2.0	10.0
Oct.	5,300 <sup>3</sup>	240	320	2.0	5.0
Nov.	5,000 <sup>4</sup>	210	210	2.0	8.0
Avg. 2008	4,681 <small>47.0</small>	262	173	3.5	11.5

Date	Raw WW		Septic Tank Eff.		Receiving Pond	
	BOD	TSS	BOD	TSS	BOD	TSS
Nov.	180	140	140	183	4.0	22.0

**DESIGN DATA  
FACTORY BUILT TREATMENT PLANT**

**DESIGN PARAMETER:**

- A. Total daily flow = 10,000 GPD.
- B.  $Q = \text{flow in gallons per minute} = \frac{\text{GPD}}{1440} = 7.0 \text{ GPM.}$
- C. Maximum flow rate =  $2.5 \times Q = 17.0 \text{ GPM.}$
- D. Runoff period is the number of hours each day in which that day's flow is received = 24 hours.
- E. Total 5 day BOD per day = 16 pounds.
- G. Air requirements

Air requirements are based on 2,000 cubic feet per day per pound of 5 day BOD.

Aeration Compartment	22 CFM
Aerobic Digester	6 CFM
Air Lift Eductor(s)	12 CFM
Total	40 CFM at 5 PSI

H. Plant Profile

Buried  Above Ground

**GENERAL DESCRIPTION:**

The plant is composed of the following compartments and equipment:

1. Aeration and aerobic digestion zones with non-clog air diffusers.
2. Secondary clarifier with sludge and scum removal unit.
3. Chlorine contact compartment.
4. Duplex rotary blowers.
5. Central electric control panel.
6. Inlet bar screen.
7. Access ladder
8. Access walkway

**WATER POLLUTION CONTROL FACILITIES PERMIT**

Department of Environmental Quality  
 Northwest Region - Portland Office  
 2020 SW 4th Ave., Suite 400, Portland, OR 97201  
 Telephone: (503) 229-5263

Issued pursuant to ORS 468B.

**ISSUED TO:**

Tonnerson, Janis V. and Richard H.  
 23586 NW St. Helens Highway  
 Portland, OR 97231

**SOURCES COVERED BY THIS PERMIT:**

Type of Waste	Outfall Number	Method of Disposal
Domestic Wastewater	001	Evaporation/seepage

**FACILITY TYPE AND LOCATION:**

Activated Sludge  
 Rocky Pointe Marine Services  
 23586 NW St. Helens Highway  
 Portland

**RIVER BASIN INFORMATION:**

Basin: Willamette  
 Sub-Basin: 22P: Lower Willamette  
 Hydro Code: 22P-MULT 15.0  
 LLID: 1227863458618  
 County: Multnomah

Treatment System Class: Level I  
 Collection System Class: Level I

Nearest surface stream which would receive waste if it were to discharge: Multnomah Channel at R.M. 15.0

Issued in response to Application No. 985216 received 8/7/2002.

This permit is issued based on the land use findings in the permit record.

*Neil Mullane*

Neil Mullane, Administrator, Water Quality Program  
 Northwest Region

April 23, 2004  
 Date

**PERMITTED ACTIVITIES**

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify, or operate a wastewater collection, treatment, control and disposal system in conformance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

	Page
Schedule A - Waste Disposal Limitations .....	2
Schedule B - Minimum Monitoring and Reporting Requirements .....	3
Schedule D - Special Conditions .....	4
Schedule F - General Conditions .....	6

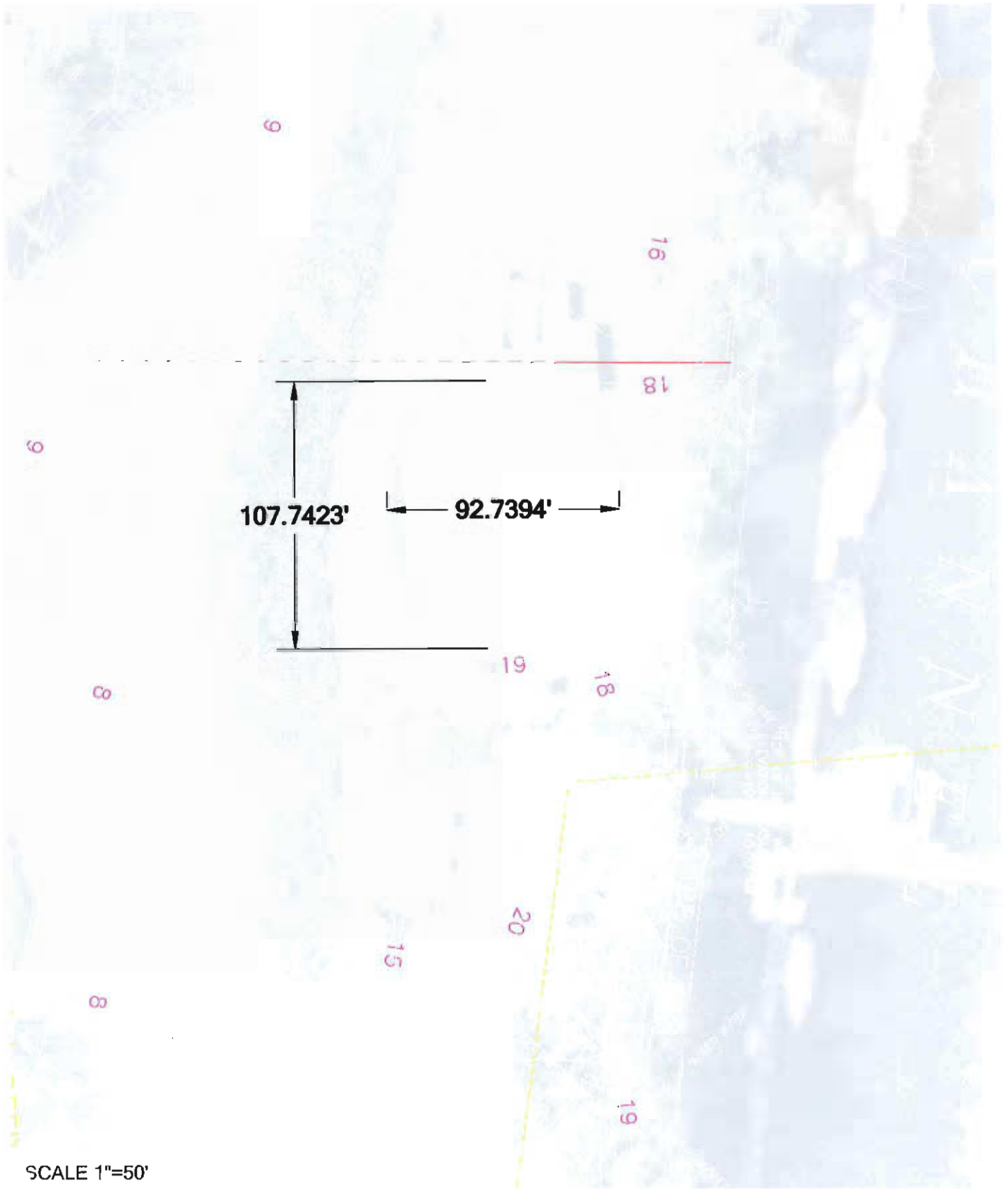
Unless specifically authorized by this permit, by another NPDES or WPCF permit, or by Oregon Administrative Rule, any other direct or indirect discharge to waters of the state is prohibited, including discharge to an underground injection control system.

Post-It® Fax Note	7671	Date	11/12/05	# of pages	4
To:	Bina	From:	Lyle Christensen		
Co./Dept.	Rocky Pt Marine	Co.	OR DEQ		
Phone #	503 543 2828	Phone #	503-229 5295		
Fax #	503 542 7101	Fax #	503 229 1957		

**SCHEDULE A**

The permittee is allowed to operate a sewage treatment and disposal system consisting of secondary treatment and disposal via evaporation and/or seepage in accordance with the following conditions:

1. No discharge to state waters is permitted. All wastewater shall be treated and discharged to the seepage/evaporation pond. Any change in the existing system must have prior approval in writing by the Department.
2. Average monthly flow to the facility shall not exceed 6500 gallons/day.
3. Prior to disposal, wastewater shall receive secondary treatment and disinfection to meet the following limitations:
  - a. Escherichia coli (E. coli) is limited to a monthly geometric average of 126 organisms per 100 mL with no single sample exceeding 406 colonies per 100 mL.
  - b. Biochemical Oxygen Demand (BOD<sub>5</sub>) and Total suspended Solids (TSS) are limited to a monthly average of 30 mg/L each.
4. No activities shall be conducted that could cause an adverse impact on existing or potential beneficial uses of groundwater. All wastewater and process related residuals shall be managed and disposed in a manner that will prevent a violation of the Groundwater Quality Protection Rules (OAR 340-040).



# Rocky Pointe

586 NW St. Helens Hwy.  
Portland, OR 97231

Marina  
tel 503-543-7003  
fax 503-543-5170

Stuart L Cato, PE, CWRE  
Slca Consulting Civil Engineers  
8555 SW Katherine Lane  
Portland, Or 97225

1-2-09  
Boatyard  
tel 503-543-2785

Re: Rocky Pointe Marina -Showers  
-liveaboards  
- Evaporation pond

Mr. Cato,

The following is the information you requested about our marina.

**Showers-** Rocky Pointe Marina is comprised of 3 sections (lower, middle, and upper), each having its own gangway and also having its own floating washroom facility that includes toilets, shower and laundry. These facilities are used by the liveaboards at the marina and boaters who visit their boats. Each of these restrooms has 2 toilets and 2 showers. We have closed 1 of the showers and toilets in the lower marina for lack of need/use, leaving a final total of 5 public showers. As we decrease the number of liveaboards down to zero in the year or so, we will close a shower in the middle and upper restroom, leaving 1 shower in each section for a total of 3 showers. The marina also has a floating office/store in the upper section that use to have a shower which also is closed. There are 2 toilets at the office building.

**Liveaboards-** These are people who live full time on their boats and use the public restrooms. Singles, couples and families. This is their permanent residence. When we acquired the marina in July 2006, there were 72 boats with people living on them in our marina. Our goal is to reduce this to zero. In December 2007, the total number was down to 42 boats and in December 2008, 23 boats.

**Evaporation Pond-** the pond that the water is discharged into after processing the effluent is basically an elongated circle measuring 100' (north to south) and 85' wide. This is measured at water level which rarely changes elevation. The sides around the pond vary from 40" to 50" at about a 45degree slope. Adding a small amount of fill can easily be done to bring the sides up to even at 50". There is no lining or special material under the pond.

I trust this information to be helpful. Please feel free to contact me with any question or further requests for information



Stan Tomheson  
Rocky Pointe Marina

More than just a great marina!





# Tennessee Valley Marina and Campground Wastewater Characterization Screening Study

October, 2003

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HULTON/HAH COUNTY  
PLANNING SECTION

## Project Team

Melissa R. Matassa,  
Charles L. McEntyre,  
James T. Watson

**Table 1: Summary of Design Standards for DWS in the TVA Service Area**

<b>State</b>	<b>Residential Wastewater</b>	<b>Marina Wastewater</b>	<b>Campground Wastewater</b>
<b>Alabama</b> (AL Dept. of Health 1992)	300 gpd (1-2 bedrooms), additional 150 gpd per bedroom over two bedrooms	10 gpd per slip without bathhouse; 30 gpd per slip with bathhouse	50 gpd per RV/trailer space
<b>Georgia</b> (GA Dept. of Human Resources 2003)	150 gpd per bedroom	30 gpd per slip	50 gpd per vehicle
<b>Kentucky</b>	Established on a county level	Established on a county level	Established on a county level
<b>Mississippi</b> (MS State Dept. of Health 1997, 2000)	Design based on septic tank volume capacity. Minimum 750 gallons (up to 2 bedrooms and 4 occupants), with additional capacity based on bedrooms and occupants	Septic tank is sized at daily flow 2x residential size for same daily flow	Septic tank is sized at daily flow 2x residential size for same daily flow
<b>North Carolina (NC)</b> Dept. of Environment, Health and Natural Resources 1990)	240 gpd minimum, additional 120 gpd per bedroom over two bedrooms	10 gpd per slip without bathhouse; 30 gpd per slip with bathhouse	120 gpd per parking space
<b>Tennessee</b> (TN Dept. of Environment and Conservation 1993, 2001)	Up to 2 bedrooms (750 gallon septic tank capacity); 3 bedrooms (900 gal); 4 bedrooms (1000 gal), additional 250 gal for each additional bedroom	20 gpd per slip without bathhouse; 30 gpd per slip with bathhouse. Septic tank capacity at least 6x expected daily flow and 2x design adsorption field area	50 gpd per person Septic tank capacity 6x expected daily flow and design absorption field area 2x residential size for same daily flow
<b>Virginia</b> (Commonwealth of VA 2000)	225 gpd minimum (includes toilet, bathing and handwashing facilities, food prep and laundering), additional 75 gpd per person over 2 people	10 gpd per slip if toilet facilities; 16 gpd per slip if toilet and shower; also holding tank volume regulated per # of serviced boats	50 gpd flow per campsite



The Oregon State Marine Board

certifies

Rocky Pointe Marina & Boatyard



as an Oregon Clean Marina  
on this, the first of June in the year 2006

*[Faint signature and text]*

*Paul D. [Signature]*  
Paul D. [Signature] Director  
Oregon State Marine Board

The certificate designates the [Name] as a Clean Marina  
in recognition of the [Name] for Clean Marina  
Program. This designation is a testament to the  
many successful efforts to the [Name] to join  
the [Name] and [Name] program.

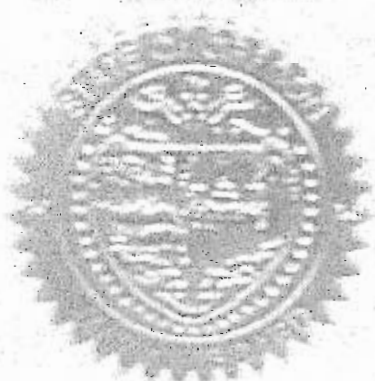


EXHIBIT  
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OSMB 100-000-000



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

Central Oregon Regional Office

888 NW Hill Street, Suite 3

Bend, OR 97701-2942

Rural Regional Representative (541) 318-2890

Urban Regional Representative (541) 318-2899

Community Service Specialist (541) 318-8193

Fax (541) 318-8361

Web Address: <http://www.oregon.gov/LCD>

August 29, 2006



Chuck Beasley, Senior Planner  
Multnomah County, Department of Business and  
Community Services  
Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Avenue  
Portland, Oregon 97233-3389

### RE: Floating Homes

Dear Mr. Beasley;

This letter is in response to your request for clarification as to the treatment of *houseboats* or *floating homes* in relation to OAR 660-004-0040(7)(f) and 660-011-0060(1)(f). Specifically, the county is trying to determine if any limitations are applicable to permitting a new moorage or expansions to existing uses.

OAR 660-004-0040(7)(f) specifies that a local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in a rural residential area. The dilemma that you have identified is that, while portions of the supporting facilities are on terrestrial parcels, the floating homes themselves are located on leaseholds from the Department of State Lands within the Multnomah Channel. The Channel itself is considered a separate parcel.

We believe the county may interpret its code to treat a terrestrial parcel supporting an existing moorage for a houseboat as a lot or parcel that is already built with a single-family dwelling. As you stated, the facilities supporting the houseboats are located on the lot or parcel within the exception area. The land needed to support the facilities to a houseboat, such as parking and septic drain-field area, require, in essence, the same land area as if the home was located on the land itself. Multnomah County's code considers houseboats and floating homes as dwellings. Although the Channel itself was not included in the county's original exception for this area, the moorages and the facilities supporting the houseboats (located on either side of the Channel) were part of the exception.<sup>1</sup> Under that interpretation, the placement of a houseboat that moors on a parcel already developed with a dwelling would require an exception to Goal 14, and the placement of a dwelling on a tax lot that already serves as a moorage for a houseboat would also require an exception to Goal 14.

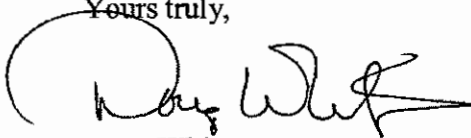
<sup>1</sup> August 8, 2006, e-mail reply from Lisa Estrin.

EXHIBIT  
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We believe that the placement of a sewage disposal system on the terrestrial parcel to serve only a houseboat or houseboats would not constitute a "sewer system" under OAR 660-011-0060(1)(f).<sup>2</sup> However, if that system was to also connect to a dwelling on the terrestrial parcel, that connection would constitute a sewer system under the rule. The same is true with a sewage disposal system that is already serving a dwelling on the terrestrial parcel; if that system was to also be connected to a houseboat, that connection would constitute a sewer system.

I hope this help answer your questions. Please feel free to call me at 541-318-8193 or contact me by e-mail at [doug.white@state.or.us](mailto:doug.white@state.or.us) if you have any other questions.

Yours truly,

A handwritten signature in black ink, appearing to read "Doug White". The signature is written in a cursive style with a large, looping initial "D".

Doug White  
Community Services Specialist

cc: Gary Fish, Regional Representative

---

<sup>2</sup> It is not uncommon for aspects of a sewage disposal system to be located on a lot or parcel other than the one it serves. The system does not constitute a "sewer system" under OAR 660-011-0060(1)(f) until it "serves more than one lot or parcel..."





**Exhibit "A" (continued)**

Beginning at the S.W. Corner of that certain tract described in deed to the City of Portland by the Oregon Fertilizing Company Recorded October 24, 1893, in Book 201, Page 393, which lies East of the Northern Pacific Railroad Company right of way; thence East along said City of Portland tract 35 feet to the left bank of the Willamette Slough; thence Northerly along the left bank of the Willamette Slough 460 feet, more or less, to the center line of Rocky Point Road No. 445, as surveyed April 17 and 18, 1888, and as established by field notes therefore, and as established and located by County Court of said County May 10, 1888; thence Westerly following center line of said road to its intersection with the Easterly line of the Northern Pacific Railroad Company's right of way; thence Southerly along said Easterly line of right of way to the place of beginning.

Excepting therefrom that portion thereof included within the parcel of land described in Parcel II in deed to Richard H. Tomneson, recorded October 16, 1991, in Book 2466, Page 1795.

**Parcel V:**

Part of Government Lot 4 in the Southeast quarter of Section 36, Township 3 North, Range 2 West of the Willamette Meridian, in Multnomah County, Oregon, described as follows:

The following described tract of land bounded and described as follows, to-wit:

Beginning at the Southwest corner of the tract of land conveyed by the Oregon Fertilizing Company to the City of Portland, by deed dated October 21, 1893; thence South along the East side line of the right of way of the Northern Pacific Railway Company 200 feet to a point; thence East to the left bank of the Willamette Slough; thence Northerly along said left bank of said Willamette Slough to a point where the South line of the said tract conveyed on October 21, 1893, by said Oregon Fertilizing Co. to said City of Portland, intersects the West bank of said Willamette Slough; thence West along said South line of said tract conveyed to said City of Portland, 35 feet, more or less, to the point of beginning.

Excepting therefrom the oil and gas, and related rights, reserved in deed recorded September 28, 1946, in Book 1104, Page 458.

**Parcel VI:**

Part of Government Lot 4 in the Southeast quarter of Section 36, Township 3 North, Range 2 West of the Willamette Meridian, in Multnomah County, Oregon, described as follows:

All that portion of the Southeast quarter of the Southeast quarter of Section 36, Township 3 North, Range 2 West of the Willamette Meridian, in the County of Multnomah, and State of Oregon, lying South of the South line of a tract of land conveyed to Julius Schoenberger by deed recorded March 3, 1903, in Deed Book 305, Page 152, and the Easterly extension of said South line, the subject property being Easterly of the Lower Columbia River Highway and Westerly of Willamette Slough, EXCEPTING that portion conveyed to Rocky Point Lumber Company by deed Recorded June 23, 1903 in Book 307, Page 419, and also excepting those parts lying within the Northern Pacific Railway Company right of way.

Excepting therefrom that portion thereof sold on contract to Reid R. Holcomb and others by document recorded December 16, 1975, in Book 1077, Page 2396, said Holcomb parcel being described as follows:

The South 800 feet of that portion of Section 36, Township 3 North, Range 2 West of the Willamette Meridian, in the County of Multnomah and State of Oregon, lying South of the South line of a tract of land conveyed to Julius Schoenberger by deed Recorded March 3, 1903 in Deed Book 305, Page 152, and the Easterly extension of said South line, the subject property being Easterly of Lower Columbia River Highway and Westerly of Willamette Slough, EXCEPTING that portion conveyed to Rocky Point Lumber Company by deed recorded June 23, 1903 in Book 307, Page 419, and also excepting those parts lying within the Northern Pacific Railway Company right of way.

And further excepting therefrom the oil and gas, and related rights, reserved in deed recorded September 28, 1946, in Book 1104, Page 458.

EXHIBIT  
50



KNOW ALL MEN BY THESE PRESENTS, That ELVIN S. FRUITT and SUZANNE C. FRUITT, husband and wife (hereinafter called "the Grantors," whether one or more than one), for and in consideration of the payment of the sum of Ten and no/100ths Dollars (\$10.00), the receipt of which is hereby acknowledged, hereby grant, sell and convey to PORTLAND GENERAL ELECTRIC COMPANY, an Oregon Corporation, (hereinafter called "the Grantee"), its successors and assigns, a perpetual easement and right of way over, under and across the following described parcel of land situated in Multnomah County, Oregon, being a strip of land 50 feet in width, extending 25 feet on each side of a center line more particularly described as follows:

Beginning at a point in the North line of the lands of the Grantors described in Book 1981 and on Pages 560, 563, 566 of Deed Records of Multnomah County, Oregon, the said lands being situate in Section 36, T3N, R2W, W4, said county the said beginning point being East 197.7 feet from the East right of way line of the S.P.C.S. Railway Company, right of way; THENCE from said beginning point over, under, upon and across the lands of the Grantors above mentioned, along the surveyed center line of the transmission line right of way herein granted and described; S 3° 49' 2" 1892.10 feet to a point in the East right of way line of the S.P.C.S. Railway Company as now located and constructed which is southerly along said center line 54.5 feet from a point which is East 4.84 feet from the Southwest corner of that certain tract of land owned by Porter Tett and described in Book 740, Page 281 Records of Deeds Multnomah County, Oregon, EXCEPTING therefrom the portions thereof lying within the boundaries of Rocky Point County Road; within the boundaries of the land of Porter Tett as described in Book 740, Page 281, Deed Records and that portion thereof lying within the boundaries of the S.P.C.S. Railway Company right of way as now located and constructed. The above described center-line is shown colored red on print of Drawing EB 4333 attached hereto which by reference thereto is made a part hereof.

TO HAVE AND TO HOLD the above described easement and right of way unto the Grantee, its successors and assigns, together with the present and future right to top, limb or fall all growing and dead trees and snags (said trees and snags hereinafter collectively called "danger trees") located on land owned by the Grantors adjacent to the above described right of way, which danger trees will be determined by the

TITLE AND TRUST COMPANY

34998

SEP 20 1960

BOOK 2029 PAGE 62

Grantee. The consideration paid for this easement includes the value of all trees on the right of way and all danger trees adjacent to said right of way. The Grantee shall pay the person who is the owner of future danger trees at the date of their cutting (in addition to the purchase price herein agreed to) the market value of said future danger trees at the date of their cutting under authority of the Grantee, such payment to be made within a reasonable period of time after they have been so cut.

Said easement and right of way shall be for the following purposes, namely: the perpetual right to enter upon and to erect, maintain, repair, rebuild, operate and patrol electric power transmission lines, structures and appurtenant signal lines, including the right to erect such poles, towers, transmission structures, wires, cables, guys, supports and appurtenances as are necessary thereto, together with the present and future right to clear said right of way and keep the same clear of brush, timber, structures and fire hazards, provided that fire hazards shall not be interpreted to include any growing crops other than trees.

It is hereby agreed by the Grantors that, (1) title to all brush, timber, or structures existing upon the right of way and to all present danger trees shall vest immediately in the Grantee; (2) all future danger trees cut pursuant to the terms hereof shall remain the property of the owner thereof on the date of their cutting.

By the acceptance of this instrument the Grantee expressly agrees that:

1. Danger trees standing and growing adjacent and eastwardly of the above described easement and right of way shall be topped and/or trimmed, but in no event shall be cut and removed.
2. In clearing of the right of way by Grantee the surface of the ground shall be rough graded, and

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SEP 20 1960

holes caused by removal of stumps shall be back filled, leaving the area in reasonably good condition. 2029 PAGE 63

3. Use of the Grantors existing private access road extending from the Grantors boat basin parking area northward is a condition of this easement grant. Grantee will initially surface said road with pit run gravel to a width of not less than 15 feet and to a depth of approximately 3 inches.
4. Stumps resulting from the removal of danger trees in the right of way area shall be removed.
5. All trees that are felled and removed shall be cut into 16 inch lengths, stacked off the right of way area, and left for the Grantors.

The Grantors hereby acknowledge that the purchase price named herein is accepted by the Grantors as full compensation for all damages incidental to the exercise of any of said easements, loss of growing crops on right of way during construction, for guys and anchors extending beyond the right of way and danger trees rights, except payment for any additional danger trees as defined hereinabove which may be cut under authority of the Grantors as provided hereinabove.

If the Grantee, its successors and assigns, shall fail to use said right of way for the purposes above mentioned for a continuous period of five years after construction of said power lines, then and in that event this right of way and easement shall terminate and all rights and privileges granted hereunder shall revert to the Grantors, their heirs and assigns.

The Grantors hereby warrant that they are possessed of a marketable title to the property covered by this easement, and have the right to grant the same.

The Grantors, for themselves and their heirs and assigns, covenant to and with the Grantee, its successors and assigns, that the Grantee, its successors and assigns, shall peacefully enjoy the rights and privileges herein granted.

34998

SEP 20 1960

IN WITNESS WHEREOF, the Grantors have caused this instrument to be executed this 13<sup>th</sup> day of September, 1960.

*Elvin S. Pruitt* (SEAL)  
Elvin S. Pruitt  
*Suzanne C. Pruitt* (SEAL)  
Suzanne C. Pruitt

STATE OF OREGON )  
 ) ss.  
County of Multnomah )

On this 13<sup>th</sup> day of September, 1960, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Elvin S. Pruitt and Suzanne Pruitt to me known to be the individuals described in and who executed the same freely and voluntarily for the purposes and uses aforementioned.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal this, the day and year in this instrument first written.

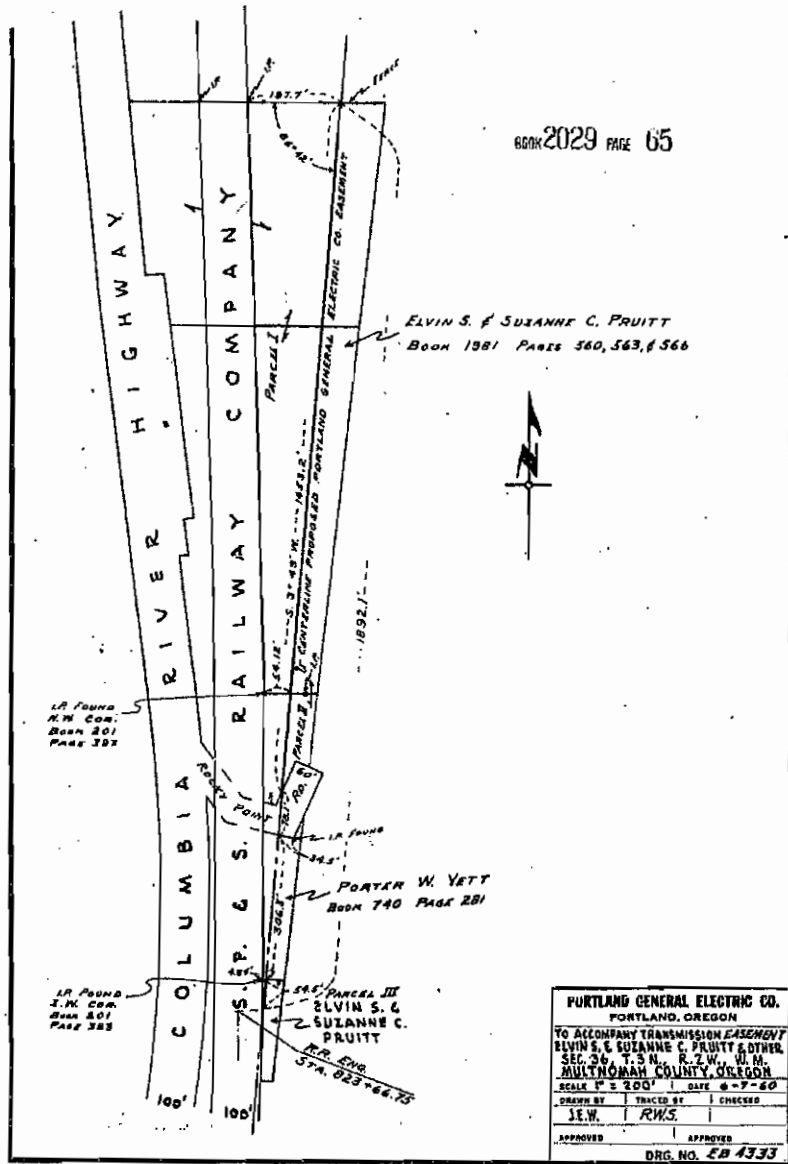
*Robert E. Sullivan*  
Notary Public for Oregon



TITLE AND TRUST COMPANIES

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SEP 20 1960



ELVIN S. & SUZANNE C. PRUITT  
BOOK 1981 PAGES 560, 563, & 566



LR FOUND  
N.W. COR.  
BOOK 201  
PAGE 382

PORTER W. YETT  
BOOK 740 PAGE 281

LR FOUND  
S.W. COR.  
BOOK 201  
PAGE 382

**PORTLAND GENERAL ELECTRIC CO.**  
PORTLAND, OREGON

TO ACCOMPANY TRANSMISSION EASEMENT  
ELVIN S. & SUZANNE C. PRUITT & OTHER  
SEC. 36, T. 3 N., R. 2 W., U. M.  
MULTNOMAH COUNTY, OREGON

SCALE 1" = 200' DATE 6-7-60

DRAWN BY	TRACED BY	CHECKED
J.E.W.	R.W.S.	
APPROVED	APPROVED	

DRG. NO. EB 4333

(REAL) DOCUMENT 34998 RECORDED SEP 20 1960 J. S. R. M. S. COHN

4998

SEP 20 1960

KNOW ALL MEN BY THESE PRESENTS, That KENDALL LUMBER MILL, an Oregon Corporation

(hereinafter called "the Grantors," whether one or more than one), for and in consideration of the payment of the sum of Ten and no/100ths Dollars (\$10.00),

the receipt of which is hereby acknowledged, hereby grant, sell and convey to Portland General Electric Company, an Oregon Corporation, (hereinafter called "the Grantee"), its successors and assigns, a perpetual easement and right of way over, under and across the following described parcel of land situated in Multnomah County, Oregon, being a strip of land 50 feet in width, extending 25 feet on each side of a center line more particularly described as follows:

Beginning at a point in the North line of the land of the Grantors situate in Section 36, T3N, R2W, W4, Multnomah County, Oregon; said land being described in Book 1537, on Page 461 of Deed Records of said county, the said beginning point being East 307.4 feet distant from the East line of the S.P.&S. Railway Company right of way; THENCE, from said beginning point over, under, upon and across the lands of the Grantors, along the surveyed centerline of the transmission line right of way herein granted and described S 3° 49' W 821.7 feet to a point in the South boundary of said Grantors lands, said last mentioned point being East 197.7 feet distant from the East line of the S.P.&S. Railway Company's right of way. The above described center line is shown colored red on print of drawing EB 4332 which for purposes of description is attached hereto and made a part hereof;

In the event any portion of said transmission line, or lines, interferes with the development of the Grantors' property for use as industrial sites the Grantee will, if necessary, at its own cost and expense move that portion of its transmission lines, or portion thereof, shall be moved to another location provided by the Grantors. Such new location as provided shall be such as will permit the Grantee to maintain a reasonable alignment with the right of way acquired by the Grantee on either side of the Grantors' property.

TO HAVE AND TO HOLD the above described easement and right of way unto the Grantee, its successors and assigns, together with the present and future right to top, limb or fell all growing and dead trees and stumps (said trees and stumps hereinafter collectively called "danger trees") located on land owned by the Grantors, adjacent to the above described right of way, which danger trees will be determined by the Grantee. The consideration paid for this easement includes the value of all trees on the right of way and all danger trees adjacent to said right of way. The Grantee shall pay the person who is the owner of future danger trees at the date of their cutting (in addition to the purchase price herein agreed to) the market value of said future danger trees at the date of their cutting under authority of the Grantee, such payment to be made within a reasonable period of time after they have been so cut.

Said easement and right of way shall be for the following purposes, namely: the perpetual right to enter upon and to erect, maintain, repair, rebuild, operate and patrol electric power transmission lines, structures and appurtenant signal lines, including the right to erect such poles, towers, transmission structures, wires, cables, guys, supports and appurtenances as are necessary thereto, together with the present and future right to clear said right of way and keep the same clear of brush, timber, structures and fire hazards, provided that fire hazards shall not be interpreted to include any growing crops other than trees.

It is hereby agreed by the Grantors that, (1) title to all brush, timber, or structures existing upon the right of way and to all present danger trees shall vest immediately in the Grantee; (2) all future danger trees cut pursuant to the terms hereof shall remain the property of the owner thereof on the date of their cutting.

The Grantors hereby acknowledge that the purchase price named herein is accepted by the Grantors as full compensation for all damages incidental to the exercise of any of said easements, loss of growing crops on right of way during construction, for guys and anchors extending beyond the right of way and danger trees rights, except payment for any additional danger trees as defined hereinabove which may be cut under authority of the Grantee as provided hereinabove.

If the Grantee, its successors and assigns, shall fail to use said right of way for the purposes above mentioned for a continuous period of five years after construction of said power lines, then and in that event this right of way and easement shall terminate and all rights and privileges granted hereunder shall revert to the Grantors, their heirs and assigns.

The Grantors hereby warrant that they are possessed of a marketable title to the property covered by this easement, and have the right to grant the same.

The Grantors, for themselves and their heirs and assigns, covenant to and with the Grantee, its successors and assigns, that the Grantee, its successors and assigns, shall peaceably enjoy the right and privileges herein granted.

IN WITNESS WHEREOF, the Grantors have caused this easement to be executed this 19th day of

September 1960

TITLE AND TRUST COMPANY



KENDALL LUMBER MILL  
By: *[Signature]* President  
Attest: *[Signature]* Secretary

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SEP 29 1960



STATE OF OREGON,  
County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in  
and for said County and State, personally appeared \_\_\_\_\_

to me known to be the individuals described in and who executed the same freely and voluntarily for the purposes and uses  
aforementioned.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal this, the day and year in this  
instrument first written.

My commission expires: \_\_\_\_\_  
Notary Public for Oregon

BOOK 2030 PAGE 411

STATE OF OREGON,  
County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in  
and for said County and State, personally appeared \_\_\_\_\_

to me known to be the individuals described in the foregoing instrument and who executed the same freely and voluntarily  
for the purposes and uses aforementioned.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal this, the day and year in this  
instrument first written.

My commission expires: \_\_\_\_\_  
Notary Public for Oregon

ROBERT E. SULLIVAN  
STATE OF OREGON  
NOTARY  
County of Multnomah

On this 12<sup>th</sup> day of September, 1960, before me, appeared  
LE Roy M. Ford and Asst. Johnson  
Both to me personally known, who being duly sworn did say that he, the said  
LE Roy M. Ford is the President, and he, the said  
Asst. Johnson is the Secretary of Kendall Lumber Mill,  
and that the seal affixed to said instrument is the corporate seal of said  
Corporation, and that the said instrument was signed and sealed on behalf of said  
Corporation by authority of its Board of Directors, and said LE Roy M. Ford  
and Asst. Johnson acknowledged said  
instrument to be the free act and deed of said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official  
seal this the day and year in this, my certificate, written.

Robert E. Sullivan  
Notary Public for Oregon

My commission expires: March 23, 1965

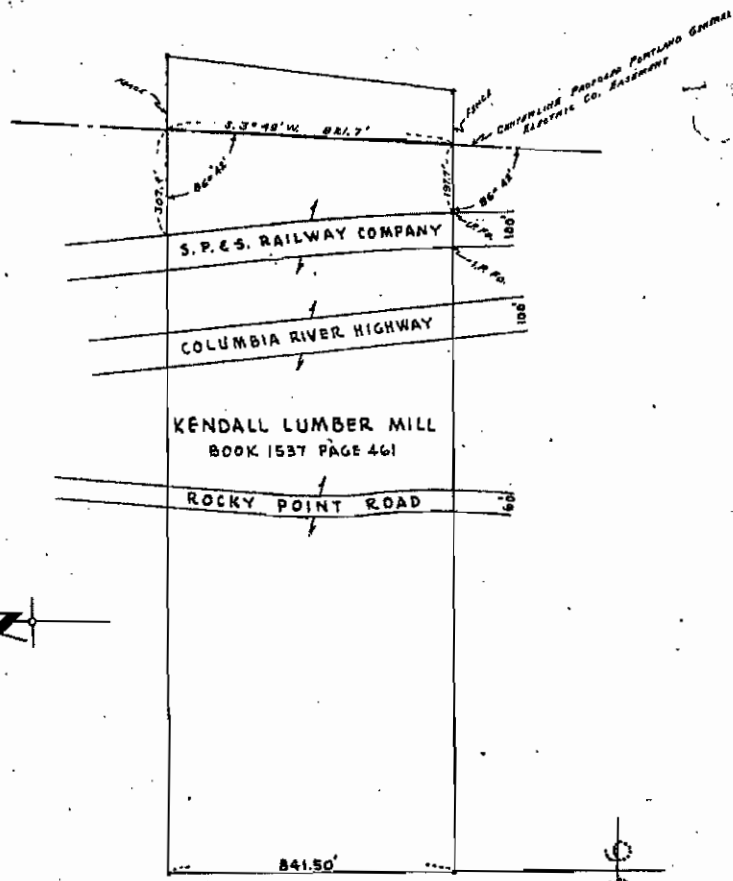
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SEP 29 1960

BOOK 2030 PAGE 412

3.3' x 48' W 021.7'  
CONTRACTING PROFESSION PORTLAND GENERAL  
ELECTRIC CO. ENGINEERING

(SEAL) DOCUMENT 36447 RECORDED SEP 29 1960 4:16P M SI COHN, COUNTY CLERK



PORTLAND GENERAL ELECTRIC CO.  
 PORTLAND, OREGON  
 TO ACCOMPANY TRANSMISSION EASEMENT  
 KENDALL LUMBER MILL  
 SEC. 36, T. 5 N., R. 2 W., W.M.  
 MULTNOMAH COUNTY, OREGON  
 SCALE 1" = 300' DATE 6-7-60

DRAWN BY	TRACED BY	CHECKED
J.E.W.	R.W.S.	
APPROVED	APPROVED	

DRG. NO. EB 433

36447

SEP 29 1960

KNOW ALL MEN BY THESE PRESENTS, THAT CROWN ZELLERBACH CORPORATION, a Nevada

Corporation,

(hereinafter called "the Grantors," for and in consideration of the payment of the sum of Ten and no/100ths Dollars (\$ 10.00),

the receipt of which is hereby acknowledged, hereby grant, sell and convey to Portland General Electric Company, an Oregon Corporation, (hereinafter called "the Grantee"), its successors and assigns, a perpetual easement and right of way over, under and across the following described parcel of land situated in Multnomah

County, Oregon, being a strip of land 50 feet in width, extending 25 feet on each

side of a center line more particularly described as follows:

Beginning at a point on the south line of Grantors land situate in Section 36, T18N, R21W, Mt. Multnomah County, Oregon, which land is described in Book 1104 on Page 435 of the Deed Records of said Multnomah County, said point of beginning also being on the south line of said Section 36 East 1,945 feet from the south one-quarter section corner thereof; thence North 16° 01' East 39.3 feet; thence North 3° 49' East 629.3 feet to a point on the east line of the S.P.&S. Company's right of way which bears North 72° 25' East 1,072.45 feet from the aforesaid one-quarter section corner on the south line of said Section 36; thence from the last point above-described and continuing North 3° 49' East 395 feet, more or less, to the terminal point on the westerly extension of the north line of Grantor's land.

EXCEPT, however, from the above-described 50-foot wide strip of land such portion thereof lying and being within the boundaries of the S.P.&S. Company's right of way, and EXCEPT therefrom such other portion or portions of said strip of land lying and being outside the boundaries of Grantor's land and not specifically excepted by legal description or deed reference.

The above described center line is shown colored red on the print of drawing EN 4334 attached hereto which by reference thereto is made a part hereof.

PROVIDED, however, that if requested so to do by the Grantor, the Grantee will relocate its poles and other installations pertinent thereto at its own expense to a location as designated by the Grantor.

TO HAVE AND TO HOLD the above described easement and right of way unto the Grantee, its successors and assigns, together with the present and future right to tap, limb or fall all growing and dead trees and snags (said trees and snags hereinafter collectively called "danger trees") located on land owned by the Grantors, adjacent to the above described right of way, which danger trees will be determined by the Grantee. The consideration paid for this easement includes the value of trees on the right of way and all danger trees adjacent to said right of way. The Grantee shall pay the person who is the owner of future danger trees at the date of their cutting (in addition to the purchase price hereto agreed to) the market value of said future danger trees at the date of their cutting under authority of the Grantee, such payment to be made within a reasonable period of time after they have been so cut.

Said easement and right of way shall be for the following purposes, namely: the perpetual right to enter upon and to erect, maintain, repair, rebuild, operate and patrol electric power transmission lines, structures and appurtenant signal lines, including the right to erect such poles, towers, transmission structures, wires, cables, guys, supports and appurtenances as are necessary thereto, together with the present and future right to clear said right of way and keep the same clear of brush, timber, structures and fire hazards, provided that fire hazards shall not be interpreted to include any growing crops other than trees.

It is hereby agreed by the Grantors that: (1) title to all brush, timber, or structures existing upon the right of way and to all present danger trees shall vest immediately in the Grantee; (2) all future danger trees cut pursuant to the terms hereof shall remain the property of the owner thereof on the date of their cutting.

The Grantors hereby acknowledge that the purchase price named herein is accepted by the Grantors as full compensation for all damages incidental to the exercise of any of said easements, loss of growing crops on right of way during construction, for guys and anchors extending beyond the right of way and danger trees rights, except payment for any additional danger trees as defined hereinabove which may be cut under authority of the Grantee as provided hereinabove.

If the Grantee, its successors and assigns, shall fail to use said right of way for the purposes above mentioned for a continuous period of five years after construction of said power lines, then and in that event this right of way and easement shall terminate and all rights and privileges granted hereunder shall revert to the Grantors, their successors and assigns.

The Grantors hereby warrant that they are possessed of a marketable title to the property hereon described, and have the right to grant the same.

The Grantors, their successors and assigns, covenant to and with the Grantee, its successors and assigns, that the Grantee, its successors and assigns, shall peaceably enjoy the rights and privileges herein granted.

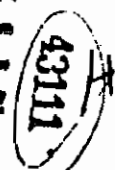
IN WITNESS WHEREOF, the Grantors have caused this document to be executed this 10th day of

November 1960

CROWN ZELLERBACH CORPORATION

By: O. D. ...

Assistant Secretary



THIS AND THIS COPIES

NOV 2 1960

STATE OF OREGON,

County of \_\_\_\_\_

BOOK 2038 PAGE 76

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_

to me known to be the individuals described in and who executed the same freely and voluntarily for the purposes and uses aforementioned.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal this, the day and year in this instrument first written.

My commission expires: \_\_\_\_\_ Notary Public for Oregon

STATE OF OREGON,

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_

to me known to be the individuals described in the foregoing instrument and who executed the same freely and voluntarily for the purposes and uses aforementioned.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal this, the day and year in this instrument first written.

My commission expires: \_\_\_\_\_ Notary Public for Oregon

STATE OF California  
City and County of San Francisco

*[Signature]*  
Notary Public for California

On this 10<sup>th</sup> day of November, 1960, before me, appeared C. D. Hallinan and Francis M. Barnes both to me personally known, who being duly sworn did say that he, the said C. D. Hallinan is the Vice President, and he, the said Francis M. Barnes is the Assistant Secretary of Crown Zellerbach Corporation, and that the seal affixed to said instrument is the corporate seal of said Corporation, and that the said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said C. D. Hallinan and Francis M. Barnes acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal this, the day and year in this, my certificate written.

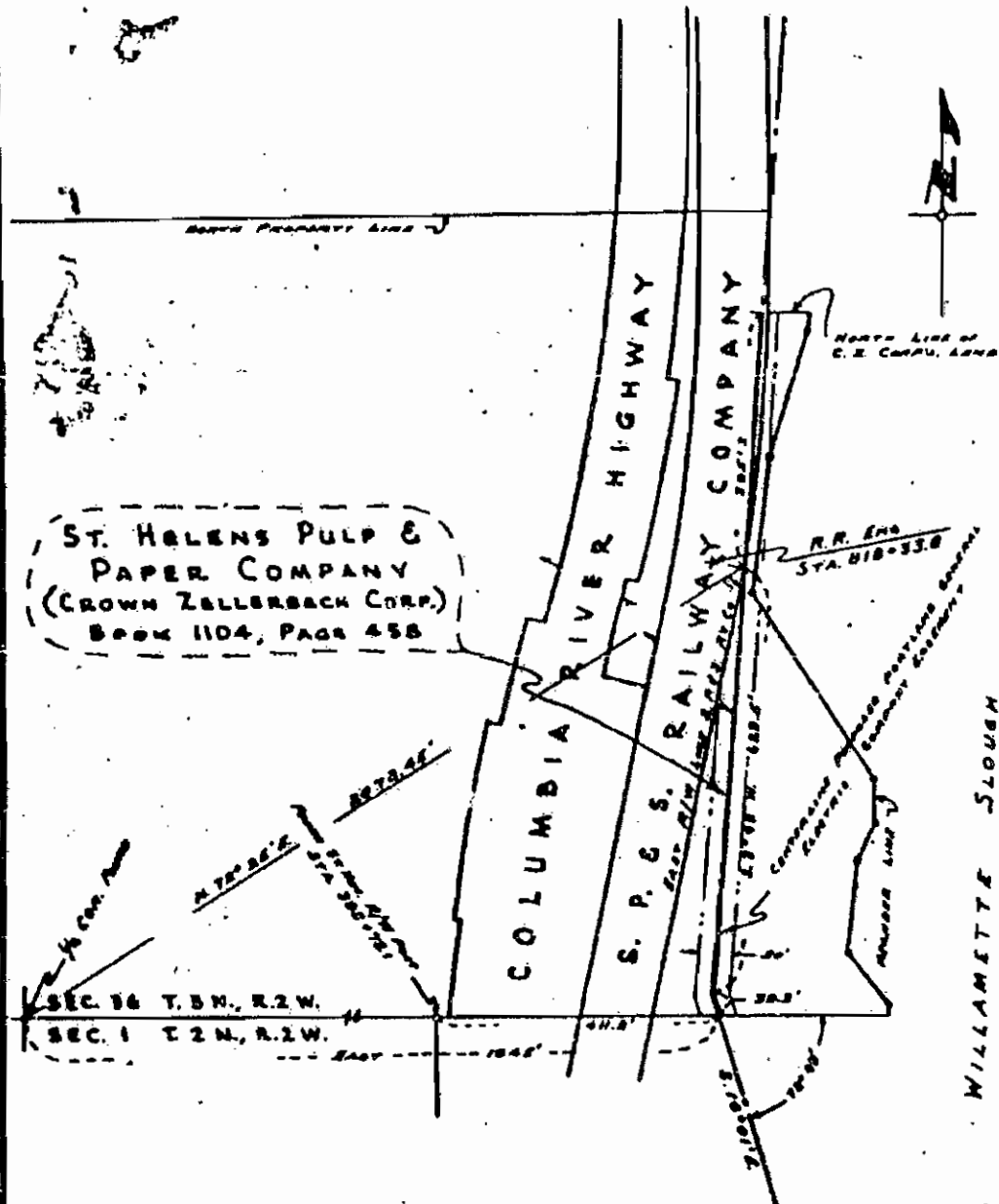
My commission expires: \_\_\_\_\_  
GERALD COHEN  
Notary Public for the City & County of California  
My Commission Expires January 11, 1964

*[Signature]*  
Notary Public for California  
43111  
PHILLIPS

ATLANTIC TRUST COMPANY

NOV 21 1960

BOOK 2038 PAGE 77



(SEAL) DOCUMENT 43111 RECORDED NOV 21 1930

4780 M SI COHN. CIVIL

PORTLAND GENERAL ELECTRIC CO.	
PORTLAND, OREGON	
TO ACCOMPANY TRANSMISSION EASEMENT	
ST. HELENS PULP & PAPER CO.	
SEC. 36 T. 5 N., R. 2 W., W.M.	
MULTNOMAH COUNTY, OREGON	
DATE 10 2 1930	BY J. E. W.
DATE 9-2-30	BY P.M.S.
DATE	BY
DATE	BY
DRG. NO. 43111	

43111

NOV 21 1930



to wit Carl Johnson of County of Clark  
and his heirs forever and to the heirs forever  
of all and singular and Carl Johnson and his  
heirs forever and to the heirs forever of  
all and singular of the County of Clark  
the County of Clark as per map of the  
in the office of the court here heretofore  
between and agreement and in and to  
the instrument bearing to Carl Johnson  
day of March 1891 and recorded in the  
in page 123 of book 12 of records of  
together with all and singular the tenements  
appurtenances thereto belonging in and to  
also all my estate right title and interest  
including house and claim of down to have  
above described and granted premises unto the  
heirs and assigns forever

Johnson the grants above named do covenant  
Carl Johnson the above named grants herein  
that the above granted premises shall be  
made, executed, conveyed, and granted  
herein executed and as hereinafter shall  
defers the above granted premises to be  
against the lawful claim and demand  
we claim to claim the same for which  
grants herein mentioned shall be  
made hereunto at the date of the  
day of October 1891

Witness my hand and seal of the County of Clark  
this 1st day of October 1891

Eliza Johnson  
State of Nevada  
County of Clark  
Witness my hand and seal of the County of Clark  
this 1st day of October 1891

Witness my hand and seal of the County of Clark  
this 1st day of October 1891

1891  
100









EASEMENT

BOOK 2050 PAGE 38

KNOW ALL MEN BY THESE PRESENTS, that PORTER W. YETT and GLADYS M. YETT, husband and wife, hereinafter referred to as the "Grantors", in consideration of the payment to them of the sum of Ten Dollars (\$10.00), the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto PORTLAND GENERAL ELECTRIC COMPANY, an Oregon corporation, hereinafter referred to as the "Grantee", its successors and assigns, an easement and right of way over, under and across the following described parcel of land situated in Multnomah County, Oregon, being a strip 50 feet in width, extending 25 feet on either side of a centerline more particularly described as follows:

Beginning at a point in the North line of the land of the Grantors described in Book 740 on page 281 of Deed Records of Multnomah County, the said land being situate in Section 36, T3N, R2W, WM, said county, the said beginning point being West 34.5 feet distant from the most easterly angle point in the South boundary of Rocky Point Road; thence from said beginning point over, under, upon and across the lands of the Grantors along the surveyed center line of the transmission line right of way herein obtained S 3° 49' W. 306.3 feet to a point in the South boundary of said land, said last mentioned point being East 4.84 feet distant from the Southwest corner of the Grantors lands. The above-described centerline is shown colored red on print of drawing EB 4333 which for purposes of description and reference thereto is attached hereto and made a part hereof.

TO HAVE AND TO HOLD the above-described easement and right of way unto the said Grantee, its successors and assigns, for the purposes hereinafter specified, together with the present and futura right to top, limb or fell all growing and dead trees and snags (said trees and snags hereinafter collectively called "danger trees") located on lands owned by the Grantors adjacent to the above-described right of way, within a distance of 100

TITLE AND TRUST COMPANY

1 - EASEMENT

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FEB 24 1961

feet of each side thereof. The consideration paid for this easement includes the value of all trees now existing on the right of way and all danger trees adjacent to said right of way. In addition to the purchase price herein agreed to, the Grantee shall pay the person who is the owner of any future danger trees at the date of their cutting the market value of said future danger trees as of the date of their cutting under authority of the Grantee, such payment to be made within a reasonable period of time after they have been so cut.

REV. 2050 PAGE 39

Said easement and right of way is granted for the following purposes, namely: The right to enter upon and to erect, maintain, repair, rebuild, operate and patrol an electric power transmission line consisting of three wires, ~~11 k v~~ <sup>5, 7, 7 1/2</sup>, and the appurtenant signal lines, including the right to erect such a single H-frame structure, wire, cables, guys, supports and appurtenances as are necessary thereto, together with the present and future right to clear said right of way and keep the same clear of brush, timber, structures and fire hazards, provided that fire hazards shall not be interpreted to include any growing crop other than trees; and together with the present and future right to top, limb or fell danger trees as above-described and limited.

It is further agreed that title to all brush, timber, or structures now existing upon the right of way and all present danger trees shall vest in the Grantee as of the date hereof, and that all future danger trees cut pursuant to the terms hereof shall remain the property of the owner thereof on the date of their cutting.

The Grantee recognizes that the Grantors use their property on the west side of the Lower Columbia River Highway

2 - EASEMENT

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FEB 24 1961

BOOK 2050 PAGE 40

from their property covered by this sasament for a quarry for the production of rook. Grantee further recognizes that the Grantors' operation of said quarry requires the use of explosives. By acceptance of this easement, the Grantee, for itself, its successors and assigns, assume all risks of danger or damage to its property arising from or growing out of the Grantors' quarry operations on Grantors nearby property, including, but not limited to, damage caused by the use of explosives.

If the Grantee, its successors and assigns, shall fail to use said right of way for the purposes above-mentioned for a continuous period of five (5) years, then in that event, this right of way and easement shall terminate and all rights and privileges granted hereunder shall revert to the Grantors, their heirs and assigns.

The Grantors hereby warrant that they have a marketable title to the property covered by this easement, have the right to grant the same, and the Grantors, for themselves and their heirs and assigns, covenant to and with the Grantee, its successors and assigns, that the Grantee, its successors and assigns, shall peaceably enjoy the rights and privileges herein granted.

IN WITNESS WHEREOF, the Grantors have caused this easement to be executed this 21 day of February, 1961.

Donald W. Felt (SEAL)

Gladys M. Felt (SEAL)

TITLE AND TRUST COMPANY

3 - EASEMENT

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FEB 24 1961

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BOOK 2050 PAGE 41

STATE OF OREGON }  
County of Multnomah } ss

On this 21 day of February, 1961, before me, the undersigned, a Notary Public in and for said county and state, personally appeared PORTER W. YETT and GLADYS M. YETT, known to me to be the individuals described in and who executed the foregoing instrument and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed my notarial seal this, the day and year in this instrument first written.

*Marion Robin*  
Notary Public for Oregon

My Commission expires: 8/2/62



TITLE AND FIRST COMMISSION

4 - BASEMENT

5020 III

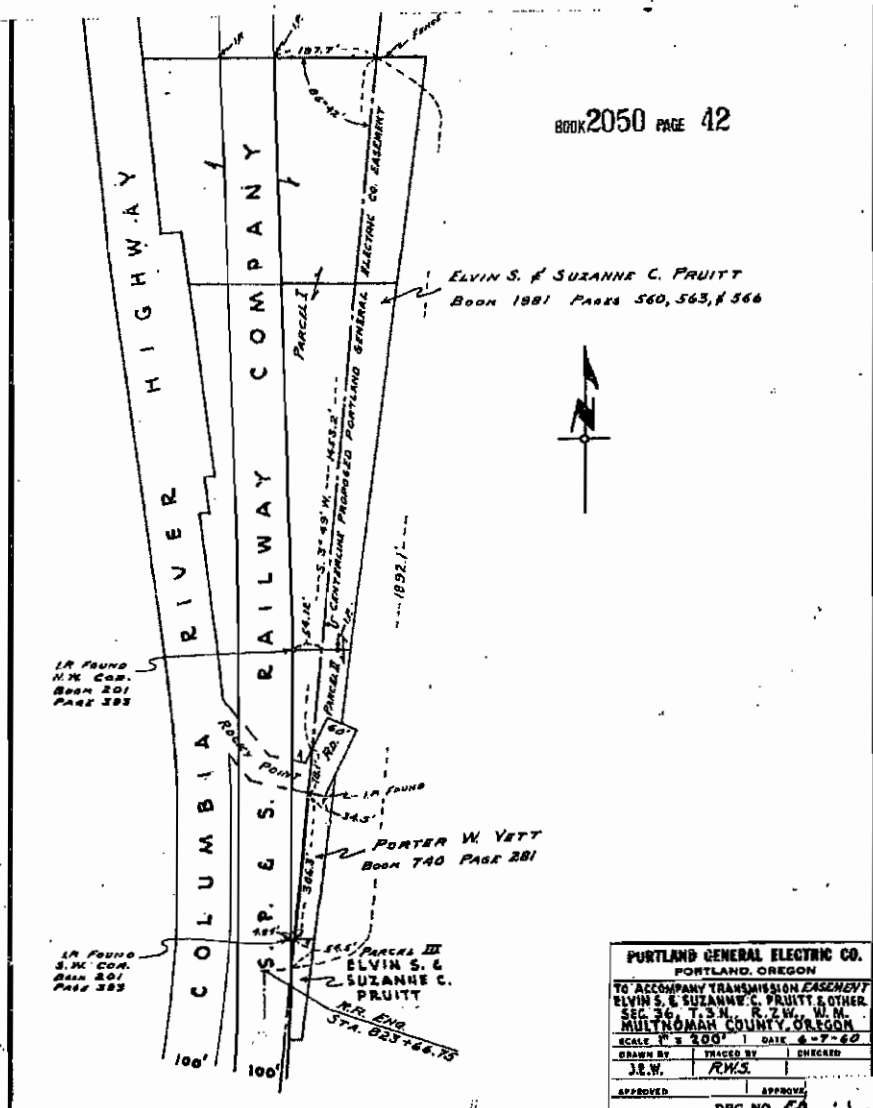
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PLAT OF THE PORTLAND  
JANUARY 13, 1961

BOOK 2050 PAGE 42

BOOK 2050 PAGE 42



ELVIN S. & SUZANNE C. FRUITT  
BOON 1981 PAGES 560, 563, & 566



LA FOUND  
N.W. COR.  
BEAN 201  
PAGE 393

PORTER W. YETT  
BOON 740 PAGE 281

LA FOUND  
S.W. COR.  
BEAN 201  
PAGE 393

PARCEL III  
ELVIN S. &  
SUZANNE C.  
FRUITT  
R.R. ENG.  
STA. 623+66.75

PORTLAND GENERAL ELECTRIC CO. PORTLAND, OREGON		
TO ACCOMPANY TRANSMISSION EASEMENT ELVIN S. & SUZANNE C. FRUITT & OTHER SEC. 36, T. 3N, R. 2W, W.M. MULTNOMAH COUNTY, OREGON		
SCALE 1" = 200'	DATE 6-7-60	CHECKED
DRAWN BY J.E.W.	TRACED BY R.W.S.	
APPROVED	APPROVED	
	DRG. NO. 40	

(SEAL) DOCUMENT 6703 RECORDED FEB 24 1961 3:39 P.M. SI COHN.

6703

FEB 24 1961

## DECLARATION AND COVENANT

THIS DECLARATION AND COVENANT is made this 2nd day of December, 1993, by Richard A. Jans Tohnerson, hereinafter referred to as "Owner".

## WHEREAS:

1. Owner is the owner in fee of the real estate described as Parcel A, a description of which is attached hereto as Exhibit A and by this reference made a part hereof as if fully set forth;
2. Parcel A, or portions thereof, is a compensatory mitigation site, the establishment and maintenance of which was agreed to by Owner as a condition of Permit number 199201022 (Permit) issued by the U.S. Army Corps of Engineers, Portland District (Corps) pursuant to Section 404 of the Clean Water Act (33 USC 1344);
3. Owner has applied to the Corps for a permit to place fill in a water of the state, and but for Owner's agreement to restrict the use of Parcel A to compensatory mitigation in perpetuity as evidenced by this document, the Owner's permit application would have been rejected by the Corps.

NOW, THEREFORE, in partial consideration of the Corps' issuance of the Permit, a copy of which Permit is attached hereto as Exhibit B and whose compensatory mitigation terms, restrictions, and conditions as they apply to Parcel A are by this reference incorporated herein as if fully set forth (Permit Obligations), the Owner hereby declares and covenants that:

4. Owner, Owner's heirs, administrators, executors, assigns, and grantees shall take all actions necessary to mitigate the adverse environmental effects resulting from the permitted fill by complying with the Permit Obligations which apply to Parcel A.
5. Owner's obligations to perform the terms, conditions, and covenants contained in this document and the Permit Obligations (Owner's Total Obligations) shall bind Owner to the extent of his/her legal or equitable interest in Parcel A; that Owner's Total Obligations shall be binding on and enforceable against Owner's heirs, administrators, executors, assigns, and grantees until such time as the permit is modified, revoked, or suspended, or expires without having been exercised.
6. The right of enforcement of Owner's Total Obligations shall belong to the Corps and its assigns.
7. In the event of any violation or threatened violation of any of Owner's Total Obligations, the Corps will have in addition to the right to collect damages, the right to enjoin such violation or threatened violation in a court of competent jurisdiction.
8. It is expressly declared that no breach or violation of Owner's Total Obligations shall terminate this DECLARATION AND COVENANT, but this limitation will not affect, in any manner, any other rights or remedies for any breach of this DECLARATION AND COVENANT.
9. Failure to insist on any one or more cases upon the strict performance of any one or more of Owner's Total Obligations or to exercise any remedy herein contained shall not be construed as a waiver or a relinquishment for the future of such element(s) of Owner's Total Obligations.

Return to - R. H. Tohnerson  
23586 N.W. 57th Avenue Hwy  
Portland, OR 97231



**MULTNOMAH COUNTY**  
 LAND USE & TRANSPORTATION PROGRAM  
 1600 SE 190<sup>th</sup> Ave, Suite 116, Portland OR 97233  
 Ph: 503.988.3043 Fax: 503.988.3389  
 www.co.multnomah.or.us/landuse

**General Application Form**

500657 + 500658

BAD ENTRIES  
 03/03/2008 9:09AM 000001 #3080  
 0018 KEVIN  
 LUP \$22.00  
 MISC - LUP 0-22.00  
 MISC - LUP \$2290.00  
 MISC - LUP \$2290.00  
 CHECK \$4580.00

**PROPERTY IDENTIFICATION**  
 Property Address 23586 NW ST Helens Rd  
 State Identification # TSN, R2W Section 36A; T1 400 + T3N, R2W  
 Site Size Section 36D, T1 100  
 A&T Alternate Account Number R# \_\_\_\_\_

**OTHER PARCEL** (if applicable)  
 Property Address \_\_\_\_\_  
 State Identification # \_\_\_\_\_  
 Site Size \_\_\_\_\_  
 A&T Alternate Account Number R# \_\_\_\_\_

**PROPERTY OWNER(S)**  **OR CONTRACT PURCHASER(S)**   
 Name Stanley & Jenice Tonnerson  
 Street Address 23586 NW ST Helens SP U7  
 City Porland State OR Zip Code 97231 Phone# \_\_\_\_\_  
 I authorize the applicant below to make this application.  
 Property Owner Signature #1 [Signature] Property Owner Signature #2 [Signature]  
 If no owner signature above, a letter of authorization from the owner is required.   
 NOTE: By signing this form, the property owner or property owner's agent is granting permission for Planning Staff to conduct site inspections on the property.

**APPLICANT'S NAME AND SIGNATURE**  
 Applicant's Name Peter F Fry  
 Mailing Address 2153 SW Main #105  
 City Porland State OR Zip Code 97205 Phone # 503-274-2744  
 Fax \_\_\_\_\_ e-mail \_\_\_\_\_  
 #30/35 SIGNS (HEARINGS) PAID 3/19/09  
[Signature]  
 Applicant's Signature

**GENERAL DESCRIPTION OF APPLICATION (REQUIRED)**  
 Please provide a brief description of your project.  
Oregon State Goal exceptions for  
Roxy Pointe Marina  
and lot of recent construction.

**For Staff Use**

**CASE NUMBER**  
T4-08-001

**LAND USE PERMIT(S)**  
2 Goal Exceptions

**DATE SUBMITTED**  
7/3/08

Compliance Related   
PA-07-007  
 PF/PA No.  
T1-08-031  
 Related Case No.

Related Case No.  
 \_\_\_\_\_

Related Case No.  
 \_\_\_\_\_

**ZONING**  
MUA-20  
 Zoning District  
 Zoning Overlay.  
 FD 100C

**EXHIBIT**  
 51



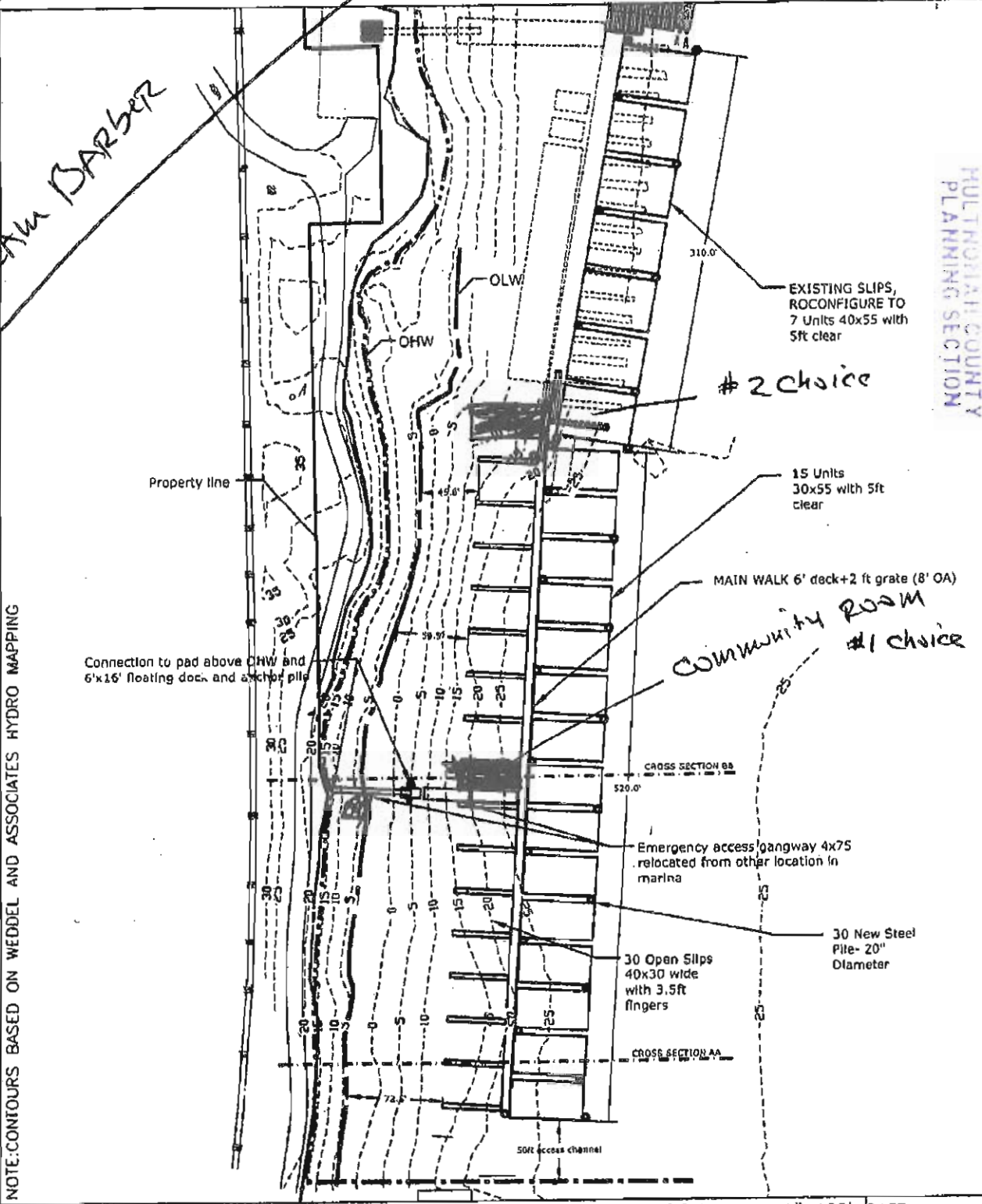
07/03/2008 9:05AM 000001 #307  
0018 KEVIN  
PERMITS-TYPE 1 \$148.00  
CHECK \$148.00

RECEIVED  
08 JUL -3 AM 10:51  
MULTNOMAH COUNTY  
PLANNING SECTION

*4 pages*

*ATTN  
Adam Barber*

NOTE: CONTOURS BASED ON WEDDEL AND ASSOCIATES HYDRO MAPPING



MULTNOMAH COUNTY  
PLANNING SECTION

09 JAN 20 PM 1:55

RECEIVED

**Flowing solutions**  
  
 Flowing Solutions  
 3305 SW 87th Avenue  
 Portland, OR 97225  
 Phone (503) 297-6311  
 Fax (503) 297-6053

TITLE: SITE-MARINA-PROPOSED NEW DOCK 1"=100'  
 ROCKY POINT MARINA  
 23586 NW ST. HELENS ROAD  
 PORTLAND, OR 97231  
 RIVER: MULTNOMAH CHANNEL  
 DATUM: NGVD

DATE:  
12/12/08  
 SHEET NO.  
5

EXHIBIT  
52

### For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

**Please check the appropriate box below and provide the requested information**

Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): \_\_\_\_\_

Land uses to be served by proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.)

If approvals have been obtained but all appeal periods have not ended, check "Being pursued".

CASE #	Type of Land-Use Approval Needed (e.g. plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:		
T4-08-001	1. GOAL EXCEPTIONS AND COMP. PLAN AMENDMENT	STATEWIDE PLANNING GOALS 14 & 11	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input checked="" type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued	1.
T3-06-005	2. COMMUNITY SERVICES/ CONDITIONAL USE	VARIOUS SECTIONS OF RURAL AREA PLAN, CHAPTER 39	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input checked="" type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued	2.
T1-05-047	3. FLOOD HAZARD & GRADING & EROSION CONTROL PERMITS	VARIOUS SECTIONS OF COUNTY CODE, CHAPTER 29	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input checked="" type="checkbox"/> Not being pursued	3.

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

THE APPLICANT HAS APPLIED FOR ALL NECESSARY LAND USE PERMITS TO EXPAND THE MARINA WITH 36 NEW FLOATING HOMES, RELOCATE 30 BOAT SLIPS, IMPROVE DRY DOCK REPAIR AREA, ADD 73 AUTO PARKING SPACES, EXPAND BOAT YARD & ADD 520 FEET OF DOCK. APPROVAL REQUIRES THE ABILITY TO STORE WITH DOMESTIC WATER. WE NEED VERIFICATION EXISTING WELL (ON-SITE) CAN HANDLE EXPANSION OR LIST OF REQUIRED IMPROVEMENTS TO ACHIEVE THIS GOAL.

Name: ADAM BARBER Title: SENIOR PLANNER  
 Signature: [Signature] Phone: 503.988.3043 Date: 1.21.09  
 Government Entity: MULTNOMAH COUNTY X 22599

**Note to local government representative:** Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

### Receipt for Request for Land Use Information

Applicant name: STAN TENNESON - ROCKY POINTE MARINA  
 City or County: MULTNOMAH CO. Staff contact: ADAM BARBER  
 Signature: [Signature] Phone: 503.988.3043 Date: 1.21.09  
 X 22599







# Oregon

Theodore R. Kulongoski, Governor

**Water Resources Department**  
North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1266  
503-986-0900  
FAX 503-986-0904

## NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdictions where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you.

## NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0801.



### Oregon Water Resources Department Land Use Information Form

*THIS FORM IS NOT REQUIRED IF: 1) water is to be diverted, conveyed, and/or used only on federal lands; or 2) the application is for a water-right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply: a) only the place of use is proposed for change, b) there are no structural changes, c) the use of water is for irrigation, and d) the use is located in an irrigation district or exclusive farm-use zone.*

Applicant Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Day Phone: \_\_\_\_\_

#### **A. Land and Location**

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), or used. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g. Rural Residential/RR-5)	Water to be:			Proposed Land Use:
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	

List all counties and cities where water is proposed to be diverted, conveyed, or used. \_\_\_\_\_

#### **B. Description of Proposed Use**

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water       Water-Right Transfer       Exchange of Water
- Allocation of Conserved Water       Limited Water Use License
- Permit Amendment or Ground Water Registration Modification

Source of water: Reservoir/Pond       Ground Water       Surface Water (name) \_\_\_\_\_

Estimated quantity of water needed: \_\_\_\_\_  cubic feet per second  gallons per minute  acre-feet

Intended use of water:  Irrigation       Commercial       Industrial       Domestic for \_\_\_\_\_ household(s)  
 Municipal       Quasi-municipal       Instream       Other \_\_\_\_\_

Briefly describe: \_\_\_\_\_

**Note to applicant:** *If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt below and include it with the application filed with the Water Resources Department.*

#### **Receipt for Request for Land Use Information**

State of Oregon Water  
Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1266

PROP

# 1 DLCD Notice of Proposed Amendment

DATE & TIME STAMP

in person  electronic  mailed

For DLCD Use Only

THIS FORM **MUST BE RECEIVED** BY DLCD AT LEAST  
**45 DAYS PRIOR TO THE FIRST EVIDENTIARY HEARING**  
 PER ORS 197.610, OAR CHAPTER 660, DIVISION 18

Jurisdiction: **Multnomah County** Date of First Evidentiary Hearing : **04/06/2009 (may occur later)**  
 Local File Number: **T4-08-001** Date of Final Hearing: **04/30/09 (estimated)**  
 Is this a **REVISION** to a previously submitted proposal?  Yes  No Date submitted: **07/03/2008**  
 Comprehensive Plan Text Amendment  Comprehensive Plan Map Amendment  
 Land Use Regulation Amendment  Zoning Map Amendment  
 New Land Use Regulation  Urban Growth Boundary Amendment  
 Transportation System Plan Amendment  Other:

Briefly Summarize Proposal. Do not use technical terms. Do not write "See Attached"(limit 500 characters):

**The request is for a 'Physically Developed' and 'Committed' exception to both statewide planning Goals 14 (Urbanization) and 11 (Public Facilities and Services) and the establishment of a Special Plan Area subdistrict at the Rocky Pointe Marina. The property is located at 23586 NW St. Helens Road adjacent to Multnomah Channel, 1.2-miles south of the Multnomah County/Columbia County line.**

Has sufficient information been included to advise DLCD of the effect of proposal?  Yes, text is included  
 For Map Changes: Include 8½"x11" maps of Current and Proposed designation.  Yes, Maps included  
 Plan map changed from: **MUA-20 base zone** To: **MUA-20 base zone with SPA-1 overlay**  
 Zone map changed from: **MUA-20 base zone** To: **MUA-20 base zone with SPA-1 overlay**  
 Location of property (do not use Tax Lot): **23586 NW St. Helens Road**  
 Previous density: **40 houseboats** New density: **76 houseboats** Acres involved: **16.22**  
 Applicable statewide planning goals:

**1**  **2**  **3**  **4**  **5**  **6**  **7**  **8**  **9**  **10**  **11**  **12**  **13**  **14**  **15**  **16**  **17**  **18**  **19**

Is an exception to a statewide planning goal proposed?  YES  NO Goals: **14 & 11**

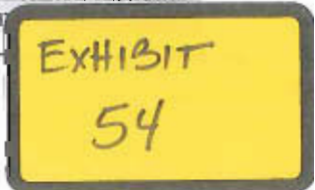
Affected state or federal agencies, local governments or special districts (It is jurisdiction's responsibility to notify these agencies. DLCD only records this information):

**ODOT, ODFW, DSL, U.S. ACOE, Oregon Parks and Recreation Department, Oregon State Marine Board, Metro, Oregon DEQ, Oregon Department of Water Resources & DLCD**

Local Contact: **Adam Barber, Senior Planner**  
 Address: **1600 SE 190<sup>th</sup> Ave.**  
 Fax Number: **503.988.3389**

Phone: **503-988-3043** Extension: **22599**  
 City: **Portland, OR** Zip: **97233-**  
 E-mail Address: **adam.t.barber@co.m**

DLCD file No. \_\_\_\_\_



# SUBMITTAL REQUIREMENTS

**This form must be received by DLCD at least 45 days prior to the first evidentiary hearing per ORS 197.610 and OAR Chapter 660, Division 18**

1. This form must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this form on light green paper.
3. **Text:** Submittal of a proposed amendment to the text of a comprehensive plan or land use regulation must **include the text** of the amendment and any other information the local government believes is necessary to advise DLCD of the effect of the proposal. "Text" means the specific language being added to or deleted from the acknowledged plan or land use regulations. A general description of the proposal is not adequate. **Do not submit this form without supporting documentation.**
4. **Maps:** Submittal of a proposed map amendment must also include a map of the affected area showing existing and proposed plan and zone designations. The map should be legible and on 8½ x 11 inch paper. Please provide the specific location of property, such as an address and/or tax lot number. Include text regarding background and/or the justification for the change, such as the application accepted by the local government.
5. **Exceptions:** Submittal of proposed amendments that involve a goal exception must include the proposed language of the exception.
6. Unless exempt by ORS 197.610(2), proposed amendments must be received at the DLCD's Salem office at least 45 days before the first evidentiary hearing on the proposal. (The clock begins on the day DLCD receives your proposal.) The first evidentiary hearing is usually the first public hearing held by the jurisdiction's planning commission on the proposal.
7. If you have an electronic copy of the proposal, we would like you to submit one electronic copy [email, CD, or upload to DLCD (for submittal instructions, see # 4)] and **ONE PAPER COPY** of the proposed amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

8. **Electronic Submittals:** One hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email, CD, or upload documents to us. You may access this website to upload documents: <http://webserver.lcd.state.or.us/upload2/uploadForm1.php>. If you submit documents to this website, please email Mara Ulloa at [mara.ulloa@state.or.us](mailto:mara.ulloa@state.or.us) when you have sent your documents electronically. On the same day, please mail [1] hard copy to our office.
9. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print forms on 8-1/2x11 green paper only. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to [mara.ulloa@state.or.us](mailto:mara.ulloa@state.or.us).

## ***SUBMITTAL REQUIREMENTS (continued)....***

3. ***Text:*** *Submittal of a proposed amendment to the text of a comprehensive plan or land use regulation must include the text of the amendment and any other information the local government believes is necessary to advise DLCD of the effect of the proposal. "Text" means the specific language being added to or deleted from the acknowledged plan or land use regulations. A general description of the proposal is not adequate. Do not submit this form without supporting documentation.*
5. ***Exceptions:*** *Submittal of proposed amendments that involve a goal exception must include the proposed language of the exception.*

**COUNTY STAFF RESPONSE TO SUBMITTAL REQUIREMENTS 3 AND 5 ABOVE:** The request is for a 'Physically Developed' and 'Committed' exception to both statewide planning Goals 14 (Urbanization) and 11 (Public Facilities and Services) and the establishment of a Special Plan Area subdistrict to expand the Rocky Pointe Marina at 23586 NW St. Helens Road in unincorporated Multnomah County. Application materials submitted in association with this request have been attached.

The 16.22-acre property is adjacent to Multnomah Channel, 1.2-miles south of the Multnomah County/Columbia County line. Establishment of the proposed SPA-1 zoning overlay zone qualifies as the creation of a new land use regulation, a zoning map amendment and an amendment to the county's Comprehensive Framework Plan. The applicant has requested the SPA review as an alternative to the Conditional Use/Community Service requirement that houseboat moorages do not exceed one dwelling per 50-feet of waterfront frontage (Multnomah County Code, MCC 34.6755<sup>1</sup>). The request for the 76 houseboats exceeds this 1:50 development cap by approximately 13 houseboats. **At this point, it is not clear that the proposal to establish a Special Plan Area allowing the 1:50 ratio to be exceeded is justifiable using the Sauvie Island Rural Area Plan Policy 15 as guidance. Policy 15 establishes SPA approval criteria which evaluate impacts on the environment, on aesthetics, safety, economics, recreation and considers cumulative Impacts, in general.** In the event the request is approved, the county would likely adopt SPA-1 regulations similar to those below which are still in very rough draft form will likely change prior to the first evidentiary hearing.

### **9.0 SPECIAL PLAN AREA (MCC 34.5000-34.5010)**

#### **MCC 34.5000- Purposes**

**The general purposes of the Special Plan Area Subdistricts are to implement various provisions of the Comprehensive Plan, the Statewide Planning Goals and the land use control elements of Special Plan Area plans and of plans for neighborhoods and subcommunity vitalization; to aid in realizing opportunities to achieve community, social and economic stability and vigor; to institute desired patterns and improvement standards for land uses according to adopted specific-place plans; to facilitate public-private sector cooperation in the development of such areas; to establish more flexible and diversified standards and procedures; and to provide means to establish such interim land use controls as are deemed necessary, pending the preparation of local area comprehensive plan revisions**

<sup>1</sup> MCC 34.6755 Density – The maximum density of houseboats shall not exceed one for each 50 feet of waterfront frontage. The Hearings Officer in approving a houseboat moorage may reduce the density below the maximum allowed upon finding that: (A) Development at the maximum density would place an undue burden on school, fire protection, water, police, road, basic utility or any other applicable service. (B) Development at the maximum density would endanger an ecologically fragile natural resource or scenic area.

or development strategies.

**MCC 34.5005 - Area Affected**

**The provisions of a Special Plan Area subdistrict shall apply to specific land areas according to their designations as subdistricts SPA-1, SPA-2, SPA-3, etc., on the Multnomah County Zoning Map.**

**MCC 34.5010 - Standards to Establish an SPA Subdistrict**

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

- 9.1 (1) The designation of the subdistrict as SPA-1, SPA-2, SPA-3, etc., in the text and on the appropriate Sectional Zoning Map;**

**Staff:** The designation selected for this subdistrict is “SPA-1”. This designation will be used in the text and on the Sectional Zoning Map for this property.

- 9.2 (2) A statement of the purposes of the subdistrict;**

**Staff:** The purpose of the SPA-1 subdistrict is to implement Rural Plan Area Policies 13, 14 and 15 as they apply to the Rocky Pointe Marina through the adoption of a Master Plan for the entire operation. The SPA-1 subdistrict is intended to establish a flexible approach to determining the most appropriate development layout and density and to define the range of uses allowed. The Master Plan implementing the SPA-1 subdistrict includes 76 floating dwellings and all associated development serving the dwellings including the three separate dock sections, three gangway ramps and one emergency ramp, upland auto parking area and water, septic and electrical lines serving the floating dwellings. The Master Plan Map illustrating the SPA-1 development is presented in Exhibit X.

- 9.3 (3) Definitions of terms, as appropriate;**

**Staff:** The SPA-1 subdistrict does not require amendments to any of the terms as defined in MCC 34.0005.

- 9.4 (4) A statement of the findings and policies on which the subdistrict is based, including reference to the related Special Area Plan or Comprehensive Plan revision which the subdistrict is designed to implement or to the special problems or circumstances which the subdistrict is designed to address;**

**Staff:** The SPA-1 subdistrict implements Sauvie Island/Multnomah Channel Rural Area Plan Policies 13, 14 and 15 which present a site specific alternative to the conventional site planning limitations of current code.

- 9.5 (5) A description of the relationships between the provisions of the SPA subdistrict and those of the underlying district;**

**Staff:** The underlying Multiple Use Agriculture-20 base zone (MCC 34.2800 – 34.2885), in addition to the SPA-1 subdistrict overlay zone provisions, will apply to the upland and in-water exception areas illustrated in Exhibits X and X minus the boatyard expansion area which does not qualify for exceptions to Goals 11 or 14. A copy of the Master Plan showing the SPA-1



boundaries is presented in Exhibit X.

**9.6 (6) A listing of the SPA subdistrict uses authorized as Permitted Uses, Uses Under Prescribed Conditions, or Conditional Uses, as appropriate;**

**Staff:** The MUA-20 Allowed Uses section MCC 34.2820, the Review Uses section MCC 34.2825 and the Conditional Uses section MCC 34.2830 are allowed within the SPA-1 subdistrict.

**9.7 (7) A description of any approval procedure or criteria required to satisfy the subdistrict provisions;**

**Staff:** No additional approval procedures or criteria will apply.

**9.8 (8) Any development standards or dimensional requirements for authorized uses in the subdistrict;**

**Staff:** The SPA-1 subdistrict requires all development standards and dimensional requirements of the MUA-20 zoning district to be met. Residential development densities within the SPA-1 subdistrict shall not exceed 76 floating dwellings. No terrestrial dwellings are authorized in the SPA-1 subdistrict.

**9.9 (9) A description of the nature of and approval procedures for any exceptions from subdistrict requirements;**

**Staff:** No exceptions to the SPA-1 subdistrict requirements are provided or necessary.

**9.10 (10) A statement of the methods of appeal from a decision made under the provisions of the subdistrict; and**

**Staff:** The same review procedures outlined in County Code Chapter 37 (Administration and Procedures) for uses allowed in the Multiple Use Agriculture-20 zone will apply to the SPA-1 subdistrict. This subdistrict does not change appeal procedures.

**9.11 (11) Any provisions for the expiration of the SPA subdistrict.**

**Staff:** Staff recommends the Planning Commission establish a six-year expiration of the SPA-1 subdistrict provisions if all areas within the district are not fully developed, as proposed by the applicant, at the close of the six-year period beginning once the SPA-1 district is adopted into the Comprehensive Plan.

**10.0 PLANNING AND ZONING FOR EXCEPTION AREAS (OAR 660-004-0018)**

**10.1 (1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.**

*Applicant: The applicant is proposing physically developed and irrevocably committed exceptions to Goal 11 and 14 that is intended to recognize existing marina development and sewer system.*

**Staff:** The physically developed and irrevocably committed exception is intended to allow the continuation of urban level residential development at this site, as has occurred for decades. Exceptions are limited to Goal 11 and 14 as outlined in this report.

- 10.2 (2) For "physically developed" and "irrevocably committed" exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those:
- (a) That are the same as the existing land uses on the exception site;
  - (b) That meet the following requirements:
    - (A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and
    - (B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-004-0028; and
    - (C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;
  - (c) For which the uses, density, and public facilities and services are consistent with OAR 660-022-0030, "Planning and Zoning of Unincorporated Communities", if applicable, or
  - (d) That are industrial development uses, and accessory uses subordinate to the industrial development, in buildings of any size and type, provided the exception area was planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

*Applicant: The zoning limits the uses, density and public facilities on the subject property and marina to those that are the same as the existing land uses on the exception site/marina pursuant to OAR 660-004-0018(2)(a).*

**Staff:** The 20-acre minimum lot size for newly divided properties and uses allowed in the MUA-20 zone will still apply within the SPA-1 subdistrict. Residential density within the SPA-1 zone is limited to no more than one houseboat per 50-feet of waterfront frontage. Adequate public facilities and services will need to be demonstrated for any future request to expand or intensify development within the SPA-1 as is the case for existing uses within the MUA-20 zone.

- 10.3 (3) Uses, density, and public facilities and services not meeting section (2) of this rule may be approved only under provisions for a reasons exception as outlined in section (4) of the rule and OAR 660-004-0020 through 660-004-0022.

*Applicant: This rule is not applicable because the uses, density and public facilities and services meet section (2) of this rule.*

**Staff:** Section (2) of the rule has been met. Section (3) does not apply.

10.4

(4) "Reasons" Exceptions:

(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;

(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required;

(c) When a local government includes land within an unincorporated community for which an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, which ever is more stringent.

*Applicant: No "reasons" exception is being proposed, and therefore, this rule is not applicable.*

**Staff:** Staff concurs.



**Department of Community Services**  
**MULTNOMAH COUNTY OREGON**

Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Avenue  
Portland, Oregon 97233-5910  
(503) 988-3043

August 1, 2008

Peter Fry, AICP, PhD  
2153 SW Main #105  
Portland, OR 97205

**RE: Application for a Zone Change and revision to the Comprehensive Plan associated with a request for an Exception to Statewide Planning Goals 11 and 14 at the Rocky Pointe Marina (Case # T4-08-001).**

Dear Mr. Fry:

Thank you for submitting the land use application at Rocky Pointe. It appears that you have put a great amount of thought and time into the submittal materials. As is common with any complex project, I have identified areas where clarification or additional information is needed to process the application. I look forward to working through these points with you so we can move forward.

After having reviewed the materials submitted, and in accordance with Oregon Revised Statutes, ORS 215.427 and Multnomah County Code, MCC 37.0600, you are hereby informed that your above referenced application on property located at 23586 NW St. Helens Road was determined to be incomplete as of August 1<sup>st</sup>, 2008. To complete the application, please address the following on a point-by-point basis:

- Page 4 of your narrative states "*the results will be 67 houseboats (40 existing and 36 new)...*" I assume you are requesting 76 houseboats rather than 67 ( $40 + 36 = 76$ )?
- Current regulations allow up to one houseboat per 50-feet of waterfront frontage which you likely recall does not comply with Goal 14 (MCC 34.6755). I measure roughly 3,150-feet of parcel frontage which would allow no more than 63 houseboats at the Rocky Pointe marina. In addition, by measuring the frontage of the exception area only, the allowed number of houseboats drops to approximately 60 by my calculations. I understand you are proposing 76. Your proposed residential density exceeds what was envisioned by county code as the maximum density appropriate for waterfront development.

It unclear what your justification is for expanding beyond the maximum density allowed by the regulations for a few reasons. First, we believe the rural area plan policies addressing the ability to expand a moorage through the SPA provisions assume a limit of one dwelling per 50 feet of waterfront frontage. It states in Rural Area Plan Policy 13 that the provisions of the existing conditional use criteria would still be in place for a SPA expansion. The one dwelling per 50-feet of frontage limit is captured in the county's community service conditional use regulation

EXHIBIT  
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In addition, it is unclear what your justification is for increasing the density beyond what is currently allowed pursuant to Goal 11. Goal 11 is clear that an increase cannot be attributed to availability of water (OAR 660-011-0065(2)). You will either need to consider reducing the number of houseboats proposed or provide a rationale for the density increase that does not rely upon availability of water.

- The county transportation planning group is still in the process of reviewing your proposal and they expect to have a memo to me next week outlining any additional questions and requirements they may have from a transportation planning perspective. I will forward you a copy of this memo as soon as I receive it.
- Page 9 of your narrative indicates you are in the process of consolidating a number of existing parcels into one parcel at the request of Multnomah County. To be clear, you are not being requested by Multnomah County to consolidate the parcels. This is a voluntary choice of the landowner. This lot consolidation request you submitted is being reviewed concurrently as case T1-08-031 because it follows a different review process pursuant to MCC 37.0530. On July 8<sup>th</sup>, I copied you on a letter mailed to the property owners outlining questions I have on the lot consolidation request. The request for zone change and plan revision associated with the goal exception request will consider parcel size and configuration. Would you prefer that we process your request considering the existing configuration of the multiple parcels or would you like to first complete the lot consolidation process before we begin drafting findings for this goal exception application?
- Page 13 of your application states the southern end of the property is 50-feet wide. According to assessment and taxation maps, the undeveloped southern portion of the property immediately north of Rocky Point appears to range from 16-23 feet in width. The deed description recorded in 1995 for this area does not reference a specific property width towards the southern end. Are you referring to the width of the upland portion of the property in the area's southern extent identified for the committed goal exception?
- Could you please clarify why you're finding to justify the Goal 14 irrevocably committed exception on pages 12-13 under Oregon Administrative Rule, OAR 660-014-0030(1) discusses the northern portion of the marina while the Goal 14 irrevocably committed exception area is illustrated roughly in the southern fifth of the property on the Sheet No. 2 aerial photo? You conclude this finding by saying the property has been developed for almost 80 years, yet the irrevocably committed area shown on Sheet No. 2 appears undeveloped. Similarly, on page 16, your finding under sub (2)(a) describes the northern developed portion of the property as the irrevocably committed exception area.
- It is critical that I accurately understand which portions of the irrevocably committed exception area are developed versus undeveloped. I have concerns that your findings assume the paved access road towards the southern portion of the property is located entirely on the subject property. Aerial photos suggest this may not be the case. For example, you state on page 15 that a paved road runs the entire length of the property parallel to the water's edge making the waterfront land accessible. You also state on page 19 that this road is located within Tax Lots 400, 500 and 600 at the southern extent of the property. A reference on page 21 indicates that with exception of the lake, the rest of the land along the shoreline is completely improved with a roadway. Aerial photos of the southern portion of the property suggest the road may be actually located to the west of the property, rather than within the property along the majority of the

narrow and undeveloped irrevocably committed exception area delineated in Sheet No. 2. Please review the attached aerial photo and let me know why you believe the access road is fully contained within the parcel. A property survey, deed description and/or road easement agreement may be useful in flushing this issue out.

- I need to understand where the property boundaries are located in relation to the extents of the exception area and can tell from the application materials. I have concerns that the western boundary of the irrevocably committed exception area towards the southern side of the property may extend beyond the property boundary after reviewing tax assessment maps. Could you please superimpose surveyed property boundaries on a map that also shows the exception areas making sure to provide a scale appropriate to see the boundaries where they may be close to each other but not superimposed? It will be acceptable to submit one 8.5" x 11" map showing the entire property and other zoomed in maps where needed.
- Your finding (sub 5) on page 17 explains that all land subject to the Goal 14 irrevocably committed is physically developed. This description appears to conflict with the development pattern in Sheet No. 2 which shows the irrevocably committed exception area as undeveloped land. Could you please clarify this issue for me?
- Your application references a high voltage power line easement passing through the center of the property. I see in Sheet No. 1, the "power – Columbia PUB" labeled as "O" but can not tell from the aerial photo where the boundaries of the easement are located. Can you please illustrate and label the boundaries of this easement area on a plan? I need to confirm development is not proposed within an easement boundary and if so, need to confirm the easement agreement grants you this ability. A copy of the easement agreement would help me in the event development is proposed within the easement area.
- I recommend that you consider revisiting your response to how the project complies with Goal 5 on page 21. Please keep in mind that the entire property is mapped within the Willamette River Greenway protection zone and that the property contains wetlands identified on the National Wetlands Inventory are mapped on the property is located within the 100-year flood zone. Please explain specifically how expanding residential development at urban density levels will protect natural resources, conserve scenic and historic areas and open spaces.
- It is not clear to me from your sub (B) page 22 finding whether your goal is to provide river access to the general public or only to members of the public leasing a boat slip, boathouse slip or houseboat slip from the Rocky Pointe Marina, for example. I suspect access will be limited according to your response to sub (I) on page 23. If public access will be limited to some degree, then please explain how this exclusion provides reasonable public access to the proposed development within the irrevocably committed areas to the greatest possible degree. I think it is reasonable to restrict public access to the public associated with the marina but would ask that you to address this in more detail.
- Please explain specifically *how* the project and construction has been designed to minimize any impacts to fish and wildlife habitat under sub (G) on page 23.
- Please explain *how* the improvements have been designed to minimize criminal activity under sub (I) on page 23.



- You state in sub (N), page 24, that houseboat development is not proposed in undisturbed areas although Sheet No. 2 shows new pilings, docks and a new gangway ramp in undisturbed areas within the irrevocably committed exception area. Can you please clarify this issue for me?
- Unlike the proposed residential houseboat slips, the additional boat slips qualify as commercial development. Multnomah County Code 37.0705(A)(2) requires evidence be presented that the comprehensive plan does not provide adequate areas in appropriate locations for any proposed commercial use (i.e. boat slips). Please submit this evidence.
- It doesn't appear that your finding to MCC 37.0705(B)(2) below fully addresses the criterion. Can you provide evidence that there is a public need for the development in this location? How will the public be best served in this location as opposed to other properties in the county including vacant properties and residentially developed properties for sale? Please note that Comp. Plan Policy 26 states houseboats must be considered a housing *choice* rather than a needed housing resource. This means that your analysis should not evaluate whether there is a public need for houseboat slips but rather, whether there is a public need for residential housing that will be best served at this location as opposed to other available property. Please also address the need for boat slips as part of your analysis and be sure to define what you are considering other available property.

*(1) 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;*

*Finding: The site is committed to the proposed use for over fifty years. The exception is to allow additional houseboats and continued improvements to the existing sewer system.*

- Comprehensive Plan Policy 26 (Houseboats) subsection (A) requires that you explain how the following additional Comprehensive Plan Policies will be satisfied. Although I find responses to Policy 24 (Housing Location), 37 (Utilities), and 38 (Facilities); I do not find responses to the other policies in your application which have been underlined below. Please briefly explain how you believe the proposal meets the following **underlined** Comprehensive Plan Policies (2, 13, 16, 21, 32, 34 & 36).

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

- SERVICE PROVIDER VERIFICATION – COMPLIANCE WITH COMPREHENSIVE PLAN POLICY 37 (Utilities) & 38 (FACILITIES):

Please provide evidence from the Department of Environmental Quality (503.229.5656) that the septic system was lawfully established. This is required in part to demonstrate the project is consistent with the public facilities planning provisions of OAR 660, Division 11. A copy of a DEQ permit would suffice. Also provide evidence from DEQ that the upland area can accommodate the increased on-site sewer demand resulting from the requested expansion. The letter from DEQ should clearly state the existing system is either designed, or can be modified

to treat 76 floating dwellings, with additional demand to serve the public using the marina (boat slips, etc). The only evidence regarding septic feasibility I have is a fax from Lyle Christensen at DEQ from September 7, 2006 which states "*The treatment system provided is adequate to treat the flows reported at your marina provided the proper operational steps are taken and the additional slips are not used for permanent occupancy.*" This statement does not confirm the system can handle the proposed residential expansion. I understand your current proposal requests additional houseboats used for permanent occupancy rather than just for boat slip use which I believe was your proposal in 2006 when this fax was prepared.

Please also submit evidence from the Department of Water Resources (503.986.0900) that you either have or can obtain the necessary water rights to serve the requested expansion with the on-site well. This evidence is required to demonstrate compliance with Comprehensive Plan Policy 37 (Utilities) and by Multnomah County Code 37.0705(B)(3)(b).

Comp. Plan Policy 38 also requires that the appropriate school district has had an opportunity to review and comment on the proposal. I did not find a copy of a completed School District Review form in the Conditional Use case file and have attached a blank copy for your use. I thought I recalled you having this form filled out in the past, but could not find it and also realized the number of proposed homes has increased since the previous review necessitating a current signoff from the school district. It will be important that the description of the proposed use on this form clearly lists the number of floating dwellings now proposed. I have copied the following service provided forms to this case file from your Conditional Use case file – Fire District Access and Fire Flow Review forms and associated 2/16/07 letter from Michael S. Greisen, Completed Police Services Review form and 11/8/07 letter from ODOT regarding the rail crossing.

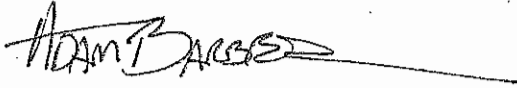
Can you also please have an engineer submit a signed letter (with professional seal) stating the upland site will have adequate capacity to handle storm-water runoff from the 10-year, 24-hour storm event if the upland development were approved? This will help us better assess whether the drainage provisions of Comprehensive Plan Policy 37 (Utilities) can be met. This also seems appropriate as part of this review considering the narrow, rocky property configuration described in your findings. I don't believe it is necessary to actually have the storm water system designed at this point but we should have an engineer address the general feasibility as part of this application.

Once you have addressed the above items, provide two (2) packets containing the information requested herein. Include in the packet an 8½" x 11" copy of the site plan if it has been revised.

You have 180 days from the original application submittal date (7/3/08) within which to submit the missing information (day 180 = 12/30/08). If the missing information is not provided within this timeline, the application will be rejected and submitted materials returned. **A written statement is needed confirming that you accept the 180 day time period within which to complete the application. Failure to accept this timeline within 30 days of the date this letter was mailed constitutes a refusal to complete the application, whereupon the County will take final action on the request within a 150-day period.**

Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Adam Barber". The signature is written in a cursive style and is underlined with a single horizontal line.

Adam Barber,  
Senior Planner

xc:

Stanley & Jeniece Tonneson  
23586 NW St. Helens SP U7  
Portland, OR 97231

Doug White  
DLCD Community Services Specialist  
(*copied via email*)

File

Attachments:

2004 aerial photo of southern extent of marina property

School district review form

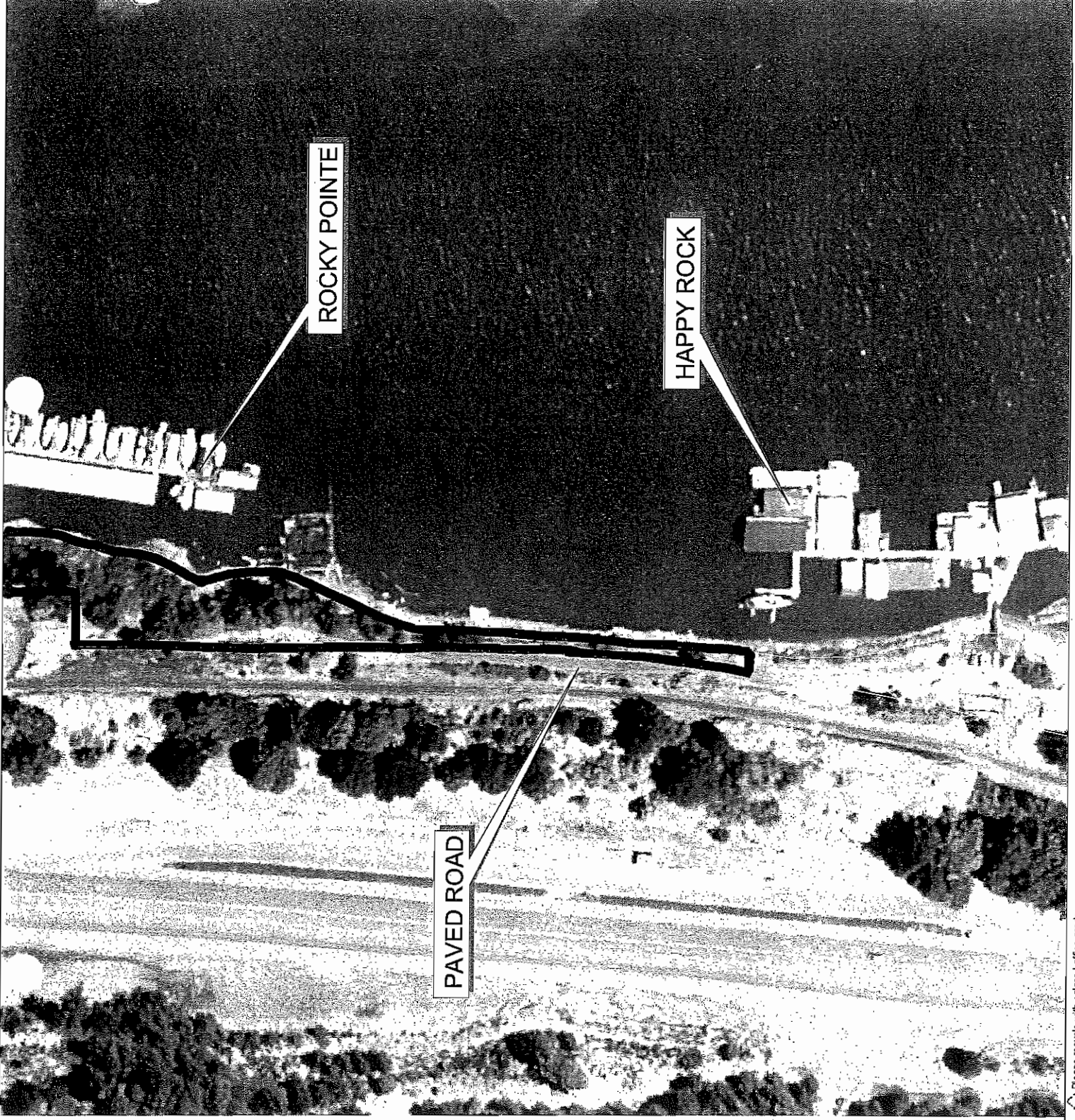
Copy of proposed exception areas from your application



# Paved Road Location

(2004 Aerial Photo)

Text Lists



1" = 152 feet



1600 SE 190th Ave.  
Portland, OR 97233  
503.248.3043 Fax 503.248.3399  
Email: land.use.planning@co.multnomah.or.us

This map is based on data from Metro Multnomah County cannot accept responsibility for errors, omissions or positional accuracy. There are no warranties expressed or implied.



**MULTNOMAH COUNTY**  
 LAND USE & TRANSPORTATION PROGRAM  
 1600 SE 190th AVENUE  
 PORTLAND, OR 97233 (503) 988-3043  
 www.co.multnomah.or.us/dbcs/LUT/land\_use

**SCHOOL DISTRICT REVIEW**  
 Take a copy of this form to each of the  
 school districts that serve the property

Address of Site \_\_\_\_\_

Tax Roll Description of Property \_\_\_\_\_

Description of Proposed Use \_\_\_\_\_

If Residential Use, Total Number of Dwelling Units \_\_\_\_\_

**—TO THE APPLICANT—**

Approval of most land uses involving a new or expanded use, or involving the creation of a new parcel requires verification that **all appropriate** school districts have had an opportunity to review and comment on the proposal. Complete the applicable sections of this form and take a copy to each school district serving the property. After receiving a response, attach this form to your application

Applicant's Name \_\_\_\_\_

Mailing Address \_\_\_\_\_ Phone \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**—TO BE COMPLETED BY A SCHOOL DISTRICT REPRESENTATIVE—**

- The District has no comment.
- The District is incapable of providing service to this property at this time because \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

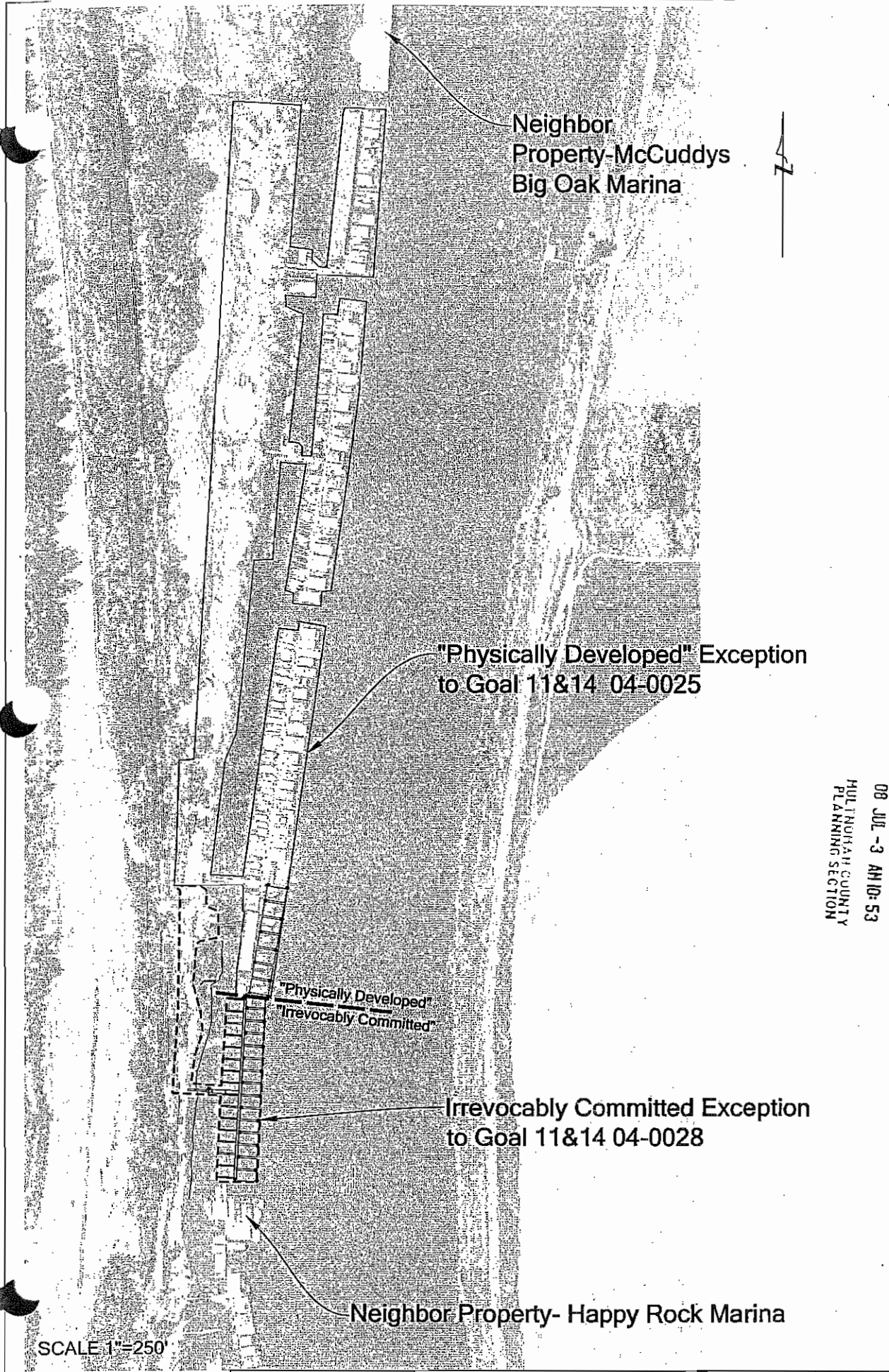
Date \_\_\_\_\_

**RETURN THIS FORM TO THE APPLICANT**

revised 7/04

\_\_\_\_\_  
*Name of School District*  
 \_\_\_\_\_  
*Name of Representative*  
 \_\_\_\_\_  
*Position Held*





RECEIVED  
 08 JUL -3 AM 10:53  
 MULTNOMAH COUNTY  
 PLANNING SECTION

SCALE 1"=250'

PROPOSED  
 EXCEPTION  
 AREAS FROM  
 APPLICATION  
 (T4-08-001)

**Flowing solutions**  
 Flowing Solutions  
 3305 SW 87th Avenue  
 Portland, OR 97225  
 Phone (503) 237-6331  
 Fax (503) 237-6053

TITLE: EXHIBIT '2' - IRREVOCABLY COMMITTED AREA MAP  
 ROCKY POINT MARINA  
 23586 NW ST. HELENS ROAD  
 PORTLAND, OR 97231  
 RIVER: MULTNOMAH CHANNEL  
 DATUM: NGVD

REVISED:  
 6/30/08  
 SHEET NO.  
 2





**Department of Community Services**  
**MULTNOMAH COUNTY OREGON**

**Land Use and Transportation Program**  
**1600 SE 190<sup>th</sup> Avenue**  
**Portland, Oregon 97233-5910**  
**(503) 988-3043**  
**[www.co.multnomah.or.us/landuse](http://www.co.multnomah.or.us/landuse)**

August 1<sup>st</sup>, 2008

Peter Fry, AICP, PhD  
2153 SW Main #105  
Portland, OR 97205

Subject: Application # T4-08-001

Dear Applicant:

As indicated in the attached correspondence, your application has been deemed to be incomplete. You must acknowledge in writing your intent to provide the additional information identified in the attached letter. To do this, please sign below and return this acknowledgement by August 31<sup>st</sup>, 2008 to the above address.

If you indicate your intent to complete the application, you will have 180 days from the date the application was originally submitted, 7/3/08, to submit the required information. If you fail to submit the information within 180 days (day 180 = 12/30/08), your application will be deemed void. The case file regarding the application will then be closed pursuant to Multnomah County Code MCC 37.0600(B). All materials submitted will be returned and all fees will be forfeited.

If you do not return this acknowledgement by the above date, we will assume you are refusing to submit the requested information and to complete the application pursuant to MCC 37.0600 and ORS 215.427. Your application will then be processed based upon the information you have previously submitted. Note that failure to submit sufficient evidence to demonstrate that the request meets the applicable code requirements is grounds for denial of the application.

**ACKNOWLEDGEMENT**

- I intend to provide the additional information identified in the attached letter from Multnomah County Planning within 180 days.
- I refuse to provide the additional information identified in the attached letter from Multnomah County Planning.

\_\_\_\_\_  
Signed and Acknowledged (Applicant)

\_\_\_\_\_  
Date

EXHIBIT  
56



**Department of Community Services**  
**MULTNOMAH COUNTY OREGON**

**Land Use and Transportation Program**  
**1600 SE 190<sup>th</sup> Avenue**  
**Portland, Oregon 97233-5910**  
**(503) 988-3043**  
**www.co.multnomah.or.us/landuse**

RECEIVED  
08 AUG - 7 PM 2:17  
MULTNOMAH COUNTY  
PLANNING SECTION

August 1<sup>st</sup>, 2008

Peter Fry, AICP, PhD  
2153 SW Main #105  
Portland, OR 97205

Subject: Application # T4-08-001

Dear Applicant:

As indicated in the attached correspondence, your application has been deemed to be incomplete. **You must acknowledge in writing your intent to provide the additional information identified in the attached letter. To do this, please sign below and return this acknowledgement by August 31<sup>st</sup>, 2008 to the above address.**

If you indicate your intent to complete the application, you will have 180 days from the date the application was originally submitted, 7/3/08, to submit the required information. If you fail to submit the information within 180 days (day 180 = 12/30/08), your application will be deemed void. The case file regarding the application will then be closed pursuant to Multnomah County Code MCC 37.0600(B). All materials submitted will be returned and all fees will be forfeited.

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**ACKNOWLEDGEMENT**

- I intend to provide the additional information identified in the attached letter from Multnomah County Planning within 180 days.
- I refuse to provide the additional information identified in the attached letter from Multnomah County Planning.

Peter Fry  
Signed and Acknowledged (Applicant)

8/2/08  
Date

EXHIBIT  
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**Department of Community Services**  
**MULTNOMAH COUNTY OREGON**

RECEIVED  
08 AUG 12 AM 9:28  
MULTNOMAH COUNTY  
PLANNING SECTION

Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Avenue  
Portland, Oregon 97233-5910  
(503) 988-3043  
www.co.multnomah.or.us/landuse

August 1<sup>st</sup>, 2008

COPY

Peter Fry, AICP, PhD  
2153 SW Main #105  
Portland, OR 97205

Subject: Application # T4-08-001

Dear Applicant:

As indicated in the attached correspondence, your application has been deemed to be incomplete. You must acknowledge in writing your intent to provide the additional information identified in the attached letter. To do this, please sign below and return this acknowledgement by August 31<sup>st</sup>, 2008 to the above address.

If you indicate your intent to complete the application, you will have 180 days from the date the application was originally submitted, 7/3/08, to submit the required information. If you fail to submit the information within 180 days (day 180 = 12/30/08), your application will be deemed void. The case file regarding the application will then be closed pursuant to Multnomah County Code MCC 37.0600(B). All materials submitted will be returned and all fees will be forfeited.

If you do not return this acknowledgement by the above date, we will assume you are refusing to submit the requested information and to complete the application pursuant to MCC 37.0600 and ORS 215.427. Your application will then be processed based upon the information you have previously submitted. Note that failure to submit sufficient evidence to demonstrate that the request meets the applicable code requirements is grounds for denial of the application.

**ACKNOWLEDGEMENT**

- I intend to provide the additional information identified in the attached letter from Multnomah County Planning within 180 days.
- I refuse to provide the additional information identified in the attached letter from Multnomah County Planning.

Signed and Acknowledged (Applicant) Stan Tomkinson

8-6-08  
Date

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Department of Community Services  
**MULTNOMAH COUNTY OREGON**

Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Avenue  
Portland, Oregon 97233-5910  
(503) 988-3043

September 29, 2008

Peter Fry, AICP, PhD  
2153 SW Main #105  
Portland, OR 97205

**RE: Application for a Zone Change and revision to the Comprehensive Plan associated with a request for an Exception to Statewide Planning Goals 11 and 14 at the Rocky Pointe Marina (Case # T4-08-001).**

Dear Mr. Fry:

As we have previously discussed, current county code states the "*maximum density of houseboats shall not exceed one for each 50 feet of waterfront frontage (MCC 34.6755).*" By my rough calculations, it appears your proposal for 76 houseboats<sup>1</sup> exceeds this threshold by approximately 13 houseboats when measuring the entirety of the parcel's water frontage and exceeds the 1:50 threshold by approximately 16 when measuring the frontage length of the exception area only. It isn't clear that the 1:50 threshold can be exceeded through this quasi-judicial goal exception/zone change process.

Policy 13 of the Sauvie Island Rural Area Plan provides a mechanism for moorage expansion through Special Plan Area (SPA) designation which you have applied for. The purpose of the SPA is to determine appropriate uses and densities allowed: "*Multnomah County should adopt procedures to allow existing moorage/marina to become a 'special plan area' under MCC 11.15.6600 at the initiation of the property owner, to determine uses and densities allowed for each moorage on the channel. The special plan area designation would be allowed when the property owner requests an expansion or alteration, or for any new marina/moorage developments. The provisions of the existing Conditional Use criteria would still be in place in addition to the new special planning area procedure.*"

Interestingly, Policy 14 of the Sauvie Island Rural Area Plan states... "*the overall density for each existing moorage/marina that chooses to go through the special planning area process shall not exceed the existing levels as measured by factors such as length of docks and number of slips...*"

With your application, you have an opportunity to explain how the two policies should be reconciled, why the 1:50 ratio can be exceeded, and how the density of development should be measured. I look forward to receiving a response to these issues after you have

<sup>1</sup> 36 new houseboats proposed with 40 existing = 76 houseboats total.

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had a chance to review the policies. Please do not hesitate to contact me if you have any questions or if you need copies of the policies.

Sincerely,

A handwritten signature in black ink that reads "ADAM BARBER". The signature is written in a cursive style with a long horizontal line extending to the right.

Adam Barber,  
Senior Planner

xc:

Stanley & Jeniece Tonneson  
23586 NW St. Helens SP U7  
Portland, OR 97231

File

## BARBER Adam T

---

**From:** BARBER Adam T  
**Sent:** Tuesday, December 09, 2008 3:27 PM  
**To:** 'Stan Tonneson'  
**Cc:** 'PFINLEYFRY@aol.com'  
**Subject:** Rocky Point Marina Project

Stan,

I hadn't heard from you in a while and wanted to check in on a few issues. I am in the process of getting a project off my plate and am hoping we can get things moving on your project very soon. Thanks for submitting the revised plans and letter from Swabe, Williamson & Wyatt.

At our last meeting, you gave me a copy of an August 14th email from Ken Smith at the state regarding confirmation the state is OK with your request for additional well water usage. I see from the email thread that Ken suspected you may fall under the "*group domestic purposes not exceeding 15,000 gallons per day*" and recommended you confirm no permit would be required with the local watermaster (Darrel Hedin @ 503-846-7780). Were you able to receive this confirmation from Darrel? I ask because I see the commercial purposes exemption is capped at 5,000 gallons per day and that you are anticipating 9,000 gallons per day which I can only assume requires approval from the state.

Also, have you received any additional information from DEQ regarding the site's suitability to expand the sewer system to serve the new development? I don't know how we move forward without this and wanted to check in on your progress. If I recall correctly, your engineer was working with DEQ to provide the necessary technical assessment and at a minimum you were going to discuss your engineer putting together a sewer expansion feasibility letter for our review.

I haven't yet had a chance to spend much time with the Swabe, Williamson and Wyatt letter but hope to review carefully in the next few days. I don't see this letter as a completeness issue and expect the opinions offered will become more relevant during the drafting of the decision.

Please let me know how I can help keep things moving. Hope all is well.

**Adam Barber, CPESC**  
Senior Planner

Multnomah County Land Use Planning  
1600 SE 190th Avenue, Suite 116  
Portland, Oregon 97233  
ph: 503-988-3043 x 22599  
fax: 503-988-3389  
adam.t.barber@co.multnomah.or.us





**BARBER Adam T**

---

**From:** PFINLEYFRY@aol.com  
**Sent:** Tuesday, December 30, 2008 9:38 AM  
**To:** BARBER Adam T  
**Subject:** Re: IMPORTANT - Rocky Pointe Goal Exception - Day 180

Adam;

Please deem the application complete.

Thank you.

Peter Finley Fry AICP PhD  
2153 SW Main Street #105  
Portland, Oregon 97205

503-274-2744  
503-274-1415 FAX

---

One site keeps you connected to all your email: AOL Mail, Gmail, and Yahoo Mail. [Try it now.](#)

12/31/2008





Department of Community Services  
**MULTNOMAH COUNTY OREGON**

Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Avenue  
Portland, Oregon 97233-5910  
PH. (503) 988-3043 Fax (503) 988-3389  
[www.co.multnomah.or.us/landuse](http://www.co.multnomah.or.us/landuse)

Michael S. Greisen, Fire Chief  
Scappoose Rural Fire Protection District  
P.O. Box 625  
52751 Columbia River Highway  
Scappoose, Oregon 97056

December, 31 2008

**RE: Rocky Pointe Moorage Expansion – 23586 NW St. Helens Road**

Mr. Greisen,

I am in the process of drafting a land use decision for Stan Tonneson's Rocky Pointe Moorage expansion request and I need to confirm what fire district requirements apply. The request involves 36 new floating homes, relocation of 30 existing boat slips, new dry dock repair improvements, 73 new auto parking spaces, expansion of existing boat yard, and erection of approximately 520 linear feet of new dock structure on the upstream (south) side of the marina. I have attached a recent version of the proposed site plan, a February 16<sup>th</sup>, 2007 letter you drafted with associated access and fire flow forms and an October 24<sup>th</sup>, 2007 email from you to Mr. Tonneson. I get the sense from the email that your February 16<sup>th</sup> letter may no longer be valid due to design changes since your letter was drafted.

Would you be able to send me a short email or letter either confirming the requirements in the February 16<sup>th</sup> letter or providing an amended list of requirements? I also would be curious how you would like to coordinate your review of any required road surveying with our office. Your letter asks that this occur prior to building permits are issued. I wonder if this should occur, if still needed, prior to the issuance of land use permits to avoid surprises late in the process? I look forward to your thoughts.

Sincerely,

**Adam Barber, CPESC**  
Senior Planner  
ph: 503-988-3043 x 22599  
fax: 503-988-3389  
[adam.t.barber@co.multnomah.or.us](mailto:adam.t.barber@co.multnomah.or.us)

cc: Stan Tonneson & Peter Fry

STA  
23  
PC  
EXHIBIT  
62

**BARBER Adam T**

---

**From:** Stan Tonneson [stan@rpmarina.com]

**Sent:** Thursday, January 15, 2009 9:24 AM

**To:** PFINLEYFRY@aol.com

**Subject:** Rocky Pointe

Peter,

You were asking me about the open areas just north of our entrance gate on the west side of the road. I checked with the past property owner and some old time tenants who informed me that these areas were a storage area for the old marina in the 1970's and 1980's. In the 1990's, the past owner with his conditional use permit, cleaned up these areas and enhanced them for recreational use such as dog running, horseshoes, volleyball and picnics. The southern most area is year round use and the northern area is summer and fall use when it is weather is dry. Please let me know if you need anymore information.

Thanks,

Stan Tonneson

Rocky Pointe Marina

EXHIBIT  
63



**Department of Community Services**  
**MULTNOMAH COUNTY OREGON**

**Land Use and Transportation Program**  
**1600 SE 190<sup>th</sup> Avenue**  
**Portland, Oregon 97233-5910**  
**(503) 988-3043**

January 28<sup>th</sup>, 2009

Metropolitan Service District (METRO)  
600 NE Grand Ave.  
Portland, OR 97232

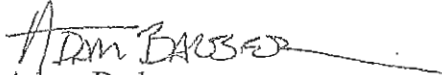
**RE: Expansion of the Rocky Pointe Marina – 23586 NW St. Helens Road.**

The Multnomah County Land Use Planning office is reviewing a request to expand the Rocky Pointe Marina at 23586 NW St. Helens Road. In addition to a number of development permits, this request requires exceptions to statewide planning Goal 14 (urbanization) and Goal 11 (Public Facilities & Services) and establishment of a Special Planning Area master plan for the site. The Rural Area Plan Policy 15, which is part of the comprehensive framework plan, requires that your office be consulted as part of the Special Plan Area evaluation.

This project envisions the following major alterations to the existing operation: 36 new floating homes, relocation of 30 existing boat slips to other on-site locations, removal/recycling of 16 existing boat slips, dry dock repair improvements, 65 new auto parking spaces, expansion of the existing boatyard and construction of approximately 520 linear feet of new dock structure on the upstream (south) side of the marina. The applicant has not submitted detailed development plans and proposes the improvements throughout the marina operation. The most notable improvements include: 1). 15 new dwellings on the channel side of the proposed dock expansion area along with 30 new boat slips and a floating community room along the bank side of the proposed dock, & 2). Expansion of the boat repair yard located at the north end of the property westward into a forested and wetland area. An undetermined volume of fill is proposed within this area to create a developable boat yard expansion area.

**The applicant has recently deemed the case complete and it is tentatively scheduled to be heard by the Planning Commission March 3<sup>rd</sup>. I am in the process of preparing the decision and would greatly appreciate any feedback your office could provide as soon as possible. Feedback would ideally be received no later than Thursday, February 5<sup>th</sup>.** Emailing feedback to me directly is preferable to mailing considering the tight timelines. Please don't hesitate to contact me with any questions.

Sincerely,



Adam Barber

Senior Planner (503.988.3043 x 22599, [adam.t.barber@co.multnomah.or.us](mailto:adam.t.barber@co.multnomah.or.us))

*Cc: applicant and owner via scanned email attachment*

EXHIBIT  
64





Department of Community Services  
**MULTNOMAH COUNTY OREGON**

Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Avenue  
Portland, Oregon 97233-5910  
(503) 988-3043

January 28<sup>th</sup>, 2009

U.S. Army Corps of Engineers  
333 SW First Ave.  
Portland, OR 97208-2946


**RE: Expansion of the Rocky Pointe Marina – 23586 NW St. Helens Road.**

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Sincerely,



Adam Barber

Senior Planner (503.988.3043 x 22599, [adam.t.barber@co.multnomah.or.us](mailto:adam.t.barber@co.multnomah.or.us))

*Cc: applicant and owner via scanned email attachment*

EXHIBIT  
65



Department of Community Services  
**MULTNOMAH COUNTY OREGON**

---

Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Avenue  
Portland, Oregon 97233-5910  
(503) 988-3043

January 28<sup>th</sup>, 2009

Mischa Connine  
Oregon Department of Fish and Wildlife  
18330 NW Sauvie Island Rd.  
Portland, OR 97231

**RE: Application for Expansion of the Rocky Pointe Marina – 23586 NW St. Helens Road.**


Ms. Connine,

The Multnomah County Land Use Planning office is reviewing a request to expand the Rocky Pointe Marina at 23586 NW St. Helens Road. In addition to a number of development permits, this request requires exceptions to statewide planning Goal 14 (urbanization) and Goal 11 (Public Facilities & Services) and establishment of a Special Planning Area master plan for the site. The Rural Area Plan Policy 15, which is part of the comprehensive framework plan, requires that your office be consulted as part of the Special Plan Area evaluation.

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Sincerely,



Adam Barber

Senior Planner (503.988.3043 x 22599, [adam.t.barber@co.multnomah.or.us](mailto:adam.t.barber@co.multnomah.or.us))

*Cc: applicant and owner via scanned email attachment*

EXHIBIT  
66





Department of Community Services  
**MULTNOMAH COUNTY OREGON**

Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Avenue  
Portland, Oregon 97233-5910  
(503) 988-3043

January 28<sup>th</sup>, 2009

Laurie Warner  
Department of State Lands  
775 Summer St. NE  
Salem, OR 97301-1279

**RE: Expansion of the Rocky Pointe Marina – 23586 NW St. Helens Road.**

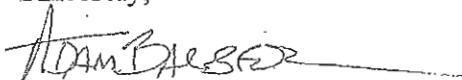
Ms. Warner,

The Multnomah County Land Use Planning office is reviewing a request to expand the Rocky Pointe Marina at 23586 NW St. Helens Road. In addition to a number of development permits, this request requires exceptions to statewide planning Goal 14 (urbanization) and Goal 11 (Public Facilities & Services) and establishment of a Special Planning Area master plan for the site. The Rural Area Plan Policy 15, which is part of the comprehensive framework plan, requires that your office be consulted as part of the Special Plan Area evaluation.

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Sincerely,



Adam Barber

Senior Planner (503.988.3043 x 22599, [adam.t.barber@co.multnomah.or.us](mailto:adam.t.barber@co.multnomah.or.us))

*Cc: applicant and owner via scanned email attachment*

EXHIBIT  
67



Department of Community Services  
**MULTNOMAH COUNTY OREGON**

Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Avenue  
Portland, Oregon 97233-5910  
(503) 988-3043

January 28<sup>th</sup>, 2009

Oregon Parks and Recreation  
725 NE Summer St. NE, Ste. C  
Salem, OR 97301

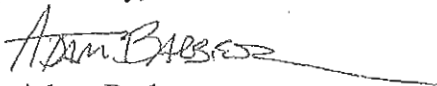
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Sincerely,



Adam Barber

Senior Planner (503.988.3043 x 22599, [adam.t.barber@co.multnomah.or.us](mailto:adam.t.barber@co.multnomah.or.us))

*Cc: applicant and owner via scanned email attachment*

EXHIBIT  
68



Department of Community Services  
**MULTNOMAH COUNTY OREGON**

Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Avenue  
Portland, Oregon 97233-5910  
(503) 988-3043

January 28<sup>th</sup>, 2009

Oregon State Marine Board  
435 Commercial St NE #400  
Salem, OR 97309-5065

**RE: Application for Expansion of the Rocky Pointe Marina – 23586 NW St. Helens Road.**

The Multnomah County Land Use Planning office is reviewing a request to expand the Rocky Pointe Marina at 23586 NW St. Helens Road. In addition to a number of development permits, this request requires exceptions to statewide planning Goal 14 (urbanization) and Goal 11 (Public Facilities & Services) and establishment of a Special Planning Area master plan for the site. The Rural Area Plan Policy 15, which is part of the comprehensive framework plan, requires that your office be consulted as part of the Special Plan Area evaluation.

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Sincerely,

Adam Barber

Senior Planner (503.988.3043 x 22599, [adam.t.barber@co.multnomah.or.us](mailto:adam.t.barber@co.multnomah.or.us))

*Cc: applicant and owner via scanned email attachment*

EXHIBIT  
69





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

## NOTICE OF PUBLIC HEARING

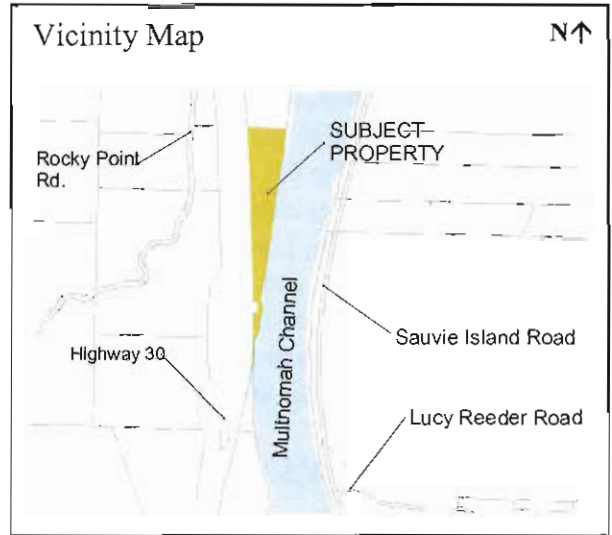
This notice concerns a public hearing scheduled to consider the land use case(s) cited and described below.

Case File: T4-08-001

Scheduled for Public Hearing in front of the Multnomah County Planning Commission

Planning Commission Hearing Date, Time, & Place:

**Monday, April 6<sup>th</sup>, 2009 at 6:30 PM** or soon thereafter, at:  
The Multnomah County Building  
Room 100  
501 SE Hawthorne Blvd.  
Portland, OR

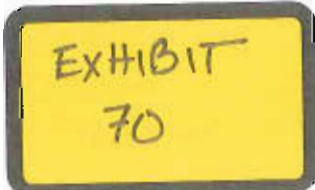


**Proposal:** Application for exceptions to statewide planning Goals 14 (Urbanization) and 11 (Public Facilities and Services) to expand the Rocky Pointe Marina with 36 new houseboats and to establish a Special Plan Area zoning district.

**Location:** 23586 NW St. Helens Road:  
Township 3 North, Range 2 West, Section 36A – Tax Lot 400 (#R982360300)  
Township 3 North, Range 2 West, Section 36D – Tax Lot 100 (#R982360080)

**Applicant:** Peter Fry  
2153 SW Main #105  
Portland, OR 97205

**Owners:** (Upland) Stanley & Jeniece Tonneson  
23586 NW St. Helens SP U7  
Portland, OR 97231  
(In-water) State of Oregon



**Public Participation and Hearing Process:** A copy of the application and all evidence submitted in support of the application is available for inspection, at no cost, at the Land Use Planning Division office during normal business hours. A staff report will be available for inspection 7 days prior to the hearing, also at no cost. Copies of all documents may be purchased at the rate of 30-cents per page. For further information on this case, contact Adam Barber, Staff Planner at 503-988-3043 x 22599 or adam.t.barber@co.multnomah.or.us

All interested parties may appear and testify or submit written comment on the proposal at or prior to the hearing. Comments should be directed toward approval criteria applicable to the request. The hearing procedure will follow the process outlined in Multnomah County Code 37.0610 (*Hearings Process – Type II Appeals, Type III or Type IV Applications*) which will be explained at the hearing.

The Planning Commission may forward a recommendation of approval to the Board of County Commissioners who will consider the case at a subsequent public hearing. A decision made by the Board of County Commissioners is appealable to the Land Use Board of Appeals by the applicant, the County, or other participants at the hearing. The Planning Commission may also decide to deny the application. Appeal of a denial by the Planning Commission will be considered by the Board of County Commissioners. Any issue which is intended to provide basis for an appeal to either the Board of County Commissioners or the Land use Board of Appeals must be raised before the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the County and all parties to respond to the issue. Notice of the county's final decision will be mailed to the subject property owner(s), applicant, parties within 750 feet of the subject property, and any other persons who submitted written comment or provided oral testimony at a public hearing.

**Applicable Approval Criteria:**

- Multnomah County Code (MCC) 37.0705 (Type IV Quasi-Judicial Plan and Zone Change Approval Criteria)
- Oregon Revised Statutes 197.732 – Goal Exceptions; Criteria; Rules; Review
- Oregon Administrative Rule 660-014-0030 (Rural Lands Irrevocably Committed to Urban Levels of Development); OAR 660-004-0025 (Exception Requirements for Land Physically Developed to Other Uses); OAR 660-004-0028 (Exception Requirements for Land Irrevocably Committed to Other Uses)
- Oregon Statewide Planning Goal 14 (Urbanization); Goal 11 (Public Facilities and Services)
- Sauvie Island/Multnomah Channel Rural Area Plan Policies 13 (SPA Procedures), 14 (SPA Density) & 15 (SPA Development Criteria)
- Comprehensive Framework Plan Policies 6 (Urban Land Area), & Policy 10 (Multiple Use Agriculture Land Area)

Copies of the referenced approval criteria can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.co.multnomah.or.us/landuse>

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

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



**MULTNOMAH COUNTY OREGON**  
**LAND USE AND TRANSPORTATION PROGRAM**  
1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233  
PH: 503-988-3043 FAX: 503-988-3389  
[http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use)

**November 20<sup>th</sup>, 2007**  
**8:00 AM**

**Pre-Application Meeting # PA-07-013 to discuss Multnomah County zoning ordinance and state requirements for a “committed” exception to statewide planning Goals 14 (Urbanization) and 11 (Public Facilities and Services).**

---

**REQUEST**

The Rocky Point Marina was permitted by Multnomah County in 1993 as a Community Service/Conditional Use<sup>1</sup>. The 17.35-acre property in western Multnomah County consists of two tax lots owned by Stan Tonneson LLC<sup>2</sup>. The 1993 approval authorized up to 40 houseboats, 150 boat slips, 7 boathouse spaces and 166 auto parking spaces. Zoning of the property is Multiple Use Agriculture-20 with zoning overlays for the 100-year floodplain, the Willamette River Greenway, Sauvie Island riparian area and for wetlands designated on the National Wetlands Inventory.

The applicant approached Multnomah County in 2006 with a request to add additional floating homes to the Marina. This application has been put on hold by the applicant because Staff, with the Department of Land Conservation and Development (DLCD), have advised that the county's current zoning regulations allowing up to one floating home per 50-feet of waterfront frontage<sup>3</sup> is in conflict with recent changes to the Oregon Administrative Rules (OARs) implementing Statewide Planning Goal 14. This new language, which became effective April of 2006, limits development to one single family dwelling per lot or parcel in rural areas (outside of an Urban Growth Boundary)<sup>4</sup>. The county's provision allowing one floating home per 50-feet of frontage pre-dates this new language and has been in the county's code since 1977 (ordinance 148) and is part of the county's acknowledged comprehensive plan.

The state interprets this one dwelling per parcel rule as applying to moorages. The result of this interpretation prohibits any further floating home expansions to existing moorage operations. It is this new OAR language implementing Goal 14 that has prompted this goal exception inquiry and is the specific language that must be waived in order for the county to consider a moorage expansion request.

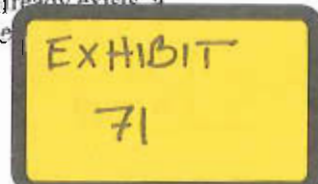
The applicant is seeking information for how to go about obtaining an exception to the goal, an amendment to the comprehensive plan and implementing code. We believe the new OAR rule did not envision house boat development patterns making it unclear exactly what needs to be shown for an exception to be granted.

<sup>1</sup> Permits CS 1-93, HV 1-93, WRG 1-93 and CU 7-93

<sup>2</sup> TL 400 in Township 3 North, Range 2 West, Section 36A and TL 100 in Section 36D

<sup>3</sup> Multnomah County Code 34.6755

<sup>4</sup> OAR 660-004-0040(7)(f) - Except as provided in subsection (e) of this section, a local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in a rural residential area. Where a medical hardship creates a need for a second household to reside temporarily on a lot or parcel where one dwelling already exists, a local government may authorize the temporary placement of a manufactured dwelling or recreational vehicle.





## SUMMARY OF STATEWIDE PLANNING GOALS 14 AND 11

Oregon's 19 statewide land use planning goals guide the drafting of city and county comprehensive plans and implementing regulations. These goals have been established to help provide clear statewide planning direction on how development should be balanced with resource protection. Goal 14 and its requirements are DLCD's response to the adverse effects of scattered urban development. This goal reflects the state's desire to avoid unnecessarily high expenditures for extension of public facilities and services over large areas. Goal 14 is designed to provide for an orderly and efficient transition from rural to urban land uses, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, to provide for livable communities and avoid impacts to farm and forest lands.

Statewide Planning Goal 11 is also at issue because it prevents urban style facilities serving developments from being extended into the rural area<sup>5</sup>. Urban Facilities and Services refers to at least the following types of public services: police protection; sanitary facilities; storm drainage facilities; planning, zoning and subdivision control; health services; recreation facilities and services; energy and communication services; and community governmental services<sup>6</sup>.

An exception would need to be granted from both of these statewide planning goals in order for the property to be considered appropriate for the urban style development density proposed. As part of any goal exception process, the county must also update the Sauvie Island/Multnomah Channel Rural Area Plan (i.e. Comprehensive Plan) for the affected area and apply a regulatory framework to the area of exception allowing the type of development proposed. This implementation may be accomplished using the Special Plan Area standards of MCC 34.5000, *et. Seq.* In addition, if the exceptions are approved, the applicant will still be required to continue with the appealable Type III Conditional Use Permit process currently put on hold which will evaluate the proposed development pattern and associated improvements in detail.

## SUMMARY OF APPLICABLE CODES, STATUTES, RULES AND POLICIES

The applicant will need to explain in detail how the proposal meets a number policies and regulations listed in the goals themselves, the Oregon Revised Statutes (ORS), the Oregon Administrative Rules (OAR), County Code and within the County Comprehensive Plans (General Plan and Rural Area Plan). The ORS is the codified body of statutory law governing the U.S. state of Oregon. The OARs are the official compilation of rules and regulations having the force of law in Oregon. It is the regulatory and administrative correlary to Oregon Revised Statutes, and is published pursuant to ORS 183.360(3).

- Goal 2 (Land Use Planning), Section II b
- Explain how your request meets Goals 5, 15 and 12.

*Staff comment – Although we do not expect these goals to be problematic, the applicant should explain how the proposal is in compliance with these goals. Goal 5 (natural resources, scenic and historic areas and open spaces) relates to the Sauvie Island riparian area and wetland natural resource protections on the property. Goal 15 (Willamette River Greenway) relates to the Willamette River Greenway overlay zone on the property. Goal 12 (Transportation)*

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<sup>5</sup> See "Planning" section of Goal 11.

<sup>6</sup> See "Urban Facilities and Services" section of Goal 11.

*considers impacts to the local transportation system. The county's current transportation system plan considered urban style moorage development in the past and therefore this type of use is not uncommon.*

- Oregon Revised Statutes (ORS) 197.732(1)(b) – Goal Exceptions
- Goal 14 committed exception - Oregon Administrative Rules (OAR) 660-014-0030

*Staff comment – OAR Division 14 only applies to Goal 14 and therefore the findings to the standards should be related to the urban floating home development (OAR 660-0014-0000).*

- Goal 11 committed exception - Oregon Administrative Rules (OAR) 660-004-0028

*Staff comment – OAR Division 4 only applies to Goal 11 and therefore the findings to the standards should be related to the urban style facilities required such as the sewer system (OAR 660-004-0000).*

- Goal 14 committed exception - Oregon Administrative Rules (OAR) 660-004-0040

*Staff comment – This section contains the language requiring the goal exception... “a local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in a rural residential zone (OAR 660-004-0040(7)(f)). The Multiple Use Agriculture-20 zone is considered a type of rural residential zone.*

- Multnomah County Code 37.0705 – Type IV Quasijudicial Plan and Zone Changes
- Explain how your request meets the following - Multnomah County Comprehensive Plan Policy 10 (MUA-20), Policy 14 (Development Limitations), Policy 20 (Arrangement of Land), Policy 24 (Housing Location), Policy 26 (Houseboats), Policy 37 (Utilities), Policy 38 (Facilities)
- Explain how your request meets the applicable policies within the Sauvie Island/Multnomah Channel Rural Area Plan Policies.
- Please have each of the public service providers review your proposal and comment on its feasibility, including a list of any required improvements (Transportation (ODOT), Sewer (DEQ), water, fire, police and school)

*Staff comment – On November 8<sup>th</sup>, 2007 Charles R. Gilbert, ODOT Rail Crossing Compliance Specialist, indicated the existing Lower Rocky Point Road grade crossing is out of compliance with State of Oregon Public Utility Commission Order Number 95-1383 (copy of letter and referenced order attached*

Although it is not possible to discuss every detail of these regulations and policies within these notes or in the pre-application meeting, Staff has made an attempt to summarize the key points below. All of these regulations are available on-line.

## THE GOAL EXCEPTION PROCESS

There are three types of goal exceptions. 1). A “**physically developed**” exception is applicable when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal. 2). The second option is called a “**committed**” goal exception. A committed exception requires that the applicant demonstrate that the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because of existing adjacent uses and other relevant factors that make uses allowed by the goal impractical. 3). A “**reasons**” exception is relevant when the applicant can justify that an alternative area does not exist in the community to locate the necessary development. The applicant is inquiring about the committed exception process.

Division 14 of the Oregon Administrative Rules provides for special type of committed exception process for Rural Lands that are irrevocably committed to urban levels of development (OAR 660-014-0030). The most common type of committed exception process is outlined in Division 4 of the OARs which applies when rural style development patterns are proposed. We have confirmed with DLCD staff that Division 14 is the appropriate set of committed regulations in this particular case for the Goal 14 exception. The sections of Division 4 (OAR 660-004) that relate to both the Goal 11 and 14 process are provided in the summary section above.

### KEY POINTS

- The exact nature and extent of the areas found to be irrevocably committed to urban levels of development shall be clearly set forth in the justification for the exception. The area proposed as land that is built upon at urban densities or irrevocably committed to an urban level of development must be shown on a map or otherwise described and keyed to the appropriate findings of fact (OAR 660-014-0030(2)).

*Staff comment – You will need to decide if you are applying for an exception for the entire property or for a portion of the property. Please clearly demarcate the proposed exception area on a site plan, clearly showing whether or not the exception area extends out into the water.*

- A decision that land is committed to urban levels of development shall be based on findings of fact, supported by substantial evidence in the record of the local proceeding, that address the following (OAR 660-014-0030(3)):
  - (a) Size and extent of commercial and industrial uses;
  - (b) Location, number and density of residential dwellings;
  - (c) Location of urban levels of facilities and services; including at least public water and sewer facilities; and
  - (d) Parcel sizes and ownership patterns.
- A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable (OAR 660-004-0028(1)):
- Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following (OAR 660-004-0028(2)):

The characteristics of the exception area;  
The characteristics of the adjacent lands;

The relationship between the exception area and the lands adjacent to it; and  
The other relevant factors set forth in OAR 660-004-0028(6)<sup>7</sup>.

- It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." OAR 660-004-0028(3)
- A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area (OAR 660-004-0028(4)).

*Staff comment: Staff believes that the term "uses" above can be considered in this case to be the services or facilities allowed by Goal 11. The facilities allowed under Goal 11 for the rural area is on-site sewage disposal system serving one parcel. You will need to explain why the exception area is irrevocably committed and impracticable for this type of facility.*

- Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment (OAR 660-004-0028(6)(B)).
- Quasi-judicial Plan Revision. The burden of proof is upon the person initiating a quasi-judicial plan revision (MCC 37.0705).

*Staff Comment – The applicant is responsible for performing the necessary research, studies and must provide clear evidence that all applicable standards have been met.*

- MCC 37.0705(A)(3) - The uses allowed by the proposed changes will:
  - (a) Not destabilize the land use pattern in the vicinity;
  - (b) Not conflict with existing or planned uses on adjacent lands; and
  - (c) That necessary public services are or will be available to serve allowed uses.

*Staff comment - The relevant public services in this case relate to the local transportation capacity<sup>8</sup>, including the rail crossing, sewer<sup>9</sup>, water, fire, police and school services that will need to adequately accommodate the urban style of development. Please have each of these service providers review your proposal and comment on its feasibility, including a list of any required improvements.*

- Granting the request is in the public interest (MCC 37.0705(B)(1));
- 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 (MCC 37.0705(B)(2));

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<sup>7</sup> These factors include adjacent uses, existing public facilities, parcel size and ownership patterns, neighborhood and regional characteristics and natural or man-made features.

<sup>8</sup> Highway 30 and the rail road crossing on the property are managed by the Oregon Department of Transportation.

<sup>9</sup> The Oregon Department of Environmental Quality is the permitting agency for sewer service.

## **CODE COMPLIANCE**

In order for the County to approve a request, the property must be in full compliance with all previous land use decisions, applicable land use codes and be a Lot of Record (Multnomah County Code, MCC 37.0560, 33.2675 and 33.0005(L)(13)). A Lot of Record is a property that was created in accordance with all applicable zoning laws in effect at the time it was created (MCC 35.0005(L)(13)). Please review the attached Lot of Record handout to learn how to submit the necessary documentation to demonstrate your property is a Lot of Record.

## **COUNTY REVIEW PROCESS**

Quasijudicial Type IV decisions include requests for a statewide planning goal exception, plan amendment and/or zone change applications for an individual parcel or tract. These applications involve substantial discretion and evaluation of subjective approval criteria. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and Planning Commission hearing is published and mailed to the applicant, recognized neighborhood association and property owners within 750 feet. Notice must be issued at least 20 days pre-hearing, and the staff report must be available at least 7 days pre-hearing.

At the evidentiary hearing held before Planning Commission all testimony and evidence relevant to the matter shall be accepted prior to the close of the hearing. If the Planning Commission denies the application, any party who appeared before the Planning Commission either in person or in writing, may appeal the Planning Commission's denial to the Board of County Commissioners within 14 days after the decision is signed. If no appeal is filed, the Planning Commission's denial shall become final upon the close of business on the last day of the appeal period. If the Planning Commission votes to approve the application, that decision is forwarded as a recommendation to the Board for final consideration. In either case, any review by the Board is de novo, as if new, and all issues relevant to the applicable approval criteria may be considered. The Board's decision is the county's final decision and is appealable to LUBA within 21 days of when the signed Board order is mailed. OAR-004-0030 & 0035 provide a summary of the exception adoption process at the state level and the appeals process prior to acknowledgement.

## **FEES**

The required deposit for a Type IV Quasijudicial Plan Revision is \$2,290 and \$2,290 for a Quasijudicial Zone Change (\$4,580 total) which is due at time of filing. Considering the complexity of this particular request, it is possible staff time will exceed the deposit amount. An application can be filed at the planning counter within the next six months any time Tuesday – Friday from 8:00 am till 4:00 pm. Our public planning counter is not open on Mondays or Holidays.

## **CLOSING**

Type IV applications may only be initiated by the written consent of the owner of record or contract purchaser or by a government agency that has the power of eminent domain (MCC 37.0550). In addition to the property owner's signature on the general application form, please also provide written authorization from the Department of State Lands to consider a request for the urban expansion into the water (leased area).

Prior to submitting your application, please carefully review these notes. Many applicants use these notes as a check list prior to applying to assure that they have prepared all of the necessary

documentation. When making a land use application it is important that the applicant understand the criteria, standards and other requirements they are addressing. If you have any questions, please, do not hesitate to contact the staff planner, Adam Barber at (503) 988-3043 x 22599. You can access electronic copies of the County Land Use Ordinances at: [www.co.multnomah.or.us/landuse](http://www.co.multnomah.or.us/landuse)

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**Notwithstanding any representations by County staff at a pre-application meeting, staff is not authorized to waive any requirements of the County Code. Any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the county of any standard or requirement MCC 37.0570(C).**

**A pre-application conference shall be valid for a period of 6 months from the date it is held. If no application is filed within 6 months of the conference or meeting, the applicant must schedule and attend another conference before the County will accept a permit application. The Planning Director may waive the pre-application requirements if, in the Director's opinion, the development does not warrant these steps (MCC 37.0570(D)).**





**Department of Community Services**  
**MULTNOMAH COUNTY OREGON**

**Land Use and Transportation Program**  
**1600 SE 190<sup>th</sup> Avenue**  
**Portland, Oregon 97233-5910**  
**PH. (503) 988-3043 Fax (503) 988-3389**  
**[www.co.multnomah.or.us/landuse](http://www.co.multnomah.or.us/landuse)**

3/10/09

TO: Multnomah County Planning Commission  
FROM: Adam Barber, case planner

**RE: Goal Exception/Special Plan Area Criteria – Case T4-08-001**

The Multnomah County Planning Program is processing a request to add 36 floating homes to the Rocky Pointe Marina which currently contains 40 floating homes. The request is for 'Physically Developed' and 'Committed' exceptions to Statewide Planning Goals 14 (Urbanization) and 11 (Public Facilities and Services) and for the establishment of a Special Plan Area subdistrict to allow an alternative to the one houseboat per 50-foot of waterfront frontage carrying capacity limitation of the county's Conditional Use provisions. A Planning Commission hearing on this request is being scheduled for Monday, April 6<sup>th</sup>.

Considering how rarely this type of request comes before the Planning Commission, we felt it would be wise to forward the standards most central to the proposal in advance of the packets so that you have additional time to review them. Plans of the proposed exception areas are also enclosed. You will receive a staff report with a more detailed project description and findings relating to the criteria when the packets are mailed later this month.

Sincerely,

Adam Barber, case planner

**GOAL 14: URBANIZATION OAR 660-015-0000(14)**  
**(Effective April 28, 2006)**

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

(\* \* \*)

Single-Family Dwellings in Exception Areas

Notwithstanding the other provisions of this goal, the commission may by rule provide that this goal does not prohibit the development and use of one single-family dwelling on a lot or parcel that:

EXHIBIT  
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- (a) Was lawfully created;
- (b) Lies outside any acknowledged urban growth boundary or unincorporated community boundary;
- (c) Is within an area for which an exception to Statewide Planning Goal 3 or 4 has been acknowledged; and
- (d) Is planned and zoned primarily for residential use.

**GOAL 11: PUBLIC FACILITIES AND SERVICES**  
**OAR 660-015-0000(11)**

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

(\* \* \*)

Local Governments shall not allow the establishment or extension of sewer systems outside urban growth boundaries or unincorporated community boundaries, or allow extensions of sewer lines from within urban growth boundaries or unincorporated community boundaries to serve land outside those boundaries, except where the new or extended system is the only practicable alternative to mitigate a public health hazard and will not adversely affect farm or forest land.

**MCC 37.0705 TYPE IV QUASI-JUDICIAL PLAN AND ZONE CHANGE APPROVAL CRITERIA.**

(A) Quasi-judicial Plan Revision. The burden of proof is upon the person initiating a quasi-judicial plan revision. That burden shall be to persuade that the following standards are met:

- (1) The plan revision is consistent with the standards of ORS 197.732 if a goal exception is required, including any OAR's adopted pursuant to these statutes;
- (2) 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; and
- (3) The uses allowed by the proposed changes will:
  - (a) Not destabilize the land use pattern in the vicinity;
  - (b) Not conflict with existing or planned uses on adjacent lands; and
  - (c) That necessary public services are or will be available to serve allowed uses.
- (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 under this subsection.

(B) Quasi-Judicial Zone Change. The burden of proof is upon the person initiating a zone change request. That burden shall be to persuade that:

- (1) 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;
- (3) The proposed action fully accords with the applicable elements of the Comprehensive Plan; and
- (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 under this subsection. The existence of home occupations shall not be used as justification for a zone change.

**OAR 660-004-0025\* Exception Requirements for Land Physically Developed to Other Uses**

**\*Applicable to the 'physically developed' exception to Goal 11**

- (1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.
- (2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

**OAR 660-004-0028\* Exception Requirements for Land Irrevocably Committed to Other Uses**

**\*Applicable to the 'irrevocably committed' exception to Goal 11**

- (1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable:
  - (a) A "committed exception" is an exception taken in accordance with ORS 197.732(1)(b), Goal 2, Part II(b), and with the provisions of this rule;
  - (b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken;
  - (c) An "applicable goal," as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.
- (2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

- (a) The characteristics of the exception area;
- (b) The characteristics of the adjacent lands;
- (c) The relationship between the exception area and the lands adjacent to it; and
- (d) The other relevant factors set forth in OAR 660-004-0028(6).

(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1)(b), in Goal 2, Part II(b); and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:

- (a) Farm use as defined in ORS 215.203;
- (b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and
- (c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).

(4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.

(5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.

(6) Findings of fact for a committed exception shall address the following factors:

- (a) Existing adjacent uses;
- (b) Existing public facilities and services (water and sewer lines, etc.);
- (c) Parcel size and ownership patterns of the exception area and adjacent lands:

(A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goals were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining those parcels;

(B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.

(d) Neighborhood and regional characteristics;

(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;

(f) Physical development according to OAR 660-004-0025; and

(g) Other relevant factors.

(7) The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.

(8) The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exceptions:

(a) Those adopted or amended as required by a Continuance Order dated after the effective date of section (7) of this rule; and

(b) Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.

**OAR 660-014-0030\* Rural Lands Irrevocably Committed to Urban Levels of Development**

**\*Applicable to both the 'physically developed' and 'irrevocably committed' exceptions to Goal 14**

(1) A conclusion, supported by reasons and facts, that rural land is irrevocably committed to urban levels of development can satisfy the Goal 2 exceptions standard (e.g., that it is not appropriate to apply Goals 14's requirement prohibiting the establishment of urban uses on rural lands). If a conclusion that land is irrevocably committed to urban levels of development is supported, the four factors in Goal 2 and OAR 660-004-0020(2) need not be addressed.

(2) A decision that land has been built upon at urban densities or irrevocably committed to an urban level of development depends on the situation at the specific site. The exact nature and extent of the areas found to be irrevocably committed to urban levels of development shall be clearly set forth in the justification for the exception. The area proposed as land that is built upon at urban densities or

irrevocably committed to an urban level of development must be shown on a map or otherwise described and keyed to the appropriate findings of fact.

(3) A decision that land is committed to urban levels of development shall be based on findings of fact, supported by substantial evidence in the record of the local proceeding, that address the following:

- (a) Size and extent of commercial and industrial uses;
- (b) Location, number and density of residential dwellings;
- (c) Location of urban levels of facilities and services; including at least public water and sewer facilities; and
- (d) Parcel sizes and ownership patterns.

(4) A conclusion that rural land is irrevocably committed to urban development shall be based on all of the factors listed in section (3) of this rule. The conclusion shall be supported by a statement of reasons explaining why the facts found support the conclusion that the land in question is committed to urban uses and urban level development rather than a rural level of development.

(5) More detailed findings and reasons must be provided to demonstrate that land is committed to urban development than would be required if the land is currently built upon at urban densities.

<b>SPECIAL PLAN AREA SPA – STANDARDS IN COUNTY CODE</b>
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**MCC 34.5000- PURPOSES**

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

(\* \* \*)

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

(A) An amendment establishing an SPA subdistrict shall include the following:

(1) The designation of the subdistrict as SPA-1, SPA-2, SPA-3, etc., in the text and on the appropriate Sectional Zoning Map;

(2) A statement of the purposes of the subdistrict;



- (3) Definitions of terms, as appropriate;
- (4) A statement of the findings and policies on which the subdistrict is based, including reference to the related Special Area Plan or Comprehensive Plan revision which the subdistrict is designed to implement or to the special problems or circumstances which the subdistrict is designed to address;
- (5) A description of the relationships between the provisions of the SPA subdistrict and those of the underlying district;
- (6) A listing of the SPA subdistrict uses authorized as Permitted Uses, Uses Under Prescribed Conditions, or Conditional Uses, as appropriate;
- (7) A description of any approval procedure or criteria required to satisfy the subdistrict provisions;
- (8) Any development standards or dimensional requirements for authorized uses in the subdistrict;
- (9) A description of the nature of and approval procedures for any exceptions from subdistrict requirements;
- (10) A statement of the methods of appeal from a decision made under the provisions of the subdistrict; and
- (11) Any provisions for the expiration of the SPA subdistrict.

#### **SAUVIE ISLAND RURAL AREA PLAN POLICIES RELATED TO SPA DESIGNATION**

**POLICY 13:** Multnomah County should adopt procedures to allow existing moorage/marina to become a 'special plan area' under MCC 11.15.6600 at the initiation of the property owner, to determine uses and densities allowed for each moorage on the channel. The special plan area designation would be allowed when the property owner requests an expansion or alteration, or for any new marina/moorage developments. The provisions of the existing Conditional Use criteria would still be in place in addition to the new special planning area procedure.

Discussion: Each moorage/marina shall be allowed to enter into a special plan area (an existing part of the Multnomah County Zoning Code, which needs some minor amendments to fit the Multnomah Channel situation) procedure with Multnomah County to adopt essentially a master plan or comprehensive plan for each moorage/marina. As an attempt to take all issues into consideration, special plans can determine by looking at each existing or proposed moorage/marina on a case by case basis regarding the density, service levels and legal status of the property. At the County's initiation (no application fees), each individual marina/moorage could receive a special plan area designation which would be an overlay designation for each moorage and marina on the Channel. The special plan area will help reduce duplication of efforts by considering the Willamette River Greenway concepts concurrently with other code criteria.

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

**POLICY 14:** The overall density for each existing moorage/marina that chooses to go through the special planning area process shall not exceed the existing levels as measured by factors such as area and length of docks and number of slips (existing in the Multnomah County Moorage Report Listing of Floathouses and Watercraft as of July 1, 1997 and reconciled through supplemental information provided by the moorage owner). The actual number of slips for each moorage/marina shall be determined at the time a special plan area is approved for the moorage/marina. The specific plan will look at such things as 'legally existing' issues, non-conforming status and carrying capacity of the land to determine the number of dwellings and other uses allowed in each marina/moorage.

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

**POLICY 15: Development on Multnomah Channel within Special Plan Areas shall be judged upon the following criteria.**

#### **Water Environmental**

River Bank Protection - Development which protects the river bank from erosion caused by boat traffic.

Water Quality - Development which contributes to or does not significantly degrade water quality

Septic tanks/Sewage - Development which is more amenable to safe and sanitary sewage disposal, along with adequate upland facilities for disposal of sewage.

Fish and Wildlife - Development which contributes to or does not have a significant detrimental impact to the fish and wildlife in the water.

#### **Land Environmental**

Development in Wetland - Development which does not impact wetlands.

Traffic Increase - Development which minimizes increases in traffic on moorage access roads, on railroad crossings, and onto Highway 30.

Parking - Development which minimizes the amount of parking area necessary.

Ground Water Quality - Development which minimizes impacts to ground water quality.

Need for Restroom Facilities - Development which minimizes the need for additional communal restroom facilities to serve the proposed uses.

Land Wildlife - Development which minimizes impacts to land wildlife.

Necessary Utilities - Development which requires fewer utilities to serve proposed uses.

Floodplain Development - Development which minimizes placement of permanent structures and uses in the floodplain.

Accessory Structures - Development which minimizes the need for accessory on-land structures to serve proposed uses.

### **Aesthetic**

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

Visibility of Shore - Development which minimizes changes to natural shoreline features.

Massing and Scale - Development which has a human scale or architectural quality to it.

Diversity/Rural character - Development which maintains the existing diversity and rural character of Multnomah Channel.

Lighting - Development which minimizes night lighting of uses.

Vegetation/landscape on Water - Development which minimizes its visibility from the Multnomah Channel waterway.

### **Safety**

Contribution to Channel Traffic - Development which minimizes Channel traffic.

Residential Link - Development with a permanent residence component which provides a human presence to both report emergencies and violations on Multnomah Channel.

Fire Hazard - Development which minimizes fire hazard.

Emergency Services - Development which minimizes the need for emergency services.

Economic - Development which provides economic value to Multnomah County in the form of assessment value and reduced need for public services.

### **Recreation**

Contribution to Public Recreation - Development which contributes to public recreation opportunities on Multnomah Channel.

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

## **Cumulative Impacts**

The cumulative impacts of the proposed development on the overall carrying capacity of Multnomah Channel shall be considered and minimized.

The criteria listed shall be weighed and balanced by the hearing body considering each Special Plan Area so as to determine the most appropriate intensity and type of development allowed within each of these areas.

In reviewing each Special Plan Area, Multnomah County shall consult with other relevant local, state, and federal agencies, including but not limited to the following agencies:

Division of State Lands  
Oregon Department of Fish and Wildlife  
Oregon Parks and Recreation Department  
Oregon State Marine Board  
U.S. Army Corps of Engineers  
Metro Parks and Greenspaces

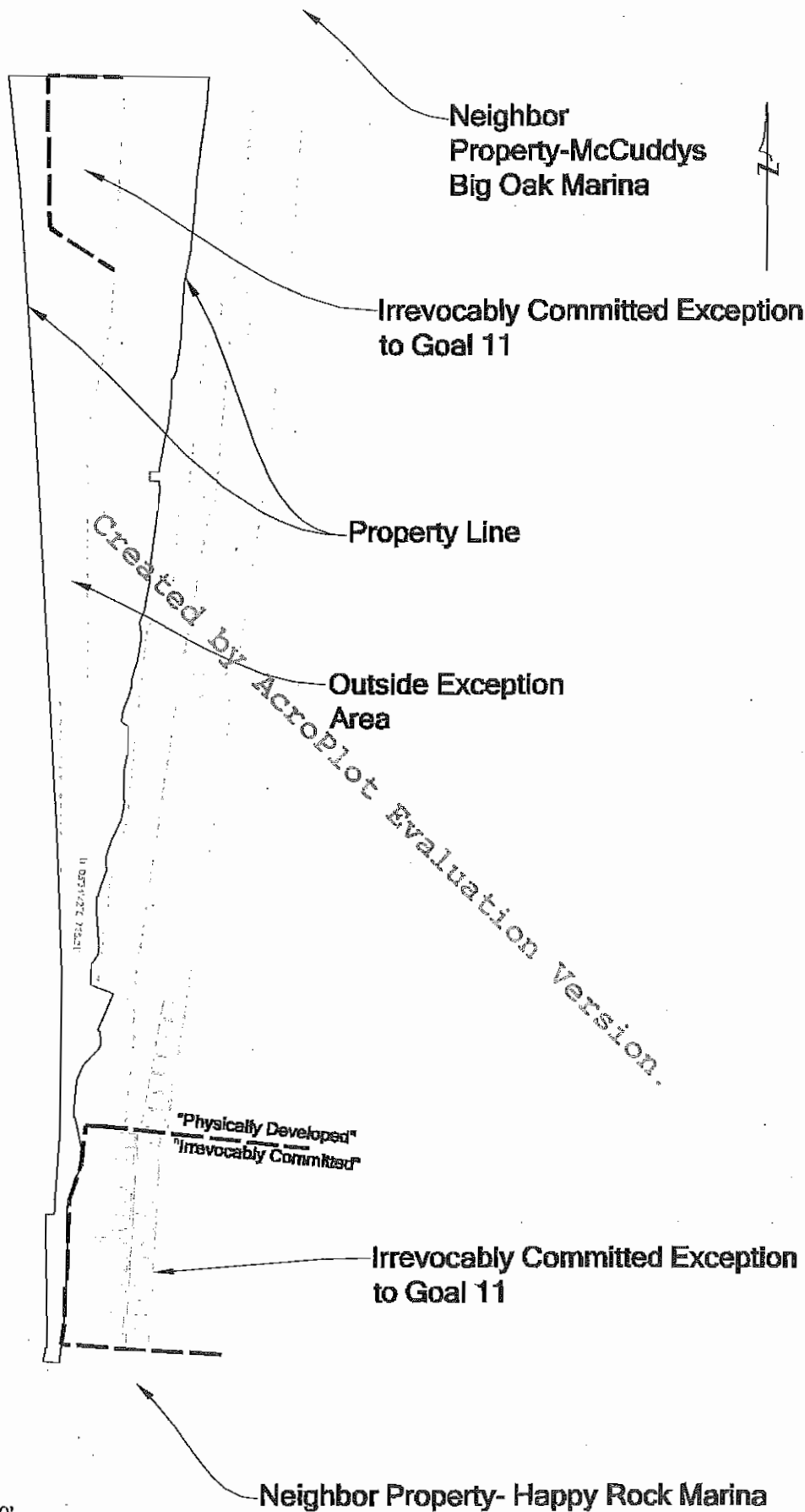
Discussion: It is not intended that each proposed use strictly meet each of the criteria listed above, but rather the criteria be used by the hearing body to weigh the appropriateness of different potential uses. It is assumed that each site within the boundaries of Policy 26 is appropriate for some sort of marine related development unless a single criteria weighs so strongly upon the site that it precludes all or some of the potential marine development uses.

STRATEGY: These criteria shall be included in the general special plan area code and shall be used to review proposed uses in each s

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PLANNING SECTION



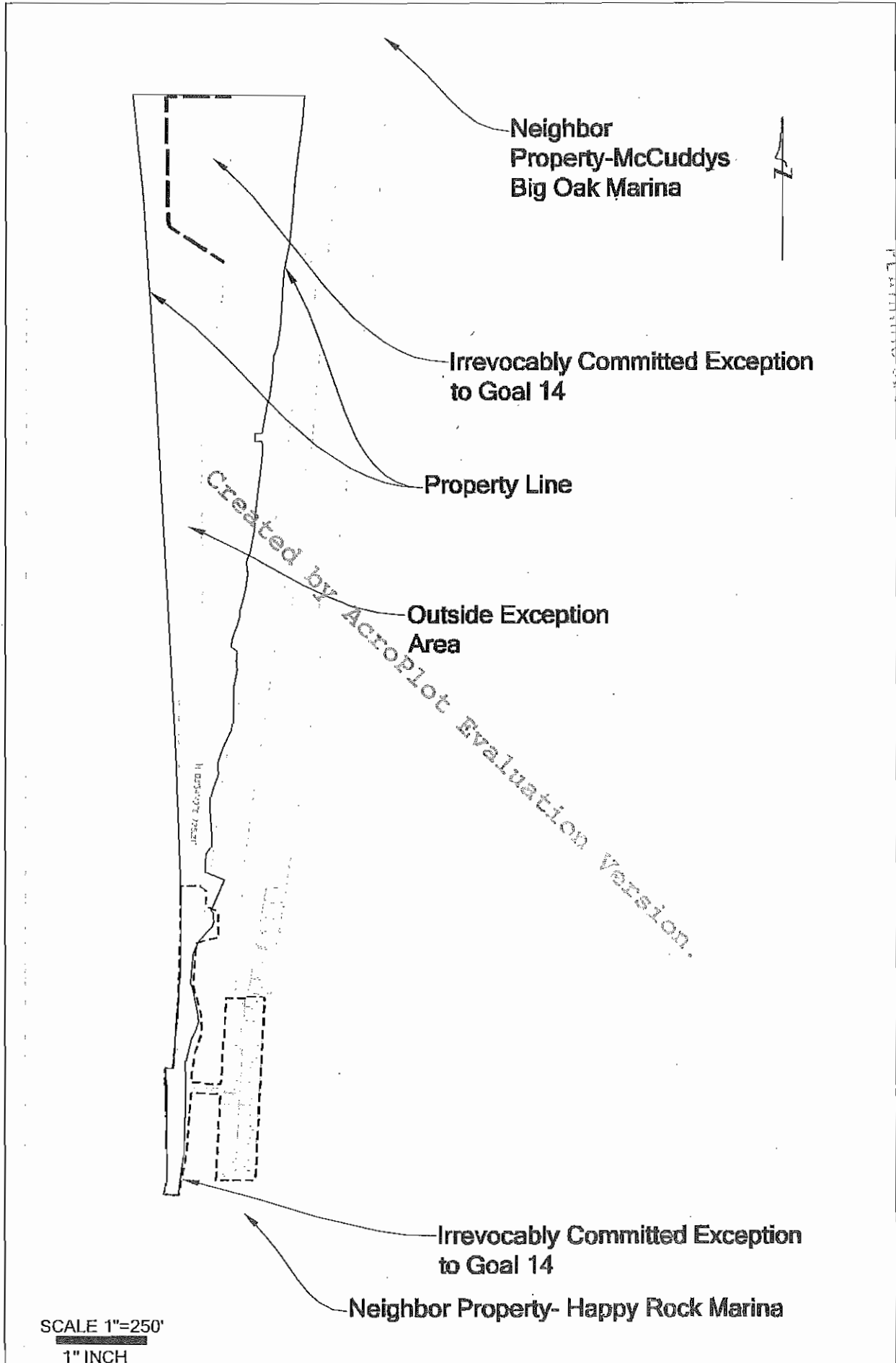
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1" INCH

<b>Flowing solutions</b> Flaring Solutions 3305 SW 87th Avenue Portland, OR 97225 Phone (503) 297-8331 Fax (503) 297-9033	TITLE: EXHIBIT 2D - IRREVOCABLY COMMITTED EXCEPTION GOAL 11	REVISED: 11/3/08 8/5/08
	ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231	RIVER: MULTNOMAH CHANNEL DATUM: NGVD

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MULTNOMAH COUNTY  
PLANNING SECTION



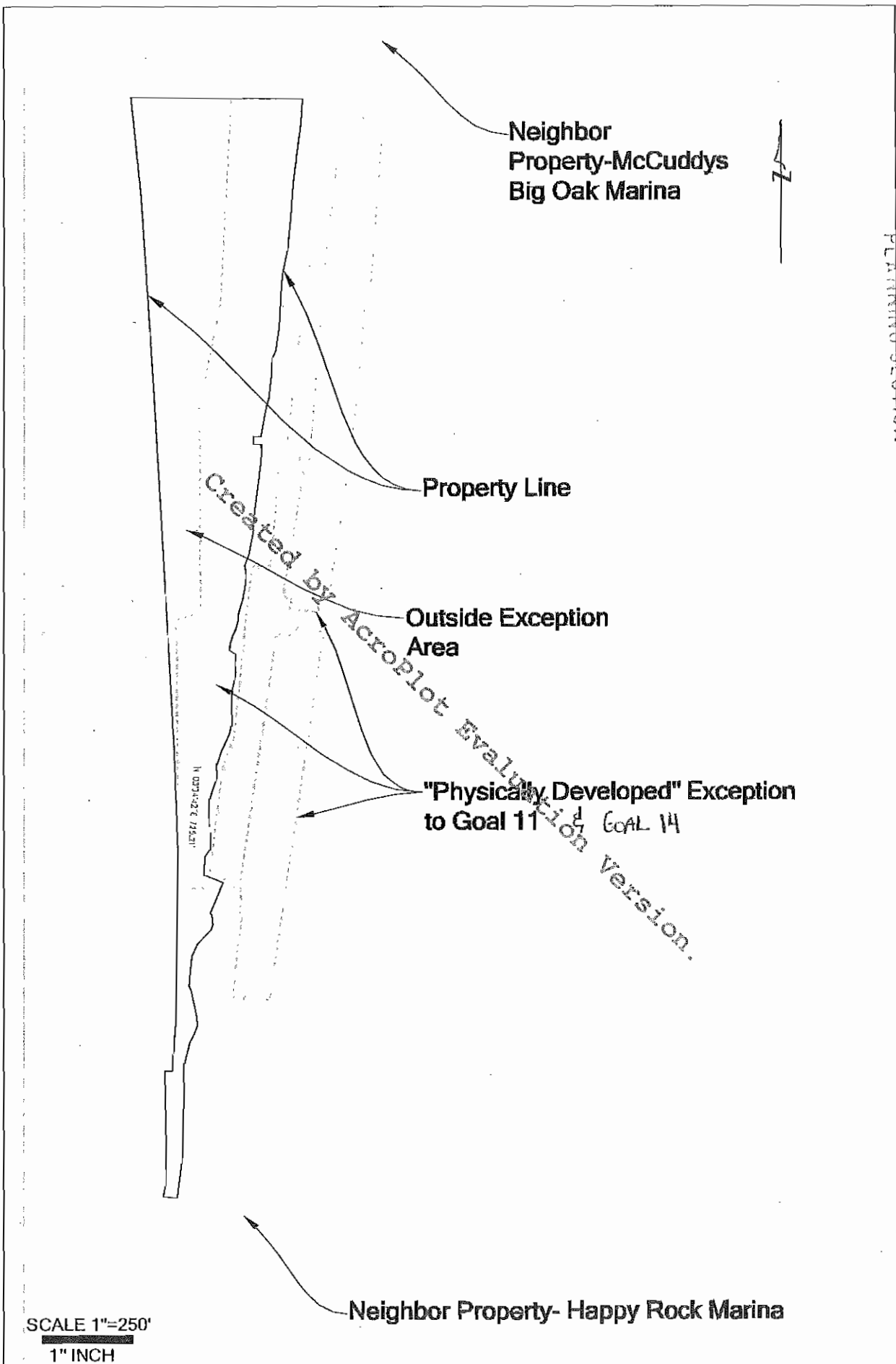
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<b>Flowing solutions</b> Flowing Solutions 3205 SW 87th Avenue Portland, OR 97225 Phone (503) 297-6331 Fax (503) 297-6053	TITLE: EXHIBIT 2E - IRREVOCABLY COMMITTED EXCEPTION GOAL 14	REVISED: 11/3/08 8/5/08
	ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231	RIVER: MULTNOMAH CHANNEL DATUM: NGVD




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MULTNOMAH COUNTY  
PLANNING SECTION



SCALE 1"=250'  
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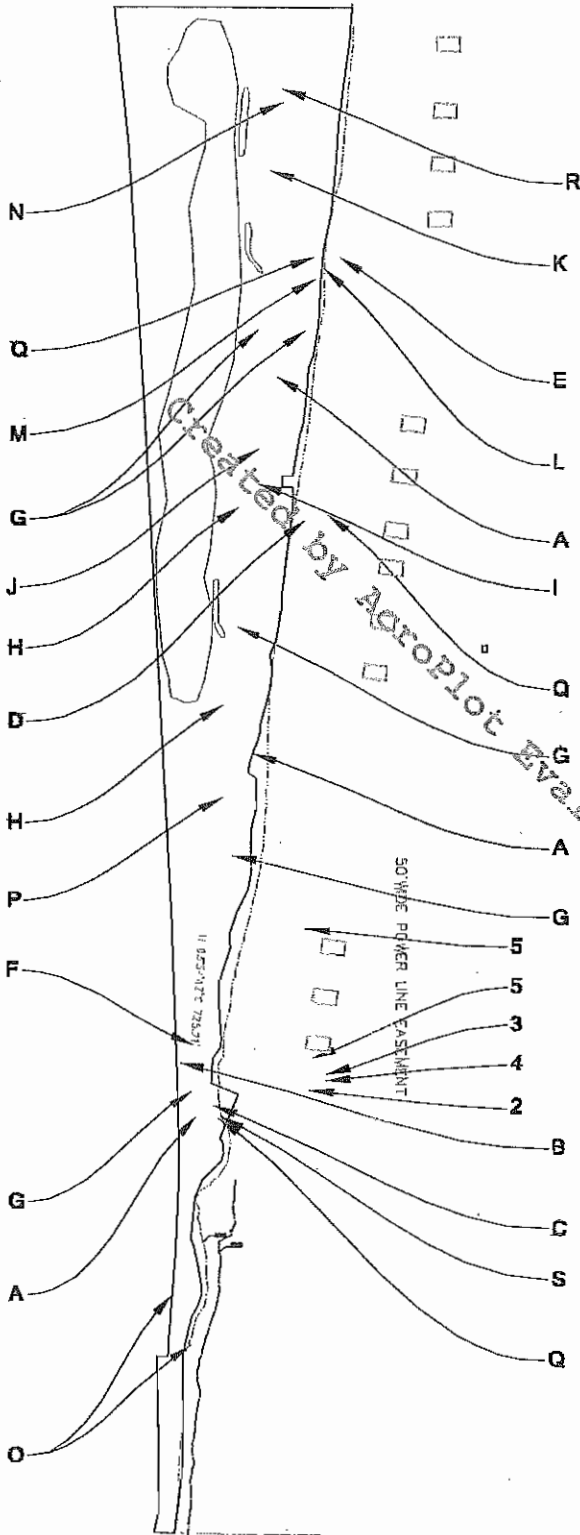
<b>Flowing solutions</b>  Flowing Solutions 3305 SW 87th Avenue Portland, OR 97225 Phone (503) 297-6331 Fax (503) 297-6063	TITLE: EXHIBIT 2C PHYSICALLY DEVELOPED EXCEPTION GOAL 14	REVISED: 11/3/08 8/5/08
	ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231	RIVER: MULTNOMAH CHANNEL DATUM: NGVD

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MULTNOMAH COUNTY  
PLANNING SECTION

NOTE: Boxes Indicate Proposed House  
Boat Conversion/Additions



- A. roadway
- B. water well house, storage and treatment
- C. recycling/garbage/mail center (upper)
- D. recycling/garbage station (middle)
- E. recycling/garbage station (lower)
- F. security gate
- G. parking (167 space)
- H. trailer storage
- I. sewage treatment plant
- J. evaporation pond
- K. boatyard shop/office
- L. boat haul out pier
- M. boat wash down pad and building
- N. boatyard
- O. power - Columiba PUD
- P. telephone - CenturyTel
- Q. fuel storage tanks
- R. boat yard restroom
- S. propane storage tanks

- 1. docks
- 2. marina office/store
- 3. fuel dock
- 4. marine sewer pump out
- 5. restrooms/laundry (4 bldg)

NOTE: Utilities Are Underground, Both  
Sides of Road From Main Ramp to Boat  
Yard

SCALE 1"=250'  
1" INCH

<b>Flowing solutions</b> Flowing Solutions 3505 SW 87th Avenue Portland, OR 97225 Phone (503) 297-6331 Fax (503) 297-6058	TITLE: EXHIBIT '1' KEY MAP		REVISED: 11/3/08
	ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231	RIVER: MULTNOMAH CHANNEL DATUM: NGVD	SHEET NO. 1

**BARBER Adam T**

---

**From:** Stan Tonneson [stan@rpmarina.com]  
**Sent:** Thursday, January 22, 2009 11:20 AM  
**To:** BARBER Adam T  
**Cc:** PFINLEYFRY@aol.com  
**Subject:** Re: Goal 14 exception question - Rocky Pointe

Adam,  
You are correct. Please go ahead and add as you stated.  
Thanks,  
Stan

----- Original Message -----

**From:** BARBER Adam T  
**To:** PFINLEYFRY@aol.com  
**Cc:** Stan Tonneson  
**Sent:** Thursday, January 22, 2009 7:42 AM  
**Subject:** Goal 14 exception question - Rocky Pointe

Peter,

I see on page 5 (report section 2) in your narrative that you are requesting "*a physically developed exception to Goal 14 for the existing developed areas of the marina...*" I don't find the developed portions of the marina areas labeled for a physically developed exception to Goal 14 on any of the site plans. Maybe I am missing a plan? Perhaps the site plan is mislabeled? For example, should the "physically developed exception to Goal 11" note on plan sheet 5 also include a Goal 14 reference? If so, I can make this change on my end by hand.

Sorry to be a bother but I came in at 6:15 this morning and have reserved the entire day for this project and want to keep my momentum going. I'd love to hear back from either you or Stan on this as soon as possible this morning considering my calendar is open today which is a rarity lately.

I may call you in about an hour if I haven't heard back from anyone. Thanks.

**Adam Barber, CPESC**  
Senior Planner

Multnomah County Land Use Planning  
1600 SE 190th Avenue, Suite 116  
Portland, Oregon 97233  
ph: 503-988-3043 x 22599  
fax: 503-988-3389  
adam.t.barber@co.multnomah.or.us





PHONE CONVERSATION  
GARY - GOODMAN - ODOT RAIL

3/21/06

SHOULD BE RAILROAD - STATE OWNS TRUCK,  
ALREADY A PUBLIC CROSSING

REPLACED KATHY SCHAMP

GARY. GOODMAN @ ODOT, STATE, OR, US

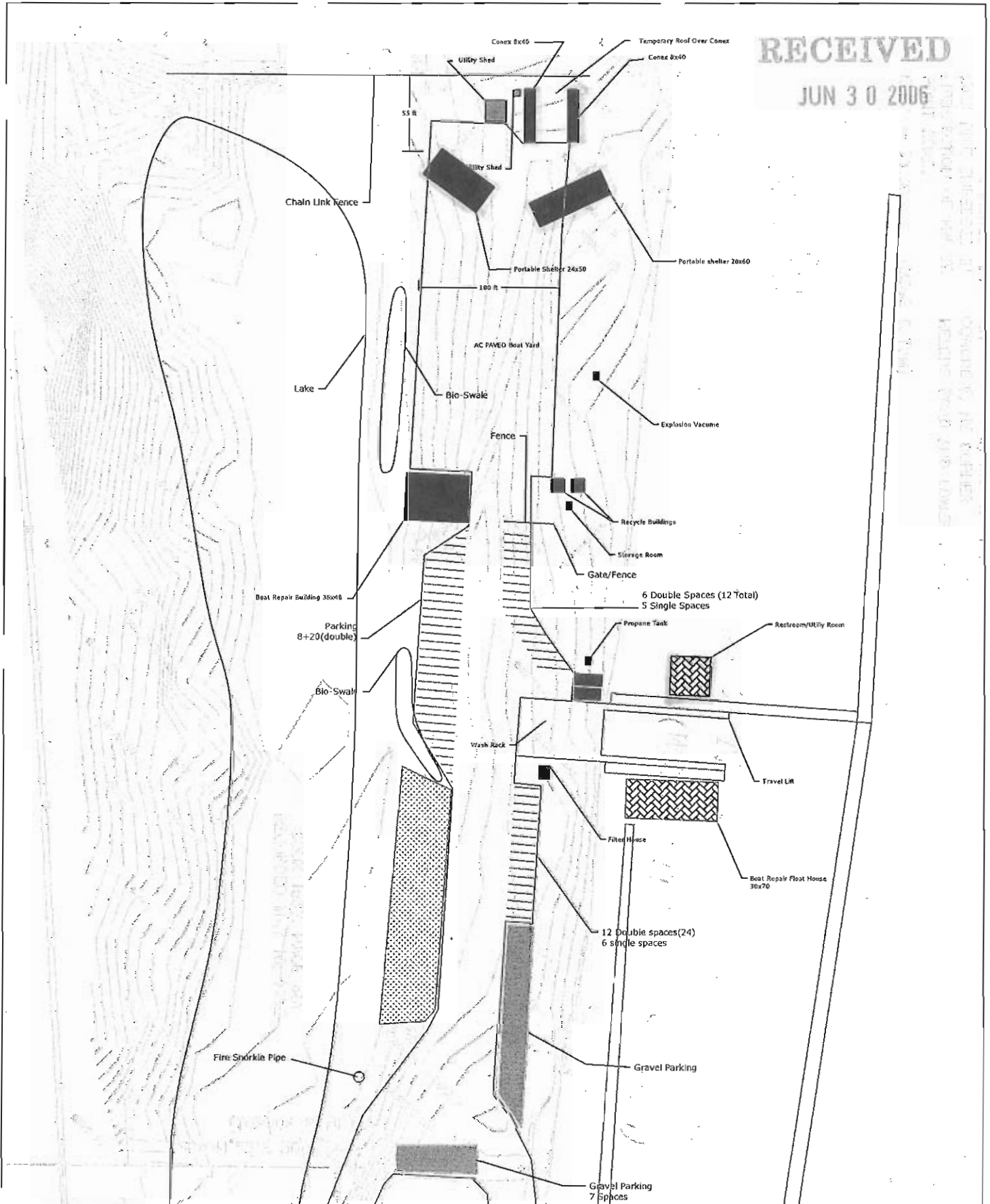
503-986-4230

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76

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JUN 30 2006



Flowing solutions



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3305 SW 87th Avenue  
Portland, OR 97225  
Phone (503) 297-6331  
Fax (503) 297-6053

TITLE: EXISTING SITE-DOWNSTREAM-1994-CURRENT

ROCKY POINT MARINA  
23586 NW ST. HELENS ROAD  
PORTLAND, OR 97231

RIVER: MULTNOMAH CHANNEL  
DATUM: NGVD 1"=1'

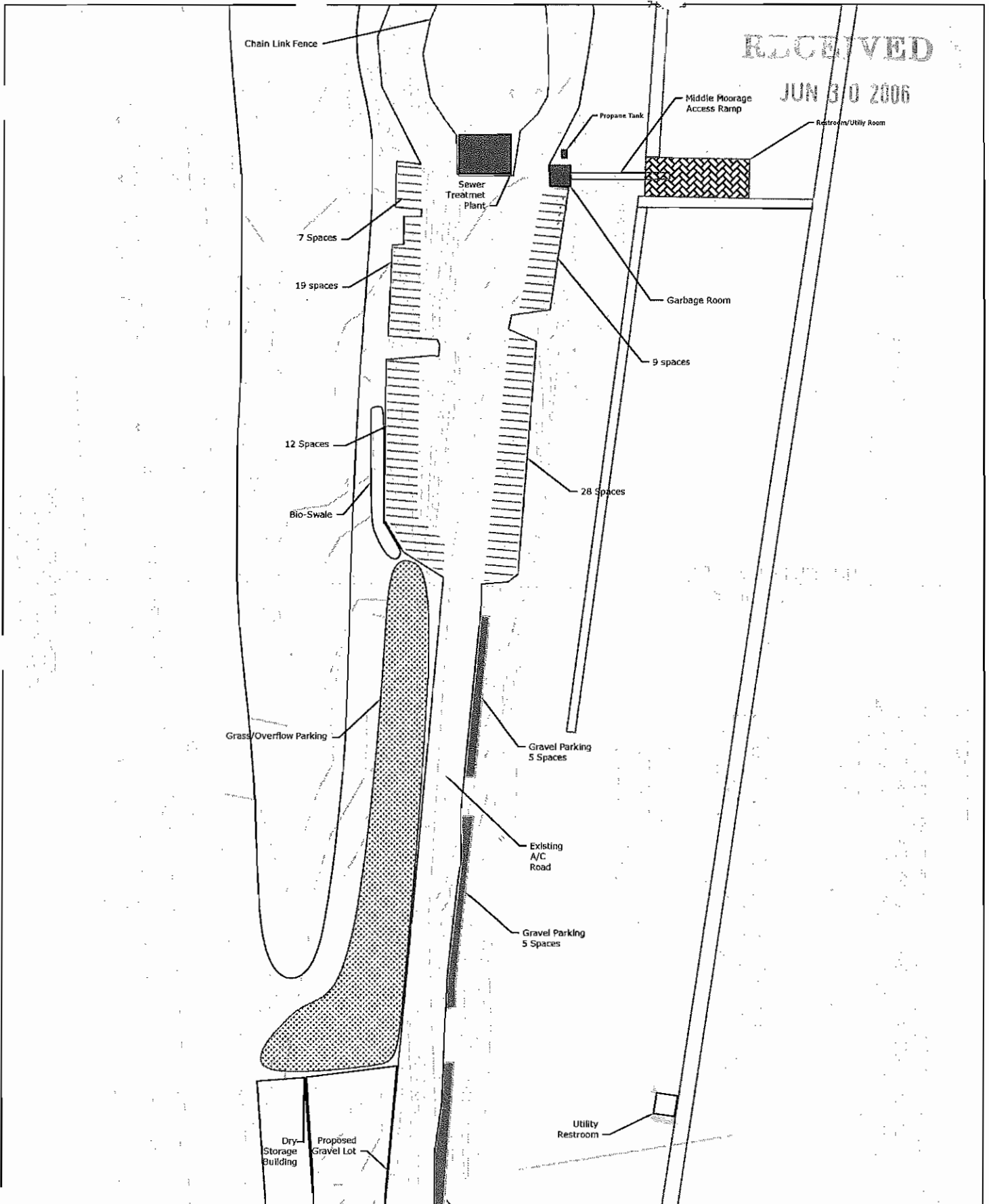
DATE: 6/22/06

EXHIBIT  
77



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 Fax (503) 297-6053

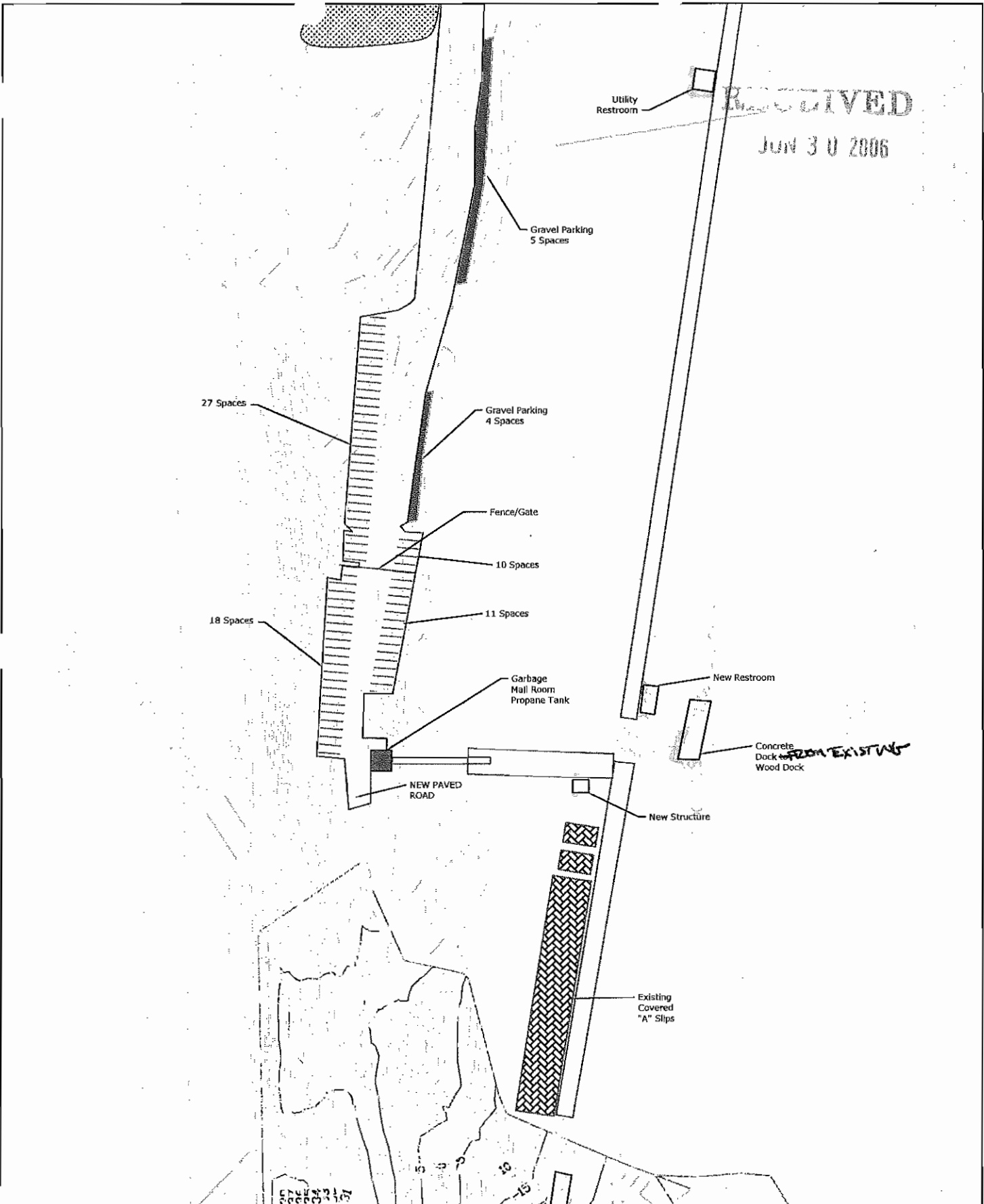
TITLE: EXISTING SITE-MIDDLE-1994-CURRENT

ROCKY POINT MARINA  
 23586 NW ST. HELENS ROAD  
 PORTLAND, OR 97231

RIVER: MULTNOMAH CHANNEL  
 DATUM: NGVD  
 1"=100'

DATE: 6/22/06

SHEET NO. 7



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JUN 30 2006

**Flowing solutions**  

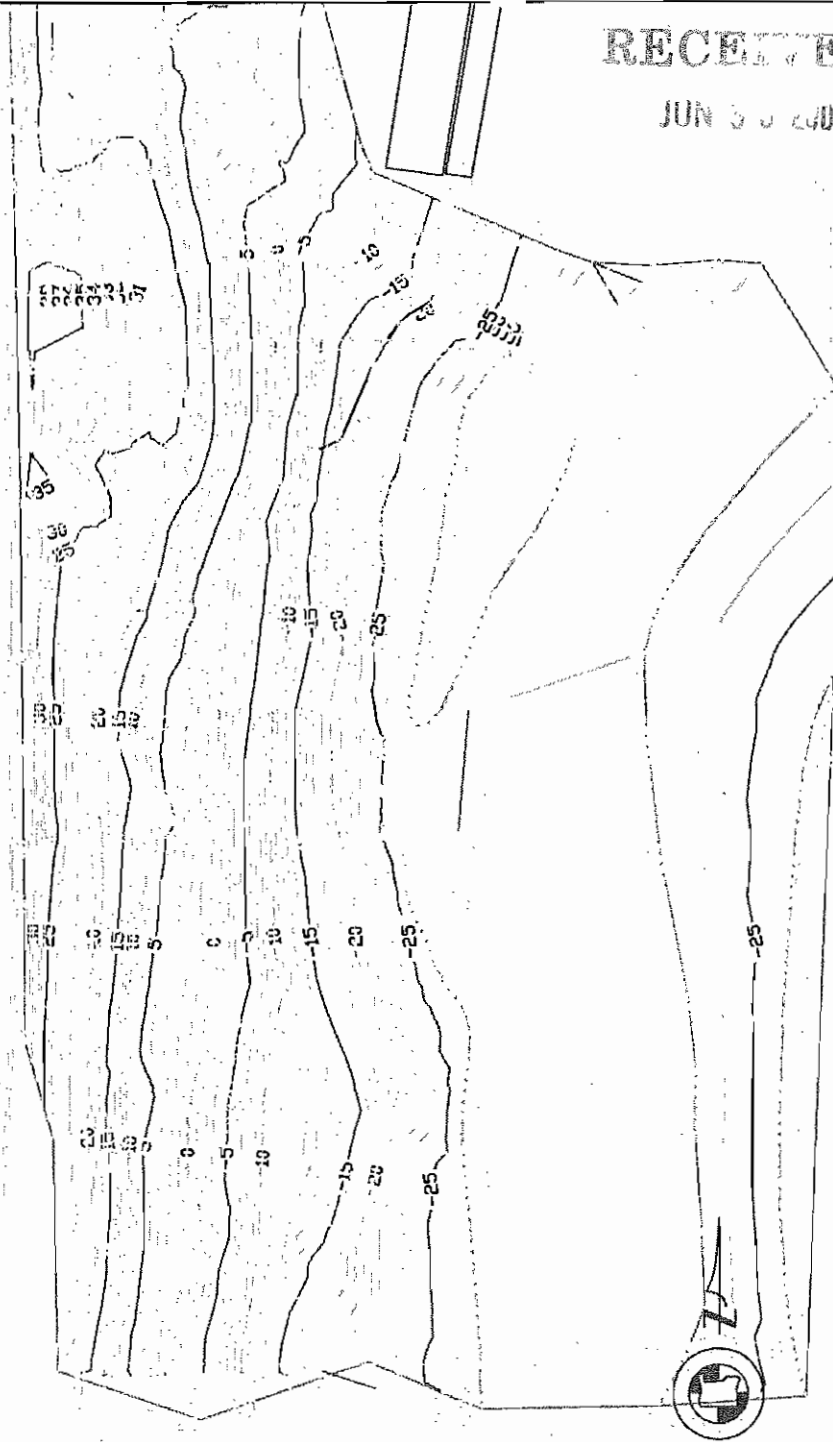
 Flowing Solutions  
 3305 SW 87th Avenue  
 Portland, OR 97225  
 Phone (503) 297-6331  
 Fax (503) 297-6053

TITLE: EXISTING SITE-UP-STREAM-1994-CURRENT  
 ROCKY POINT MARINA  
 23586 NW ST. HELENS ROAD  
 PORTLAND, OR 97231  
 RIVER: MULTNOMAH CHANNEL  
 DATUM: NGVD  
 1"=100'

DATE: 6/22/06  
 SHEET NO. 8

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JUN 30 2006



Flowing solutions



Flowing Solutions  
3305 SW 87th Avenue  
Portland, OR 97225  
Phone (503) 297-6331  
Fax (503) 297-6053

TITLE:

EXISTING SITE-MARINA-1994-CURRENT

DATE:

6/22/06

ROCKY POINT MARINA  
23586 NW ST. HELENS ROAD  
PORTLAND, OR 97231

RIVER: MULTNOMAH CHANNEL  
DATUM: NGVD 1"=100'

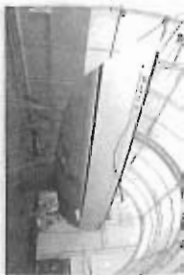
SHEET NO.  
9

# A&D Yacht Service Boatyard Services

**Bottom Painting**- Competitive rates on bottom painting which includes haul out, pressure wash, running gear inspection, sanding prep, 2 coats Pettit Trinidad SR or Pettit CPP Ablative SR and return to the water or your trailer.

**Fiberglass Repair**- Expert repairs from cosmetic gel coat scratches to structural repairs on hulls, keels, decks and stringers. We use the most advanced materials, Vinyl Ester and Duratek, for maximum strength and water resistance.

**Engines and Mechanical**- Gas and diesel engine tune ups, re-powers or rebuilds. Servicing gearboxes, transmissions, V/O units, linkage, fuel tanks, generators, steering controls, engine mounts. All makes and models. Furnaces and toilets.



**Painting**- Hulls, topsides, decks and boot stripes all professionally sprayed with Awl Grip or EZProxy. Year round inside our shelters.

**Blisters, Wet Hulls & Decks**- The local experts on these repairs. We test each hull for moisture and have the ability to dry boat hulls or decks in days with our HotVac Hull Cure machines.

**Steel and Aluminum**- sandblasting, welding and specialty coatings for all metal boats.

**Props and Shafts**- From a simple prop swap or inspection to repairing or replacing bent props, shafts, rudders and struts. Precision alignment of shafts. PSS drip less seals a specialty.

**Woodwork and Planking**- Our 65' enclosed dry-dock allows us to safely lift your older wooden boat the way it was designed. Skilled woodworkers install planks, ribs, stringers with matching wood from Honduran Mahogany to Alaskan Yellow Cedar.

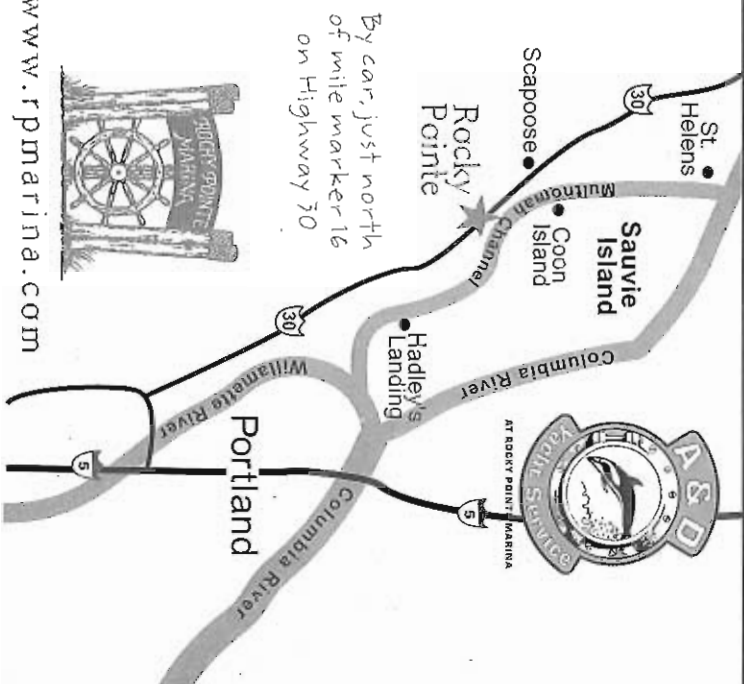
**Electronics and Systems**- With one or more ABYC certified electricians on staff, we can install and wire just about any electronic or system from radar, dinghy winch, to bow or stern thrusters.

**Other Services**- Mast stepping, rigging, transport loading, surveys, detailing, buff and wax, insurance estimates and more. Outside contractors allowed no charge for lay days and we clean your boat before it leaves our dock.



Hours: Mon-Fri 8-4pm, Sat til noon

## Rocky Pointe Marina Location



6 miles past the Sauvie Island Bridge.  
23586 NW St. Helens Hwy. • Portland, OR 97231  
office: 503-543-7003 • fax: 503-543-5170  
[www.rpmarina.com](http://www.rpmarina.com)

### Hours

Winter Hours t-May)

Mon-Fri 8:30-3pm  
Sat-Sun 10am-4pm

Summer Hours

Mon-Fri 8:30-5pm  
Sat-Sun 10am-4pm

## Rocky Pointe Marina

### A&D Yacht Service

More than just a great w

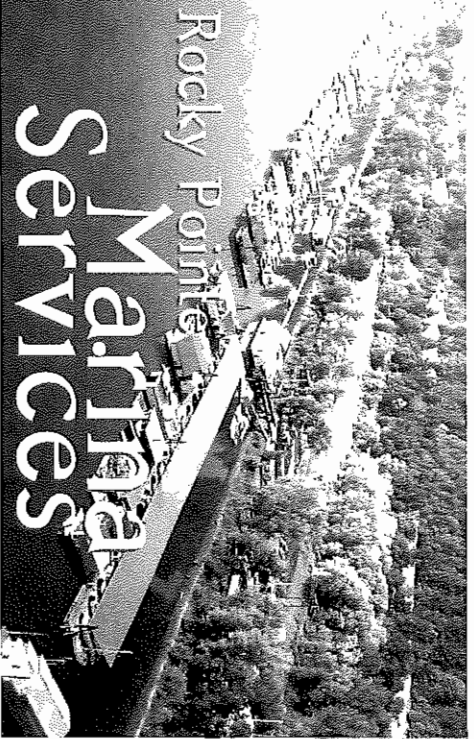
- ★ 25 minutes from downtown
- ★ Oregon's First Clean Marina
- ★ Secure gated, card access fa
- ★ Fuel Dock

"Our goal is to provide a maintained, clean, secure and safe marina you are proud to bring your friends and family too."

503.543.0003

EXHIBIT  
78





**Boat slips** - We have 150 boat slips accommodating vessels 30' to 80' in covered and open moorage. We provide 30amp power and water at the docks. All slips are single berth with deep water to handle the draft of deep keeled boats. Mobile pump outs are located on each dock, as well as a pump out station at our fuel dock.

**Office/Store/Fuel Dock** - The floating marina office and store is open 7 days a week. Gas and diesel are available at a discount to our tenants. Beer, ice, pop, chips, snacks and ice cream are available in our store. A pump out station is located at the fuel dock for your convenience. Visa, Mastercard and Discover Card are happily accepted. In addition to the weekday office staff, Rocky Pointe Marina has an on site caretaker.

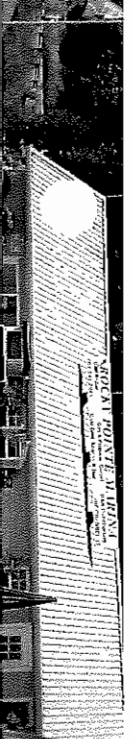
**Security** - Safety and security is very important to us. Rocky Pointe Marina is a gated community and has 16 security cameras recording activity throughout the facility. Our marina does monthly and annual inspections of electrical shore power connections and tests all new arriving tenants boats for proper ground fault and bonding to identify stray current that may potentially cause corrosion or electrocution.

**Boatyard** - A&D Yacht Services is conveniently located within our facility. A full service Boatyard, they can work on your boat in the marina or tow your boat to the Travelfit to service your boat. There is a qualified crew on site to help with emergencies as well as routine maintenance.

**Boat ramp** - Our boat ramp on site suitable for boats up to 20'. Launch is free for tenants or just \$2 for the public. No public parking is available.

**Boat trailer parking** - Available for moorage tenants with trailers up to 20'

**Restrooms/Laundry** - Each section of marina has its own restrooms with showers and a coin-op laundry facility.

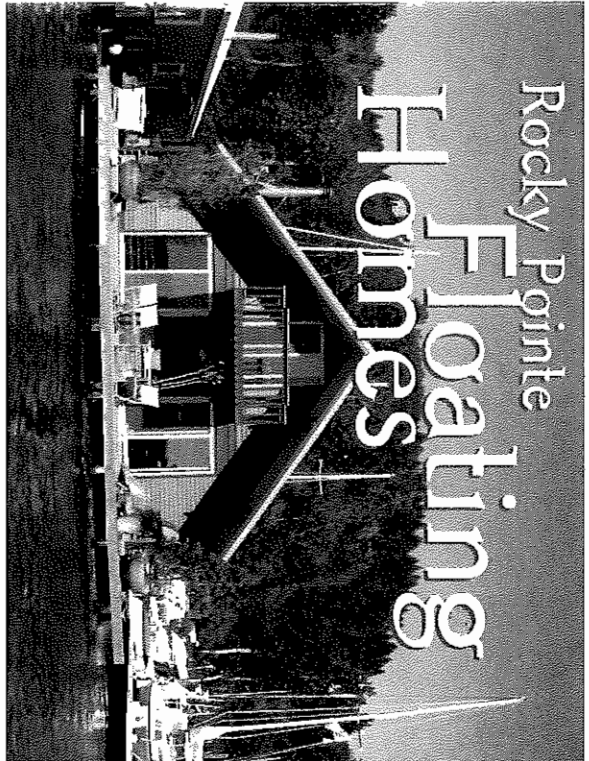


## Rocky Pointe Floating Homes

open slip size	per month
36'	\$130.00
40'	\$140.00
41'	\$150.00
43'	\$155.00
43' w/ patio	\$170.00
30' covered slips	\$155.00
43' covered slips	\$250.00
side ties to 80'	\$5.35/ft
Trailer storage	\$20.00
/w boat, 20' maximum	\$40.00
Dock boxes	\$10.00

Floating Homes.....\$16.80 per ft., min. 30'  
 Boat Houses .....starting at \$13.50 per ft., min. 25'

**All Boats and Floating Homes at Rocky Pointe Marina MUST BE INSURED. NO LIVEBOARDS.**



## Rocky Pointe Floating Homes

Rocky Pointe Marina includes a wonderful community of owner occupied floating homes. Some residents are full time while others enjoy their floating home as a vacation home. It is a unique experience to live on a floating home and enjoy views of the water, mountains, wildlife and boats. Many tenants have their ski boat,

Andrew Brown's  
**A&D Yacht Service**  
 503.543.27  
 andyachtservice@gmw.com

**Bottom Painting**  
**Fiberglass Repair**  
**Engines and Mechanical**  
**Woodwork and Planking**  
**Electronics and Systems**  
**Painting**  
**Steel and Aluminum**  
**Bladders, Watertells**  
**and Decks**  
**Props and Shafts**  
**Other Services**  
**Full Service**  
**Boatya**  
 Boats 20' to 65'

Andrew Brown has over 20 years experience and maintaining all types of boats. He and his team of 15 employees also have years of experience with specialties of electrical, woodworking, fib

Send To:  
Multnomah County  
Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Ave.  
Portland, OR 97233  
Attn: Adam Barber

RECEIVED  
APR 06 2009  
BY:

MULTNOMAH COUNTY  
PLANNING SECTION

09 APR -2 PM 2:23

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Regarding: Case File T4-08-001

To Whom It May Concern,

In response to the "NOTICE OF PUBLIC HEARING" Case File T4-08-001 the impact of crowding in more floating homes here at Rocky Pointe Marina by displacing the co-mingled boat slips between every two homes degrades the breezeways, the views, the safety, and the livability.

Impact on already stressed parking, currently there is not enough parking, people are parking in the grass and off-parking lot areas. Not to mention all the summer home and boating season people. This has been a marina for live-aboard boaters and floating home owners for over 12 years that I know of, I am sad to see that the live-aboard boat owners are not welcome anymore.

It is my opinion that the \$20,000 floating home hook-up fees are strictly in the interest of the marina owners not the community and livability. Rocky Pointe Marina has been a great floating community for boat owners and home owners alike. I hope it does not become an overcrowded house-to-house-to-house living environment rather than a floating community. To live here is to know how special it is here.

I wish to remain anonymous as not to endure repercussions or eviction, the phrase "I don't even need a reason to evict" keeps most people quiet.

Sincerely,

Long Time Rocky Pointe Marina Resident



Multnomah County  
Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Ave.  
Portland, OR 97233



MULTNOMAH COUNTY  
PLANNING SECTION

09 APR -2 PM 2:21

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Re: Case File T4-08-001

Dear Adam Barber,

This letter is in response to the "NOTICE OF PUBLIC HEARING" I received from your office concerning the above mentioned case file. The applicant and owners are requesting exceptions to the statewide planning Goals 14 (Urbanization) and 11 (Public Facilities and Services) to expand the Rocky Point Marina with 36 new houseboats and to establish a Special Plan Area zoning district.

I have significant concerns with this request due to several factors. The first being that the current layout of the marina has visual and livability appeal. The current layout has a couple of floating homes placed next to each other with a couple of boats between the next set of floating homes, this allows the home owners to have a buffer between them and the next set of floating homes. This gives the home owner and boat owners a view of the river, though limited it does allow some view and space. If floating homes are situated right next to each other as the current proposal suggests the floating home owners will be right next to each other living in a crowded "apartment like" community rather than a marina. To increase the occupancy at this marina will reduce the livability for all tenants.

Another concern is parking; adding more cars will decrease the available parking spaces which are very limited. The parking lot is also used by children of the current tenants to play basketball, catch, ride bikes; etc., and is also used by tenants to walk their dogs or take a walk themselves. If more cars are driving through the parking lot and parking in the green areas of the lot this will reduce the areas for children to play, people to walk and cause a potential safety concern.

A third concern I have is the fresh water system, which is marginal at best. Though it is better than it was in the past, quite often it has an odor and will be brown in color, which will stain clothes, sinks, showers, etc. The impact of the additional load on the current system will be significant.

The closest city to the marina is Scappoose, which due to the current housing market and economy has new houses sitting empty, unable to sell or rent (Steinfeld Farms), and a recent land development site (on Old Portland Road, behind Fred Meyers) without the buyers and/or financing to build new homes. The average person is going to purchase a home on land. There is limited buyer's market for floating homes as is evidenced by length of time that floating home stay on the market for sale. I do not believe that the local area has the population growth to support an increase of 36 homes.

Living in a floating home on the water, is a wonderful and peaceful lifestyle, we experience the joy of watching the wildlife and enjoy the boating community. Packing more people with floating homes into this home/boat mix marina will decrease the livability of Rocky Pointe Marina.

Thank you for the opportunity to share my feelings on this sensitive issue.

RECEIVED  
APR 06 2009  
BY:

April 6, 2009

To whom it may concern,

My name is Jane Betts-Stover; I have been a practicing Realtor since 2002, specializing in Floating Homes. Along with a few other Realtors, I sell many of the floating home listings.

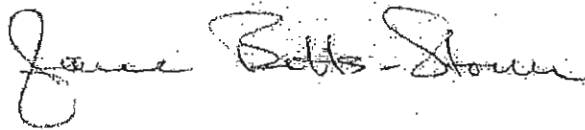
I would like to attest to the fact that there is a shortage of slips in the Portland Area. Most moorages are full with no space to create new slips. The slips that are for sale are only a handful.

I repeatedly have clients who are wishing to build a new home and cannot find a slip to their liking. One of the delights of living on a floating home is the ability to move it from one location to another. This is very difficult to do, currently. If a client likes a home but not the slip, they often expect that they can find another suitable slip. This is not the case, due to their scarcity.

It is my belief that the floating home communities are growing, even in these difficult economic times, and there is a need for the creation of more slips, now as well as in the future.

Most sincerely,

Jane Betts Stover



Jane Betts-Stover GRI: Broker  
Specializing in Floating Homes  
Oregon Realty Company

[www.jbsfloatinghomes.com](http://www.jbsfloatinghomes.com)

**PRE 1993 CURRENT PROPOSED TOTAL**

<b>Floating Homes</b>	14	40	23 (+13 ***)	76
<b>Boat Slips</b>	600	150	-16	134
<b>Boat Garages</b>	75	7	0	7
<b>Parking Spaces *</b>	75	166	64	230

**River Frontage**    2,080 feet            2,580 feet    3,150 feet\*\*    3,306 feet

\* 166 parking spaces were approved in 1993 that allowed houseboat parking below the 100 year flood plain. We propose to dedicate these approved spaces for the floating home parking spaces at 2 per home (2 x 76 =152 parking spaces). Alternatively, we would seek at 30% reduction in the required parking. Multnomah County requires 2 spaces per one residential unit. Portland requires 1 space per residential unit. METRO's Table 3.07-2 Regional Parking Ratios apply 1 space per residential unit and does not allowed this requirement to be exceeded.

\*\* 570 feet of river frontage upstream south was acquired in 2001. The Rocky Pointe Marina has a total river frontage more then 3,150 feet. All tax lots have been consolidated into a single lot of record totaling 16.22 acres.

\*\*\* 1 floating home is allowed for every 50 feet of river frontage (3,150 feet river frontage / 50 = 63 homes). We currently have 40 homes allowing 23 additional homes. In addition, we request a 13 more homes through the provision of a Special Plan Area as provided for in The Sauvie Island Plan.

# Rocky Pointe

23586 NW St. Helens Hwy.  
Portland, OR 97231

Marina  
tel 503-543-7003  
fax 503-543-5170  
Boatyard  
tel 503-543-2785



## Applicant Testimony

Jen Tonneson  
Co-Owner, Rocky Pointe Marina  
211 NE 39<sup>th</sup> Ave  
Portland, Oregon 97232  
503-234-3466 - H  
503-543-7003 - O

In The Matter Of Case #T4-08-001

My husband and I are the second-generation owners of Rocky Pointe Marina. Our family has been involved in the Portland boating community for 50 years! Stan and I are involved with two boating clubs and own a home in our moorage. We acquired the marina nearly 3 years ago from Stan's father, who was aging and unable to keep up with the enormous task of daily operations.

From the beginning, we knew there would be work to do. Imagine living on a street, filled with RV's with people living in them, some of them parked between your homes. Imagine them outnumbering the homeowners 2 to 1. In a marina where the tenant/ landlord relationship had been all but abandoned and enforcement of rules ignored, the frustration of homeowners was escalating. Some had given up and sold their homes. Police presence was a common occurrence, the FBI was investigating a person living under an assumed identity, loud parties, public intoxication, drug dealing. The list went on! Of 150 boats in the marina, 103 were not even currently registered, and 83% were uninsured.

Stan and I began a plan for creating a community that would be grounded with the common thread of livability. People needed to feel safe at night on the docks and in their homes. They needed to feel comfortable bringing their grandchildren here. We needed to promote that.

We dedicated our vision statement to that effect:

*"Our goal is to provide a well maintained, clean, secure and safe facility.  
A marina you are proud to bring your friends and family to."*



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Our mission then became to create a sense of community, and to build upon that. We are excited about the community center our new moorage will contain. Not only will it bring our neighborhood together for functions such as books clubs, mother's groups and the like. But also open a door for service organizations dedicated to the marine lifestyle, such as Sea Scouts, U.S. Power Squadron, boater safety classes and Neighborhood Watch.

We are proud that Rocky Pointe Marina is the first marina in Oregon to receive the "Clean Marina" designation. This voluntary program promotes the stewardship of our river and uplands. We share this award with our tenants, as we could not do it without their participation. Our marina has also been awarded "preferred status" with Red Shield, Oregon's largest floating home insurer, for our proactive stance in our role with the Clean Marina program, as well as promoting good maintenance on the floating homes within our moorage.

We consider the safety and well being of our boating community as a priority. Every year, we have arranged with U.S. Power Squadron, Beaverton, to come to our moorage and provide free vessel safety checks before the boating season begins. We conduct fire safety training marina wide, and have spent over a year formulating a fire response plan.

Working to bring our community together to form a common bond. Providing and promoting community action and involvement. Celebrating our beautiful river. That's our vision and we are working everyday to achieve that end!

Thank you for your consideration of our project.

Respectfully submitted;

Jen Tomneson  
April 6, 2009

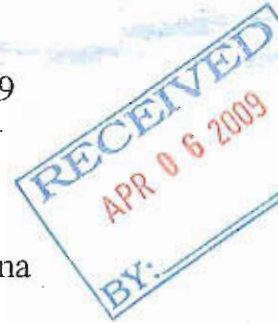


# Rocky Pointe

23586 NW St. Helens Hwy.  
Portland, OR 97231

Applicant Testimony 4-6-09  
Case File #T4-08-001

Stan Tonneson  
Co-owner Rocky Pointe Marina



Marina  
tel 503-543-7003  
fax 503-543-5170  
Boatyard  
tel 503-543-2785

My wife and I **purchased** the marina property in 2006 from my father and along with it came an expansion project for a large covered marina. It was very complex, had a lot of impact on the environment and was opposed by our neighbors. After being involved in the marina community for a year we came up with a much simpler proposal that has practically zero environmental impacts and our neighbors are comfortable with.

We plan to simply extend our existing dock an additional 520 feet to the south towards Happy Rock Marina and provide a standard 50ft fairway all on our property in between the 2 marinas. The existing 310 feet of dock will be widened from 5' to 8' for greater safety and 2 feet of the entire length will be grated to provide more light for fish while also providing us access to our utilities. All utilities are in place and we will simply tie into the line. We plan on having all new construction homes in this section of the marina for up to 23 homes. **(See artwork my wife has helped design)** It will have its own secure entrance and a community room for all floating home tenants to meet and socialize. We will utilize this facility to promote car pooling, ride share and use of public transportation.

All boat slips on the outside will be moved to the inside. We have found it hard to rent the outside slips for boats because of the cross current of the water. There are 13 spaces throughout our marina that we propose to infill with floating homes. There will provide ample space for a home, 10ft fire code spacing and enough space left over to space out all of our homes in the entire marina to meet new code. I am on the City of Portland River Community Advisory Council and 1 of our top agenda items is to get Multnomah County to adopt the **Title 28** Floating Home building and safety codes. The tenants occupying and adjoining these spaces will be given **first right of refusal**.



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As for parking, we have lots of space. 25- 30 % of our floating homes are vacation homes – this is local average. It's the live aboards that we have, or did, tax the capacity we have. When we first acquired the marina there were over 100 additional cars than we have now we know the capacity of the marina. If we are required to provide more parking we have ample space open just beyond the entrance gate (**show on Picture**). However, we are actively promoting a request for less required parking so we can reduce traffic further, promote **carpooling ,use of public transit and the use of bicycles**. Our desire is to create a community that is both respectful to the water and to the land.

A **special note** that our marina is the only facility on Multnomah Channel in Multnomah County that has an **automated railroad crossing** making us and Happy Rock Moorage next door who is also accessed by this road logical candidates for moorage expansions.

**Overall density** of our entire facility on both land and water has been planned to be reduced substantially starting with the reduction of 72 live aboard boats and the related 100 plus cars they had. The County Staff report believes our density reduction analysis to be void since liveaboard are a non compliant use. However, **Policy 13** of the Sauvie Island Plan specifically describes the strategy that any moorage determined to be in violation of a zoning code to you through a Special Plan Area process. This strategy paves the way to **Policy 14** that the specific plan will look at such things as “legally existing issues and non-conforming status and carrying capacity of the land to determine the number of dwellings. Our population density analysis shows a 32% reduction in population after factoring in the 36 additional floating homes. This proves that we will not be increasing density or traffic.

**In Closing-**The reality is that we added **570ft more property**, We are reducing the number of **boat slips by 16**, we will have **eliminated 72 liveaboards** and then **increasing the spacing between all houses** in the entire marina for fire and safety access. In my eyes we are not increasing density but actually reducing density and traffic along with it. Our impact on the water and uplands has been reduced to practically nothing

I **respectfully ask** you vote in favor of our request for a goal exception and a special plan area.

Respectfully submitted  
Stan Tonneson 4-6-09



# Yacht Service Yard Services

**Painting-** Competitive rates on painting which includes haul out, h, running gear inspection, 2 coats Pettit Trinidad SR or relative SR and return to the trailer.



**Repair-** Expert repairs from coat scratches to structural hulls, keels, decks and stringers. Most advanced materials, Vinyl GraTek, for maximum strength and water resistance.

**Electrical/Mechanical-** Gas and diesel engine tune ups, rebuilds. Servicing gearboxes, transmissions, I/O, fuel tanks, generators, steering controls, engine rakes and models. Furnaces and toilets.

**Painting-** Hulls, topsides, decks and boot stripes all professionally sprayed with Awl Grip or EZPoxy. Year round inside our shelters.



**Blisters, Wet Hulls & Decks-** The local experts on these repairs. We test each hull for moisture and dry boat hulls or decks in days with our ure machines.

**Aluminum-** sandblasting, welding and speciality all metal boats.

**Shafts-** From a simple prop swap or inspection or replacing bent props, shafts, rudders and struts. Inment of shafts. PSS drip less seals a speciality.

**Deck and Planking-** Our 65' enclosed dry-dock safely lift your older wooden boat the way it was filled woodworkers install planks, ribs, stringers g wood from Honduran Mahogany to Alaskan Yel-

**Prop and Systems-** With one or more ABYC certifi- ins on staff, we can install and wire just about any system from radar, dinghy w or stern thrusters.



**Services-** Mast stepping, rig- ert loading, surveys, detail- wax, insurance estimates .tside contractors allowed rlay days and we clean fore it leaves our dock.

**Hours:** Mon-Fri 8-4pm, Sat til noon

# Marina Location

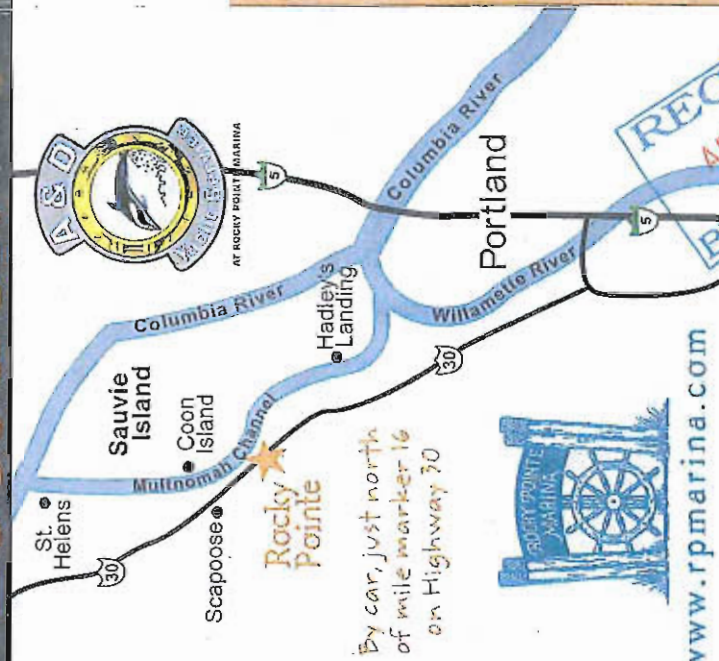
# Rocky Pointe Marina



## A&D Yacht Service and More than just a great marina!

- ★ 25 minutes from downtown Portland
- ★ Oregon's first Clean Marina
- ★ Secure gated, card access facility
- ★ Fuel Dock

"Our goal is to provide a well maintained, clean, secure and safe facility. A marina you are proud to bring your friends and family too."



[www.rpmarina.com](http://www.rpmarina.com)

6 miles past the Sauvie Island Bridge.

23586 NW St. Helens Hwy. • Portland, OR 97231

office: 503-543-7003 • fax: 503-543-5170

[www.rpmarina.com](http://www.rpmarina.com)

## Hours

Winter Hours (Oct-May) Summer Hours  
 Mon-Fri 8:30-3pm Mon-Fri 8:30-5pm  
 Sat&Sun 11-3pm Sat&Sun 10-5pm

503.543.7003





# A&D Yacht Service Boatyard Services

**Bottom Painting**- Competitive rates on bottom painting which includes haul out, pressure wash, running gear inspection, sanding prep, 2 coats Pettit Trinidad SR or Pettit Cpp Abiative SR and return to the water or your trailer.

**Fiberglass Repair**- Expert repairs from cosmetic gel coat scratches to structural repairs on hulls, keels, decks and stringers. We use the most advanced materials, Vinyl Ester and DuraTek, for maximum strength and water resistance.

**Engines and Mechanical**- Gas and diesel engine tune ups, re-powers or rebuilds. Servicing gearboxes, transmissions, I/O units, linkage, fuel tanks, generators, steering controls, engine mounts. All makes and models. Furnaces and toilets.

**Painting**- Hulls, topsides, decks and boot stripes all professionally sprayed with Awl Grip or EZPoxy. Year round inside our shelters.

**Blisters, Wet Hulls & Decks**- The local experts on these repairs. We test each hull for moisture and have the ability to dry boat hulls or decks in days with our HotVac Hull Cure machines.

**Steel and Aluminum**- sandblasting, welding and speciality coatings for all metal boats.

**Props and Shafts**- From a simple prop swap or inspection to repairing or replacing bent props, shafts, rudders and struts. Precision alignment of shafts. PSS drip less seals a speciality.

**Woodwork and Planking**- Our 65' enclosed dry-dock allows us to safely lift your older wooden boat the way it was designed. Skilled woodworkers install planks, ribs, stringers with matching wood from Honduran Mahogany to Alaskan Yellow Cedar.

**Electronics and Systems**- With one or more ABYC certified electricians on staff, we can install and wire just about any electronic or system from radar, dinghy winch, to bow or stern thrusters.

**Other Services**- Mast stepping, rigging, transport loading, surveys, detailing, buff and wax, insurance estimates and more. Outside contractors allowed no charge for lay days and we clean your boat before it leaves our dock.



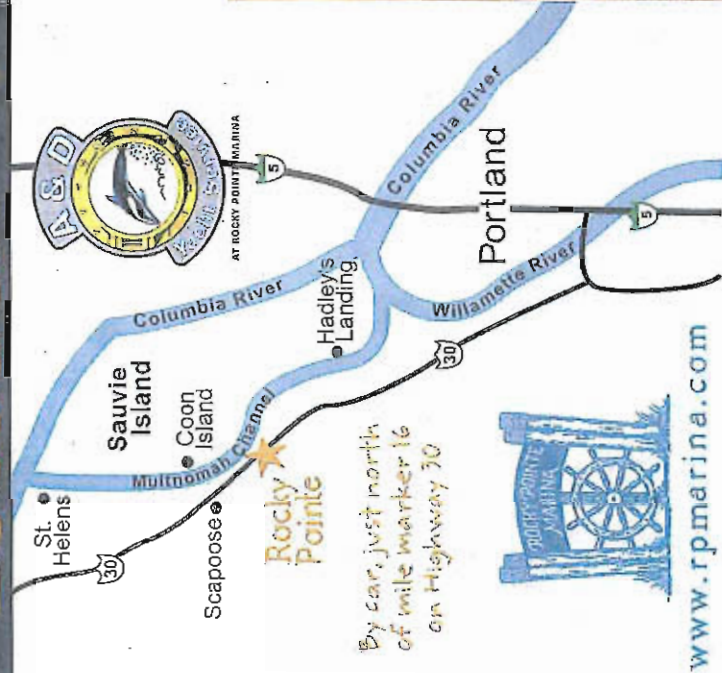
Hol. Mon-Fri 8-4pm, Sat til noon

# Marina Location

# Rocky Point Marina

# A&D Yacht Service and

More than just a great marina



- ★ 25 minutes from downtown
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- ★ Fuel Dock

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6 miles past the Sauvie Island Bridge.  
23586 NW St. Helens Hwy. • Portland, OR 97231  
office: 503-543-7003 • fax: 503-543-5470  
[www.rpmarina.com](http://www.rpmarina.com)

## Hours

Winter Hours (Oct - May)  
Mon-Fri 8:30-5pm  
Sat&Sun 11-3pm

Summer Hours  
Mon-Fri 8:30-5pm  
Sat&Sun 10-5pm

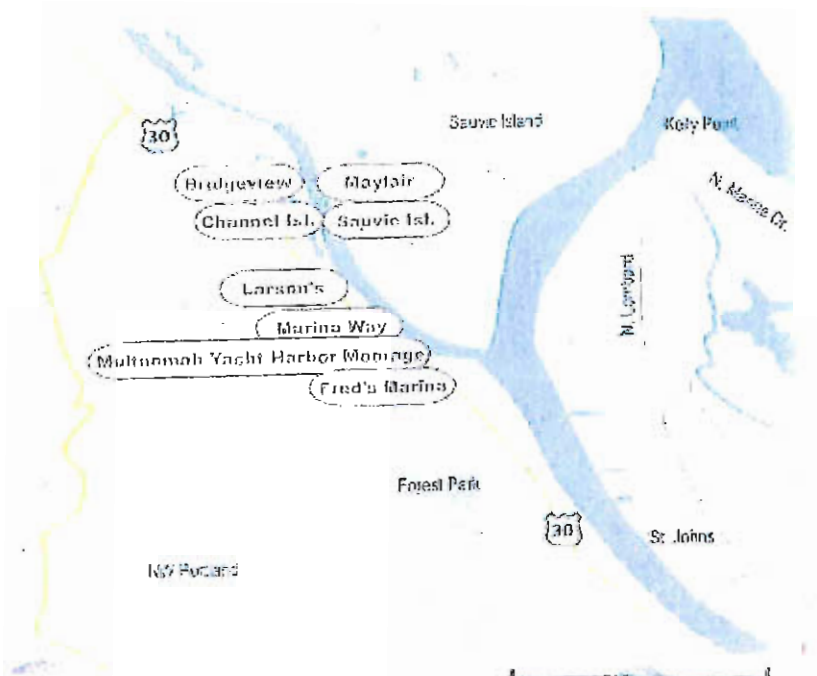
503.543.7003



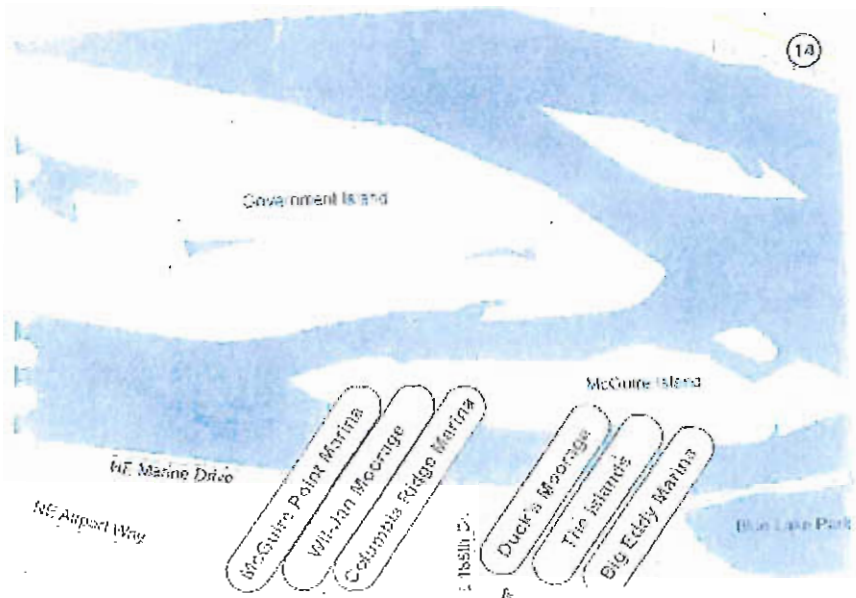




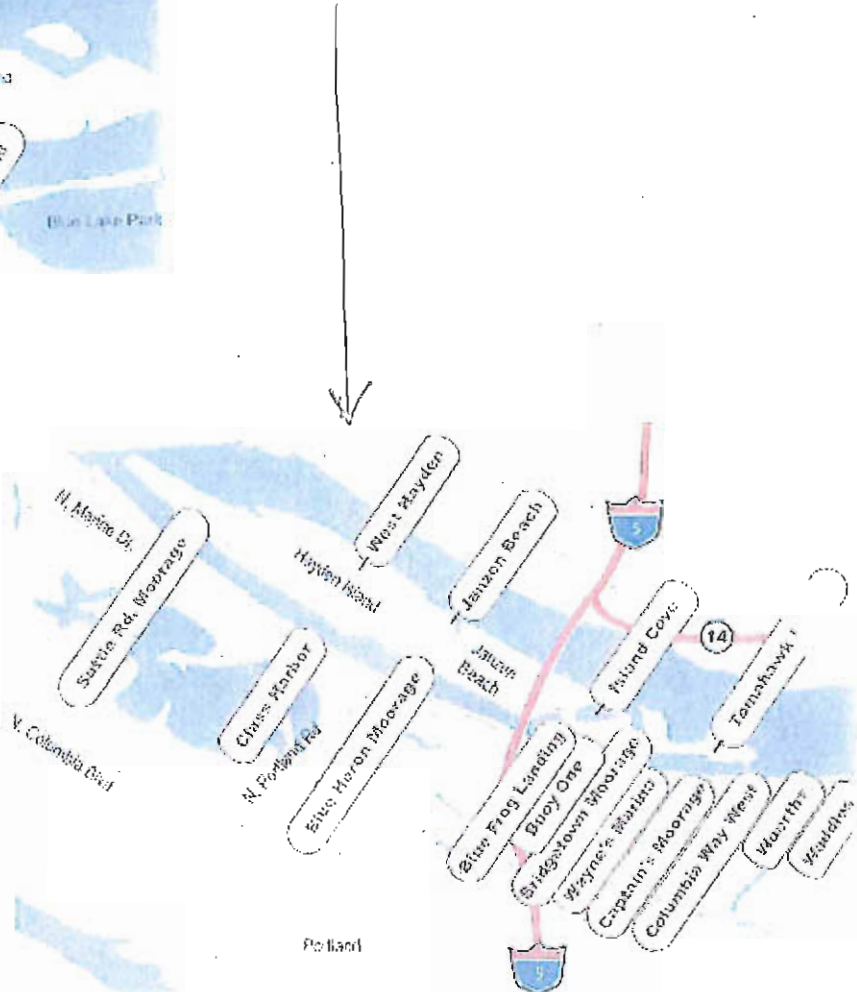
Multnomah Channel,  
North Sauvie Island.



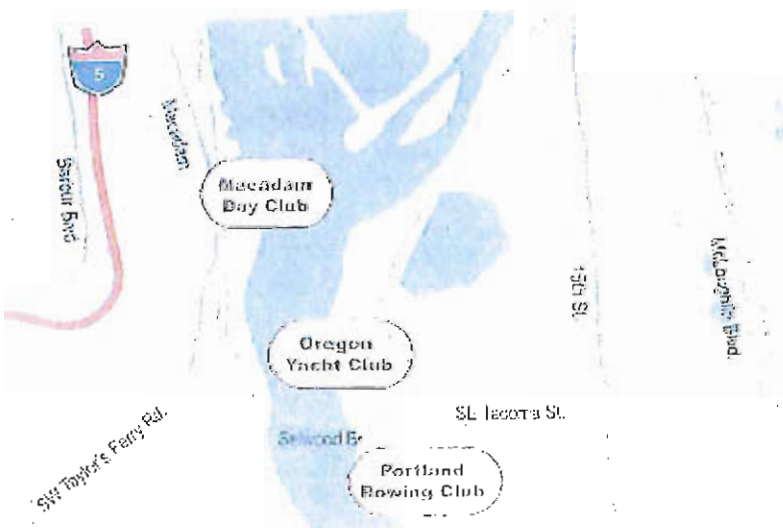
Multnomah Channel,  
South Sauvie Island.



**N. Portland Harbor, Hayden Island.**



**Upper Columbia River, McGuire Island.**



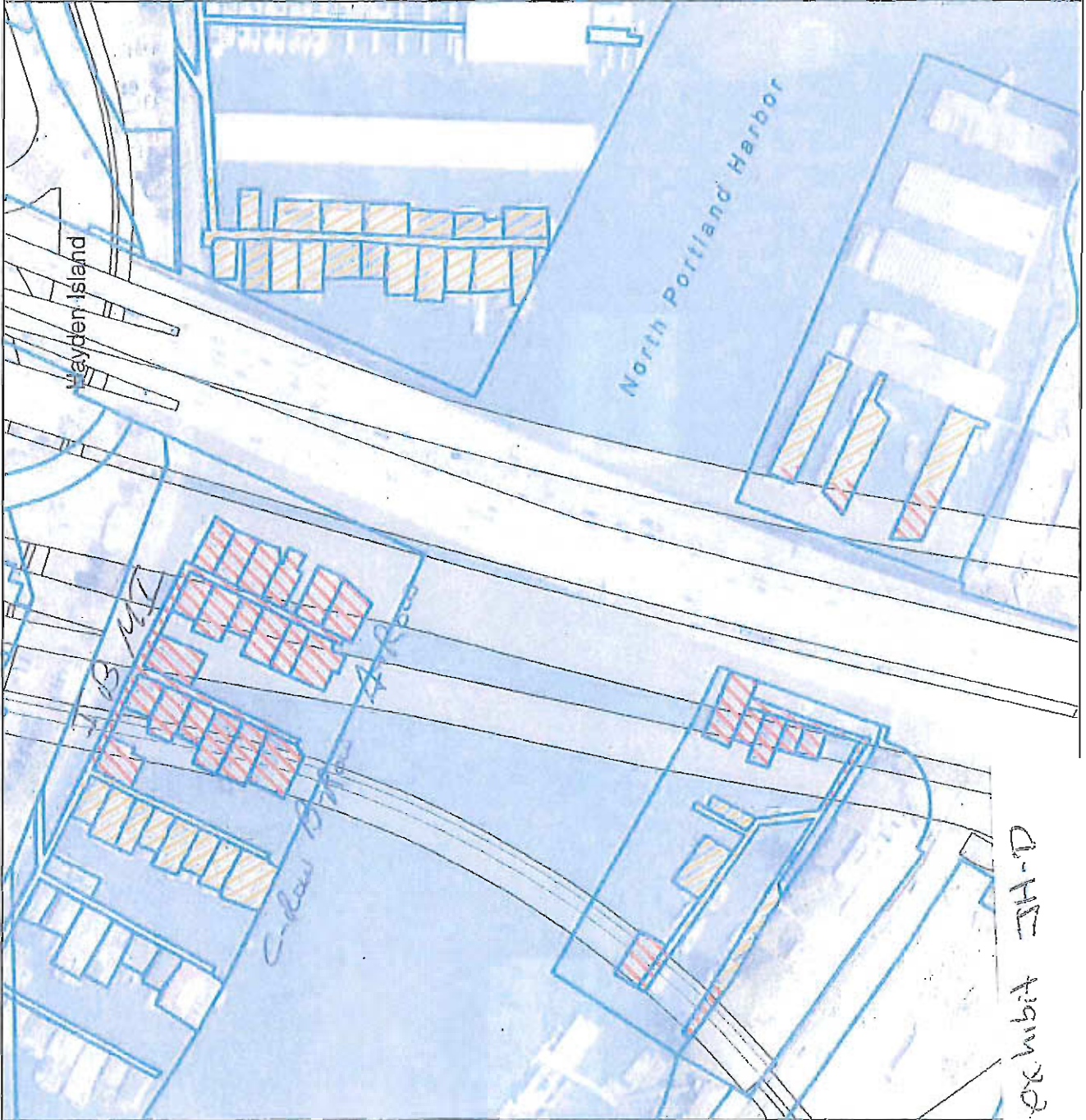
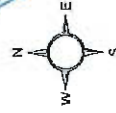
**Willamette River, Sellwood Bridge.**

Proposed In-water  
Displacements in  
North Portland Harbor

- Proposed Displacements by  
Project Footprint
- Construction Related Impacts  
Project Footprint

DRAFT

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PORTLAND AREA  
4 AREAS IDENTIFIED  
BY COUNTY FOR HB.

M-2  
RPM / HR  
TO COUNTY

Mult. Chan  
SI Bridge  
M-1

HANDEN IS  
BRISTOL RD

MARINE DR

EXHIBIT  
TH-C  
3 PAGE

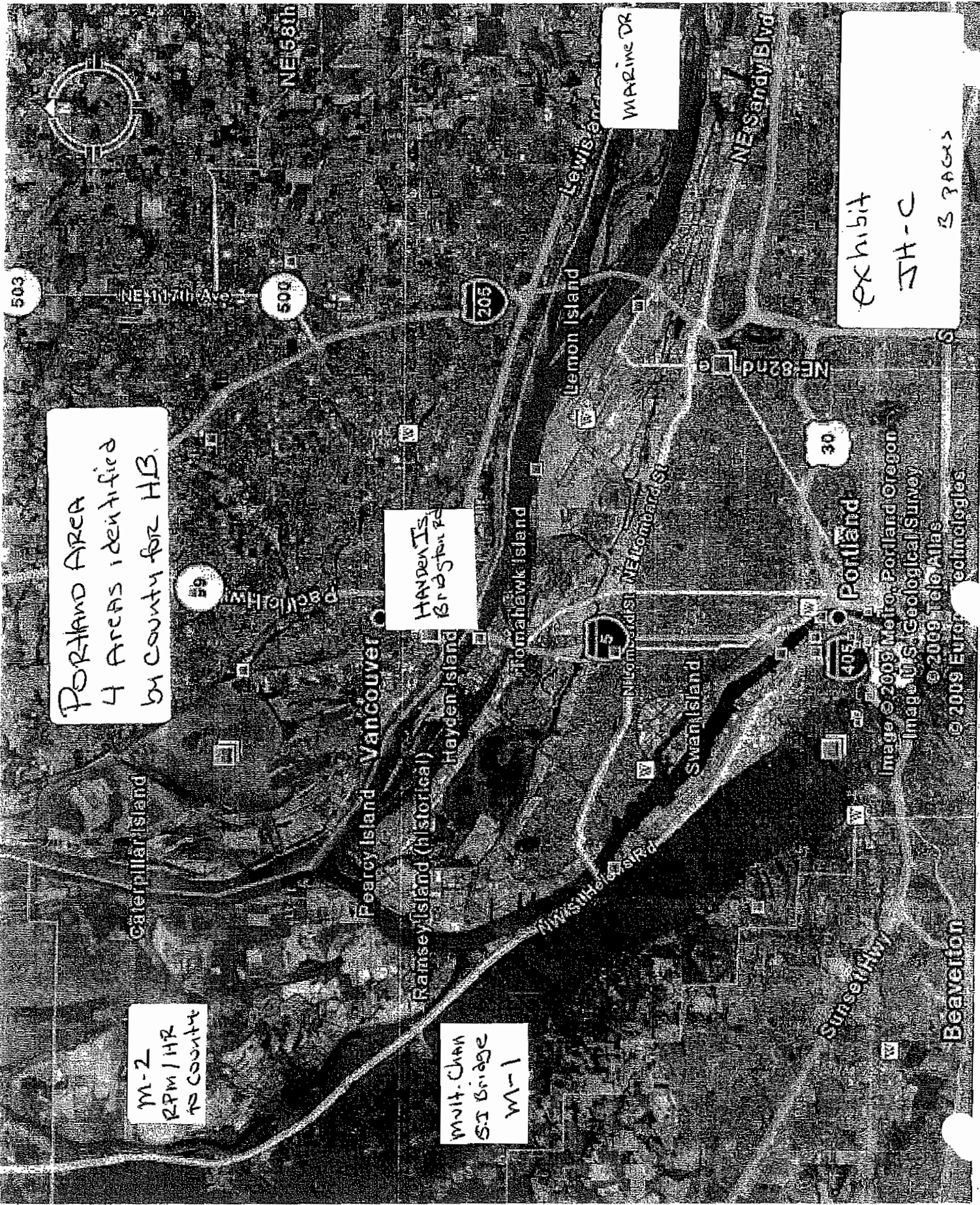
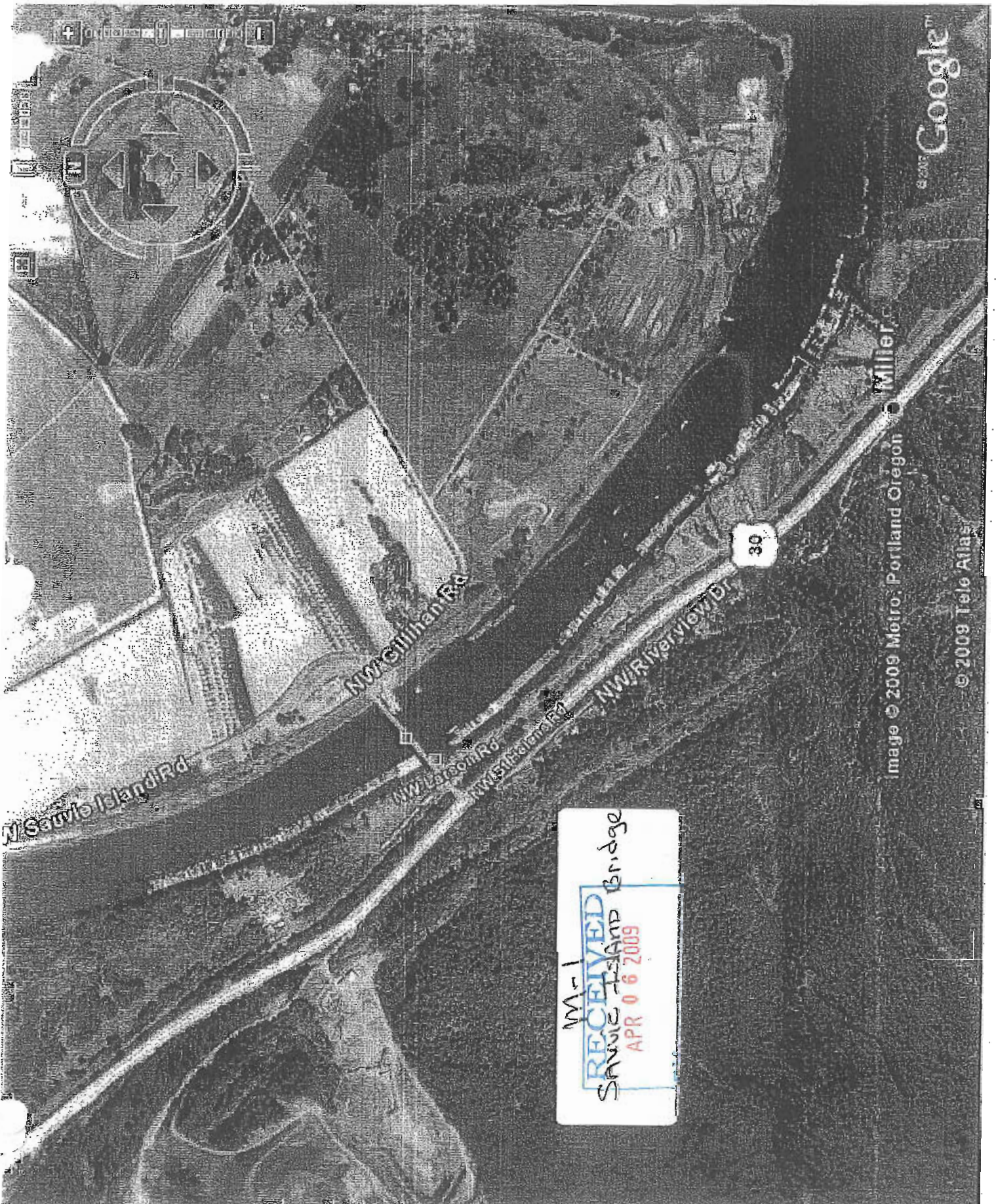


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Image: USGS, Geological Survey  
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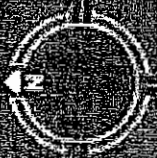
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SAWIE ISLAND BRIDGE  
APR 06 2009





Google

Rocky Point / Happy Rock  
N. to County Line  
M-2

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© 2009 Tele Atlas  
Image U.S. Geological Survey

2 Lots DL  
+  
1 Lot No  
RFX-Cross

NW 51 Helens Rd

1 Lot  
Could  
Expand

Rocky Pt →  
Happy Rock →

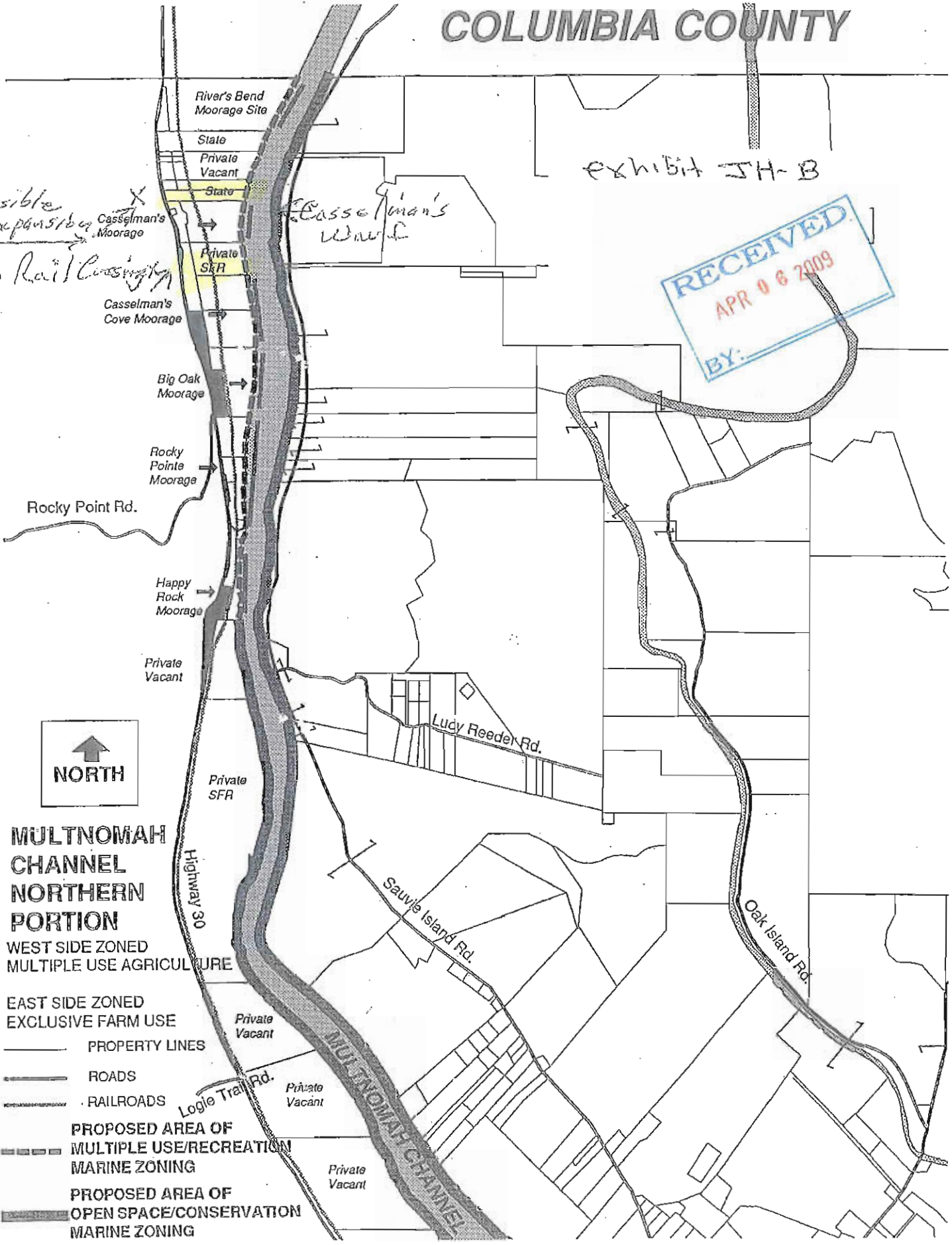
# COLUMBIA COUNTY

EXHIBIT JH-B

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BY:

possible  
Expansion  
No Rail Crossing

Casselman's  
Ward



## MULTNOMAH CHANNEL NORTHERN PORTION

WEST SIDE ZONED  
MULTIPLE USE AGRICULTURE

EAST SIDE ZONED  
EXCLUSIVE FARM USE

— PROPERTY LINES

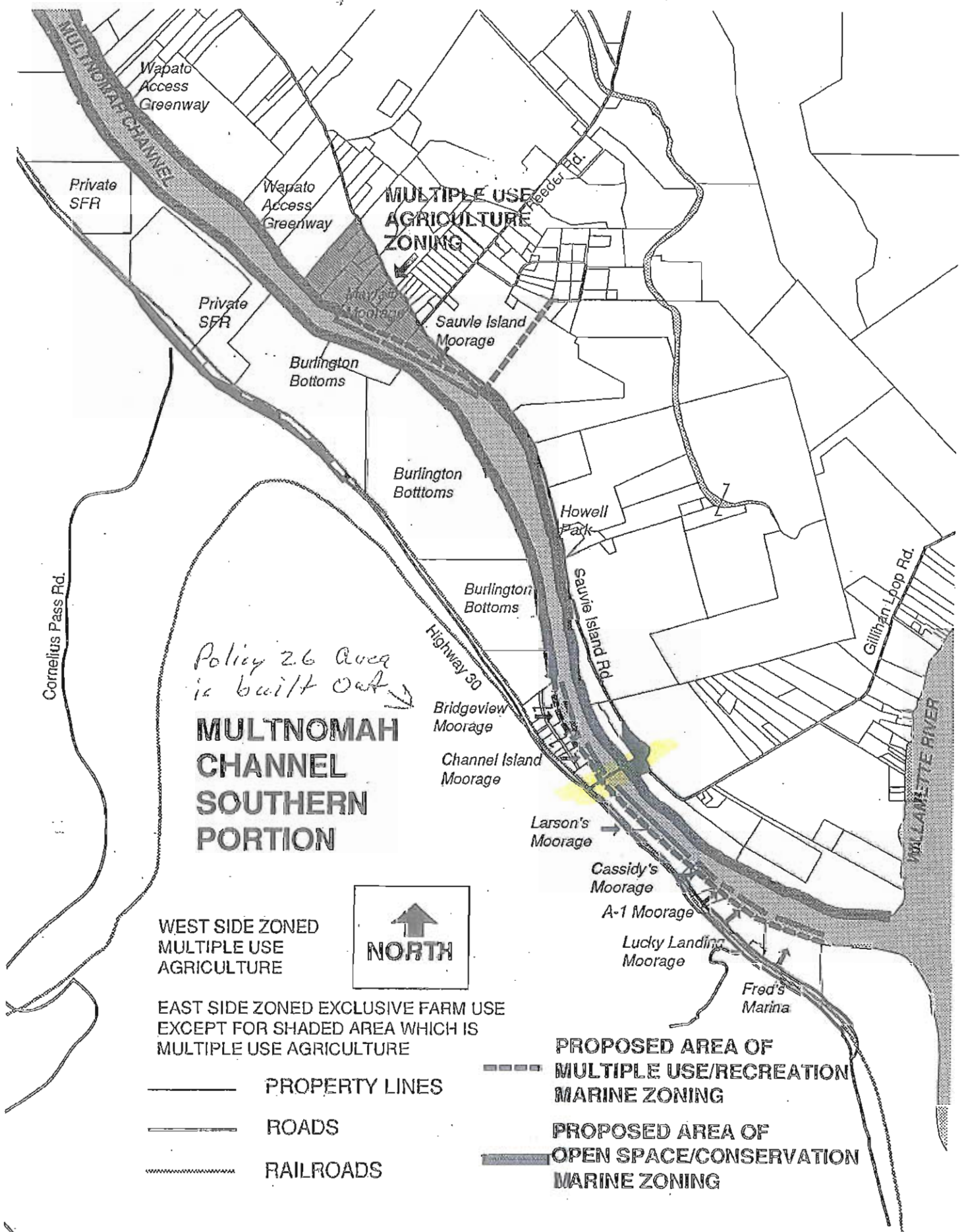
— ROADS

— RAILROADS

--- PROPOSED AREA OF  
MULTIPLE USE/RECREATION  
MARINE ZONING

■ PROPOSED AREA OF  
OPEN SPACE/CONSERVATION  
MARINE ZONING



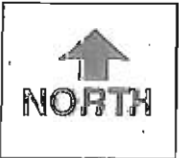


*Policy 2.6 Area is built out*

**MULTNOMAH CHANNEL SOUTHERN PORTION**

WEST SIDE ZONED MULTIPLE USE AGRICULTURE

EAST SIDE ZONED EXCLUSIVE FARM USE EXCEPT FOR SHADED AREA WHICH IS MULTIPLE USE AGRICULTURE



- PROPERTY LINES
- ROADS
- RAILROADS

- PROPOSED AREA OF MULTIPLE USE/RECREATION MARINE ZONING
- █ PROPOSED AREA OF OPEN SPACE/CONSERVATION MARINE ZONING

RECEIVED

APR 06 2009

## WATERFRONT OWNERS & OPERATORS OF OREGON

### SPECIAL MEETING

#### Multnomah Channel & Sauvie Island Rural Area Plan

##### Minutes of the Meeting

November 13, 1997

The purpose of the special meeting was to inform those moorages and marinas located on the Multnomah Channel within Multnomah County of the permitting requirements and procedures under the Multnomah Channel/Sauvie Island Rural Area Plan. All moorages and marinas on the Multnomah Channel falling under the jurisdiction of Multnomah County were invited to attend this meeting.

The meeting was called to order by Jan Hamer, vice president/president elect, at 6:15 pm.

**WOOO Members** in attendance included: Cherie Sprando - Fred's Marina & pres.; Jan Hamer - River's Bend Marina & vice pres./pres. elect; Tracy Hamer - River's Bend Marina & sec.; Bill Casselman - Casselman's Cove & Wharf & Board Member; Dan Gulbrandson - A-1 Moorage & Board Member; Duane Larson - Larson's Moorage & Board Member; Steve Harmon, Mr. & Mrs. Archibald, and Phyllis Bottomly - Bridgeview Moorage; George Kimmill - Marina Way Moorage; Jay McCaulley - Marine Enviro. & Developing; Curt and Ginger Curtis - Happy Rock Moorage; & Sherry Casselman - Casselman's Cove & Wharf.

**Additional participants** included: J. Michael Albrich - Mayfair; Mike Yerger - Lucky Landing; Kevin Brady - Fulcrum Consulting; Kym Londahl & Cheri Galloway - Channel Island Marina; Richard Tonneson - Rocky Point Marina; Ole Dinsmore; Bill Hauck; and, Bob Knox.

Multnomah County was represented by Susan Muir, Senior Planner, Department of Environmental Services Transportation & Land Use Planning Division, 2115 SE Morrison, Portland, Oregon 97214, # (503) 248-3043.

The Multnomah Channel Sauvie Island Rural Area Plan has established procedures for existing moorages and marinas to be considered for approval at existing densities for floating homes under the Plan. Moorages and marinas must understand that approving their densities as they exist under the Plan, does not necessarily mean being accepted in an "existing as is" condition, but rather establishes a process by which they may reconcile discrepancies with their existing permits. Eventually, all entities must have all appropriate permits.

Moorages and Marinas have three options by which they may ameliorate discrepancies: (see next column)

#### Option 1. Policy 10 - A two step process:

**Step 1.** The entity must provide applicable permits from the Division of State Lands, Army Corp. of Engineers, Fire Department, Department of Environmental Quality, and State Department of Health. These permits must have been issued prior to July 1, 1997 to be accepted under the provisions of this Policy.

In addition, entity must make application for the following three permits by December 1, 1997: Public Utility Commission, OR Dept. of Transportation, and County Right of Way (if applicable). Contact Gary Hunt, ODOT @ 653-3086 - PO Box 1339, Clackamas OR 97015 or Craig Riley, ODOT @ 503-986-4273. Contact Alan Young, County Right of Way @ 248-3582 - 2115 SE Morrison, Portland OR 97214.

**Step 2:** Participate in an inventory interview with Lynn Dingler. Lynn Dingler is a consultant hired by the Board of County Commissioners who will work with each marina & moorage to assess the permits the entity has, review other pertinent documents, review the site plan, etc. **Do not wait to meet with Lynn prior to making application for the three permits as noted in Step 1. All entities must have applied for those three permits by December 1, 1997.** If your entity needs assistance with these permits, contact Jay McCaulley of Marine Environmental & Development or Kevin Brady of Fulcrum Consulting. These two firms have been involved with marinas and are familiar with the appropriate procedures and contacts.

Lynn will bring an Assessment and Taxation Report and help each marina and moorage work through the Willamette Greenway Permit Process and advise the entity how to demonstrate compliance with this permitting process.

#### Option 2. Existing Permit Process as provided by current Code.

#### Option 3. Special Area Plan / Conditional Use

The program is still in the early stages of development and is at least 6 months from being a viable option for gaining compliance. Option 3 is also likely to be a difficult process, therefore, moorages and marinas are strongly encouraged to utilize option 1 or 2 at this time.

Susan warned that Multnomah County will begin active enforcement. The County is currently in the process of developing and adopting new enforcement procedures which will include monetary fines for those entities who do not comply.

Meeting was adjourned at 7:00 pm.

Respectfully submitted by:

Tracy L. Hamer, secretary

November 10, 1997



Multnomah Channel Subcommittee  
Proposed Policies *See Page 3*

The channel was discussed as a topic in June of this year and the Citizen Advisory Committee formed a subcommittee to come up with proposed policies regarding the uses in the channel. The subcommittee has held 4 meetings since that time, and reported back to you once in July. In July we received approval from the CAC to continue pursuing the following concepts:

Original Issues

1. All existing moorages/marinas should be legalized/legitimized
2. The definitions of floating structures need to be updated/revised
3. The permitting process should be simplified but still remain public
4. The County needs an accurate inventory of all existing moorages and marinas
5. The County needs to better enforce the Willamette River Greenway standards
6. Log storage should remain as a use permitted outright
7. The Committee should recommend a speed limit through the channel.

In fine tuning these issues the subcommittee would like to recommend the following policies for your discussion:

Original Issue 7. The Committee should recommend a speed limit through the channel.

The subcommittee felt that this should be broadened to include education, enforcement and new standards.

**Policy 1: The County should participate in educational information and programs to better educate channel users on safety issues and required laws and speed limits.**

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

**Policy 2: The County should recommend that all boaters be required to obtain licenses through the state prior to operating marine craft.**

Discussion: Boat operators are not required at this time to meet any guidelines or qualifications prior to operating watercraft. Multnomah County should value the importance of safe conditions in the channel and work through the Marine Board in establishing minimum criteria for boat operators.

**Policy 3: The County should make river patrol and enforcement of laws in the channel a higher priority to the Sheriff's Department.**

Discussion: The lack of Sheriff's presence in the channel presents a problem with regard to law enforcement. The County should prioritize enforcing the existing laws in place in the channel and maintain a presence to enforce the laws.

**Policy 4: The County should begin studying the noise impacts of personal water craft and motorized watercraft in order to establish base levels of noise pollution in the channel.**

Discussion: With the increase in noise associated with personal watercraft, the residents of the channel would like the County to start documenting base noise levels in the event of increases due to increased channel traffic. Currently personal water craft do not violate state standards for noise levels, however with increased volume and traffic on the channel, an inventory of average noise levels is needed to gather information for future studies.

**Original Issue #5: The County needs to better enforce the Willamette River Greenway standards**

The subcommittee believes that there is currently an inconsistency factor in the staff and public interpretation of the WRG standards because they are general in nature and allow for loose interpretations of design standards.

**Policy 5: The County should adopt guidelines regarding lighting, landscaping and architectural design within the Willamette River Greenway.**

Discussion: Currently the WRG guidelines have a lot of vague language in them that make enforcement of them inconsistent. The County should look at adopting a set of design guidelines that the Planning Section can use to help interpret the WRG guidelines. This will allow for consistency in interpretation of the existing guidelines. These guidelines should specifically address the guidelines on lighting, landscaping and architectural design. The subcommittee was very concerned about maintaining the character of the area of the channel and avoid getting 'cookie-cutter' or urban type marina and moorages in the area.

**Original Issue #1 All existing moorages/marinas should be legalized/legitimized**

As part of the July 10, 1996 meeting the CAC recommended that all existing marinas and moorages be recognized as legal and legitimate. The CAC will be making this recommendation to the Planning Commission and Board of County Commissioners who will more than likely be looking to County Counsel for legal opinions on this matter.

**Policy 6: All existing moorages/marinas existing as of January 1, 1997 should be legalized.**

**Original Issues #4 The County needs an accurate inventory of all existing moorages and marinas**

Discussion: If the County is to legalize all existing marinas and moorages, an accurate account of all floating structures on the channel must be done as soon as possible.

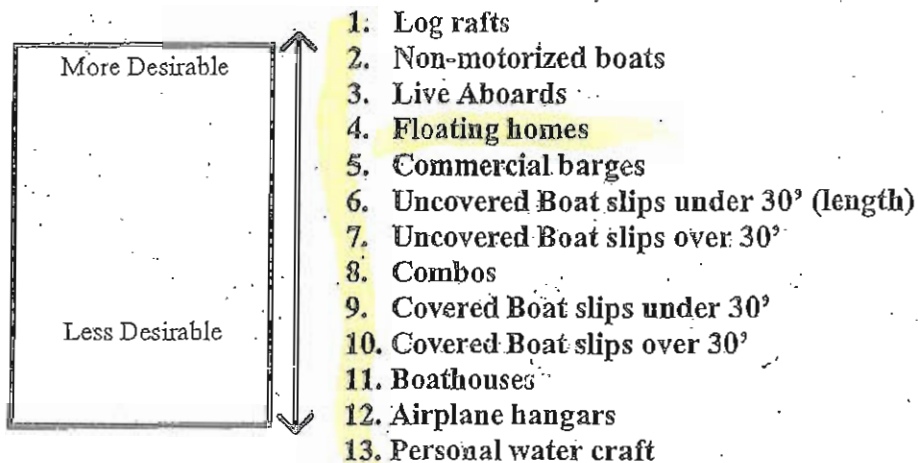
**Policy 7: The County should develop and maintain a current inventory of all marinas and moorages.**

EXHIBIT SH-A

combos. Houseboats should be redefined to: floating structures (excluding vessels) that are habitable (defined as having a potable water and sewer hookup) including houseboats, combos and boathouses. For purpose of density calculations, "houseboats" shall be defined as primary residences (occupied 7 or more days per month).

**POLICY 11:** The houseboat density for any new application or alteration of an existing use shall not exceed 1 houseboat per 35% of lineal land frontage.

**POLICY 12:** The County zoning code should be updated to reflect a less burdensome application procedure for moving to more desirable uses in the channel.



**POLICY 13:** Three approval procedures should be incorporated into the code for development or redevelopment of existing marinas/moorages.

1. If the application is to move up the use list, no public hearing would be required. This type of application would still need a Willamette River Greenway Permit.
2. If the application is moving up the use list, and does not exceed the existing number of slips, no public hearing would be required. This type of application would still need a Willamette River Greenway Permit.
3. If the application is increasing the existing number of slips, and/or moving down the list, a process involving a public hearing would be required in addition to the Willamette River Greenway Permit.

All application types would be required to demonstrate compliance with level of service standards for fire protection, sheriff protection, sewer, water, schools and roads.

**POLICY 14:** Implement a combined overlay zone to include the same area as the Willamette River Greenway Overlay along the channel to incorporate the more



Multnomah County Transportation and  
Land Use Planning Division  
2115 SE Morrison Street  
Portland, OR 97214  
phone: (503)248-3043 fax: (503)248-3389  
email: land.use.planning@co.multnomah.or.us

April 29, 1998

River's Bend Marina  
ATTN: Jan Hamer  
27448 NW St. Helens RD  
Scappoose, OR 97056

RE: River's Bend Moorage

Dear Mr. Hamer:

This is the letter we agreed to send to moorage owners pursuant to Policy 10 of the Sauvie Island/Multnomah Channel Rural Area Plan (SI/MC RAP) which states:

"...Through this inventory, the County will 1) determine the level of existing development to be considered as a permitted use (number of existing dwelling units as determined using the Multnomah County Moorage Report Listing of Floathouses and Watercraft as of July 1, 1997 and reconciled through supplemental information provided by the moorage owners); and 2) receive proof that the non-County permits have been obtained."

I want to thank you for your cooperation in completing the SI/MC RAP, Policy 10 inventory and reconciliation task for your moorage. The result of this effort is an agreement between you and the County that pursuant to land use action CU 11-86, CS 9-86, and WRG 1-86 River's Bend Moorage is permitted for 19 houseboats and 38 boathouses. A copy of the approved site plan is attached as Exhibit A.

During the inventory of floating structures and the review of the Multnomah County Moorage Report Listing of Floathouses and Watercraft as of July 1, 1997 it was confirmed that you were operating within your current permit. The inventory process was as follows:

1. An inventory of floating structures on Multnomah Channel was undertaken in December 1997 pursuant to Policy 10 subsection 4 of the SI/MC RAP.
2. The Multnomah County Moorage Report Listing of Floathouses and Watercraft as of July 1, 1997 was reviewed and the differences were reconciled through discussion with you, a review of existing permits, and supporting documentation you provided.

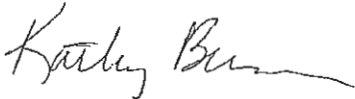


In response to Policy 10, subsection 4, you provided copies of the appropriate state permits for the River's Bend Moorage. A checklist of these permits is attached as Exhibit B and a complete record of them is available in your file. These permits you submitted satisfy the requirements of Policy 10, subsection 4.

You have completed the requirements of Policy 10, SIMC RAP, any new land use action will be processed under the current code. The process for considering new land use actions at River's Bend Moorage will entail one of the following:

- For "switching" or moving houseboats in or out, fill out one of the blue slips attached (titled Application for Floating Structure Placement within a Moorage) and submit it to the Transportation and Land Use Planning Division prior to moving any structure.
- For increasing the number, requests will be processed as either a Special Plan Area (once available under code provisions) or a Community Service Use application. Both of these processes will begin with a visit to the Planning Department to receive the proper code documents and applications.
- For decreasing the number, there is no required process.

Sincerely,



Kathy Busse  
Planning Director

**RECEIVED**  
 APR 06 2009

## Multnomah Channel Moorage/Marina Inventory 1997/98

Last Date File Active:	12/9/97
Site Name:	Rivers Bend
Site Address:	27448 NW St Helens Rd.
Contact Name:	Jan Hamer
Contact Phone:	(503)543-6223

### Physical Inventory - Floating

Date of Inventory: 11/26/97

#### Covered Structures

Site Plan	Yes	No	
Houseboat		X	9
Combo			
Residence	5		
Non-Residence	0		
Total Combos			5
Boathouses			1
<b>Total Covered Structures</b>			<b>15</b>

#### A & T Moorage Report 1997

Houseboat			
Combo			
H/B/C			
H/B/C			
Total Combos			
Boathouses			
<b>Total Covered Structures</b>			<b>15</b>

#### Boat Slips

Covered	0	
Open	27	
<b>Total Boat Slips</b>		<b>27</b>

#### Floating Dock

Total Length	1982'
--------------	-------

#### Service Structures for Owners/Renters

Garage	N	Shower	Y	Storage	Y	Ice	Y	Washing	Y
--------	---	--------	---	---------	---	-----	---	---------	---



**Dock Notes:**

**Physical Inventory – Upland**

Parking Spaces on Parking Area		
Parking Surface		
Hard Surface		
Gravel	X	
Dirt		
Garbage Facility		Yes

**Upland Notes:**

## Growth: Landlocked cities must turn inward

Continued from Page A6

to make expansions work."

Critics such as the Home Builders Association of Metropolitan Portland believe the Metro council is philosophically opposed to expanding the urban growth boundary.

"How many (housing) units you say we need is one thing — it's all based on muddling," said Joe Keizur, interim government affairs director for the homebuilders. "You can fit in anything you want if you want to go vertical, and turn all the neighborhoods into six-story condos."

Keizur said homebuilders are eager to see the growth report and will examine how Metro arrived at its projections. Development groups have been critical of past Metro reports, such as an October study that concluded it costs more to extend streets, water and sewers to areas outside the urban growth boundary than it does to serve new development within the urban core.

Business groups said the report was skewed because in some cases, a city seeking to expand may have built high-capacity infrastructure to the edge of the boundary and could extend it for less cost than retrofitting old infrastructure.

For some cities, growth choices are already clear. Tigard has turned inward and has the capacity to absorb more people, said Mayor Craig Dirksen.

"The issues for Tigard are very different than the rest of Washington County," he said. "Tigard, like Portland, is landlocked, we have no urban growth boundary on our border. We have to anticipate ways to deal with future growth without expanding."

Metro's housing estimate derives from a population forecast, released earlier this month, that said the seven-county Portland-Vancouver-Beaverton area will have 2.9 million to 3.2 million people by 2030. It now has about 2.2 million.

Historically, about 62 percent of population growth within the seven-county area

has settled in the three counties included within Metro's urban growth boundary. Based on that, Metro concluded the need for as many as 800,000 additional homes.

The growth report concludes that housing needs can be met within the current urban growth boundary through a mix of zoning changes, density increases, clearing polluted "brownfield" sites, incentives for housing near transit centers and new financing tools to pay for infrastructure.

Past expansions of the urban growth boundary haven't resulted in much growth, according to the report. About 87 percent of new development has occurred within the original growth boundary established in 1979, the report said.

The next report from Metro is a 20-year employment forecast in late April. The combined reports set the foundation for growth decisions that will culminate in 2011 when Metro decides whether to expand the urban growth boundary.

Eric Mortenson: 503-294-7636;  
eric.mortenson@  
news.oregonian.com

The Oregonian  
MONDAY, MARCH 30, 2009

# METRO

NEWSROOM: 503-221-8100  
NEWSROOM@NEWS.OREGONIAN.COM

A6

NEWS FROM THE PORTLAND AREA AND THE NORTHWEST

## 300,000 more houses? Where?

**Metro report** | Looking toward 2030, debate will focus on infill or expanding the urban growth boundary

By ERIC MORTENSON  
THE OREGONIAN

The recession may have slowed the Portland area's population surge, but an analysis of housing capacity shows the region's urban growth boundary will be

under great pressure as development resumes during the next 20 years.

A report by Metro, the regional government, estimates that 224,000 to 301,500 more houses, apartments and condominiums will be needed in Multnomah, Washington and Clackamas counties by 2030.

Metro's Urban Growth Report, to be publicly released Tuesday, doesn't attempt to say where all those homes will be built. Instead, Metro councilors and

other elected officials are quick to say the housing needs estimate provides an opportunity for a regional debate about how we grow and how we pay for it.

"Most of the Metro council doesn't want to engage in the game of all-location," Metro Councilor Carl Hosticka said during a media briefing last week.

He and other officials say the focus should be on choices and investments — whether growth should be

accommodated within existing urban centers by infill and redevelopment, or by expanding the urban growth boundary.

"We can accommodate projected growth within the current UGB and achieve what we want for our communities if we plan carefully and invest wisely," Hosticka said in a news release.

"If we choose to expand, we still need to find a way to pay for the infrastructure. Please see **GROWTH**, Page A7





# Goodbye to those ugly infill houses?

**Portland Plan |**  
Randy Leonard muses about “minimum” design standards

By JAMES MAYER  
THE OREGONIAN

Portland City Commissioner Randy Leonard wondered aloud Tuesday what it would take to require design standards for new homes here.

Leonard brought up the idea as the council held a work session on the Portland Plan, a three-year effort just under way to guide the physical, economic, social, cultural and environmental development of Portland over the next 30 years. It will involve a rewrite of the city's basic planning documents.

A major goal of the plan is to cope with an additional million residents in the Portland metro region by 2030.

Leonard cut through the bureaucratic haze to spotlight one of the thorniest political issues lurking in the plan: higher densities to cope with all those new people.

He said density and planning get a bad name when Portlanders connect the urban growth boundary with the ugly infill house next door. It isn't the fact of higher density that bothers people so much as the way many of the new houses look.

“What would it take to establish minimum standards for

## More information

To learn more about the Portland Plan and how you can get involved, go to [www.portlandonline.com/portlandplan](http://www.portlandonline.com/portlandplan)

houses?” Leonard asked Planning Director Gil Kelley.

Kelley said that an “urban form” report will be part of the plan, which will establish a framework for new development, and that preapproved designs such as the city now uses for “skinny” houses might be a “fruitful area to explore.”

He said the city was planning to ask the 2009 Legislature to expand Portland's design review authority to include “mixed-use” projects — developments with commercial and residential aspects — and said he would explore the idea of expanding the request to include single-family development.

“Homebuilder anxiety goes up,” Kelley warned.

Mayor-elect Sam Adams commented that Leonard had “raised a great issue” but noted that a legislative change “is going to be hard.”

Adams suggested that the Planning Bureau devise a pilot project. “I think we could do something about that,” Kelley said.

James Mayer: 503-294-5988;  
[jimmayer@news.oregonian.com](mailto:jimmayer@news.oregonian.com)



SAUVIE ISLAND/MULTNOMAH CHANNEL RURAL AREA PLAN

DRAFT SCOPING REPORT

JULY, 1995

Prepared for:

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

Prepared by:

Cogan Owens Cogan  
10 NW Tenth Avenue  
Portland, OR 97209-3120



- ◇ Need for safety improvements at high accident locations
- 9. Protection/maintenance of drainage ditches
  - ◇ Protection of right-of-ways to drainage ditches/structures
    - Notification to Drainage District of structures proposed within 100 feet
  - ◇ Trespass in drainage ditches
  - ◇ Burning and use of carp as maintenance options
  - ◇ Spoils disposal
- 10. Maintenance of the area's rural character
  - ◇ Protection of commercial farmland
    - Limits on additional non-resource development
    - Maintaining tax deferral programs
  - ◇ Protection of open space
- 11. User conflicts
  - ◇ Beach access across private land
  - ◇ Conflicts between hunting and watchable wildlife
- c. **Multnomah Channel-Specific Issues**
- 12. Conflicts among various waterway users
  - ◇ Conflicts between recreational and commercial boating
- 13. Conflicts between moorage residents and waterway users
  - ◇ Impacts of no-wake zones on general public use of waterways
- 14. Emergency services to moorages/marinas
  - ◇ Adequacy of rural road standards for emergency access
  - ◇ Need for required fire protection measures for marinas
- 15. Zoning/land use regulations
  - ◇ Providing opportunities for moorage/marina expansions
  - ◇ Identification of infill areas
  - ◇ Addressing illegal expansions
- 16. Design standards for housing/boat houses to protect visual quality
- 17. Need for Multnomah Channel management plan (per Lower Willamette River Management Plan)
- 18. Impacts to wildlife habitat from waterway uses
  - ◇ Protection of remaining undisturbed wildlife corridors



14. Better management of state lands to reduce geese impacts on private lands

**c. Multnomah Channel-Specific Issues**

15. Study per Lower Willamette River Management Plan to define uses, regulations

- ◇ Effects of Urban Reserves on Multnomah Channel area
- ◇ Effects of West Hills Plan on this planning area
- ◇ Effects of addition of Lower Columbia River to the National Estuary Program

16. Expansion of existing waterfront development

- ◇ Maximizing existing areas through controlled growth and infill
- ◇ Expanding in existing area vs. areas zoned for marine wildlife
- ◇ Need for additional marina services to respond to growth in boating

17. Marine zoning

- ◇ Zoning that recognizes all viable marine uses and clearly identifies allowable uses, e.g. MUM -- multi-use marine
- ◇ Dry docking facilities on uplands as permitted use
- ◇ Simplified permitting process
- ◇ Clarification of definition of floating structures

18. Potential DSL lease terminations

19. Need for additional law enforcement

- ◇ Refuse, transient boaters, especially in middle stretch of Channel
  - Lack of response to enforcement requests
  - Navigation hazards
- ◇ Security factor provided by houseboat/marina mix
- ◇ Speed limit enforcement

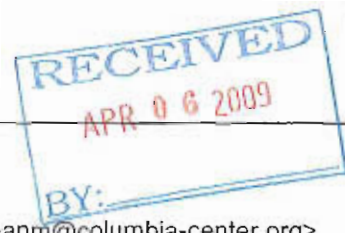
20. Sewage pump out for boaters

- ◇ Marine Board intentions re: pump out facilities

21. Dike erosion

**D. NEWSLETTER QUESTIONNAIRE**

A newsletter, with a scoping questionnaire, was mailed to all addresses in the planning area. The newsletter explained the rural area planning process, described the Sauvie Island/Multnomah Channel planning area and current land uses, and announced the Community Open House.



**JBMI**

**From:** "JBMI" <jbmiinc@comcast.net>  
**To:** <riverplan@ci.portland.or.us>  
**Cc:** "Schutten-WOOO, Mary" <mschutten@nologos.org>; "Jean McNulty" <jeanm@columbia-center.org>  
**Sent:** Thursday, December 01, 2005 3:41 PM  
**Attach:** River Concept Draft Plan JHamer Memo 120105.doc  
**Subject:** Comments on Draft River Concept

Attached is a memo from Jan Hamer to Joan Hamilton regarding comments on the Draft River Concept. Please contact us if there is any difficulty receiving this document.

Thanks  
Sherre  
Jantzen Beach Moorage  
1881 N Jantzen Ave  
Portland OR 97217  
Ph# (503) 283-2151  
Fax# (503) 283-2171  
Email: [jbmiinc@comcast.net](mailto:jbmiinc@comcast.net)  
Website: [jbmi.net](http://jbmi.net)

Lately we have heard a lot about "River Renaissance" and the resulting "River Concept". As an organization we have been working on getting wording into these documents that reads that Floating Homes are "water dependent", which would add to our strength.

The people involved in these "studies" would do well to read *The Houseboat Book* by Barbara Flanagan with Photos by Andrew Gam.

This is an extremely comprehensive book that I believe we discussed a year or so ago. If you have not read it, you really should. It delves into the history of floating homes which in our area came about during the mid-1800s while North America was expanding its transportation system and felling trees to build new towns in the Pacific Northwest. Timber companies built floating logging camps to move loggers along the shorelines, where they could cut trees and move them directly into the water, where they could then be tied into log rafts and towed to lumber mills. The camps started out as all-male work domns for loggers, but later grew into villages, complete with wives and children. Floating houses were joined by floating cookhouses, hotels and general stores, all reached by boat. Some camps survived well into the mid-twentieth century. The Oregon Historical Society has a lot of information, as well as pictures of floating structures in our area.

One of the last things Ms. Flanagan had to say was the following:

"NEW RESIDENTIAL MARINAS"

"Think of post-industrial waterfronts as a new frontier ready for colonization by pioneers- those impassioned people with high standards for adventure and lower requirements for normalcy. (Replacing Western frontiers-man are artists taming messy urban frontiers.)

Working together in public-private partnerships, developers and city officials could do the following: Seal a parcel of industrial land with pavement and planting: build access roads, parking, storage, and maybe a few amenities for marina visitors. Build an infrastructure of permanent or moveable docks. Size the slips for a combination of floating homes, bouseboats, live-aboard boats, pleasure boats and perhaps working boats too (fishing, ecotourism, sailing schools).

Governments could collect revenue from personal property taxes, permits, moorage fees, etc. They could also provide affordable housing in mixed-income neighborhoods, monitor and clean the environment, promote outdoor recreation, reduce sprawl, and uphold historic preservation--duties governments are supposed to embrace.

The best houseboat communities are compact, socially mixed, and inexpensive to build. (It's the dearth of slips that keeps prices high.) Houseboaters are potential stewards of the environment. Like wildlife, they prefer quiet, calm, no-wake zones with swimmable waters. They can alert officials to emergencies and emerging problems, and help to provide a sense of security for other boats on the water. They are also potential protectors of nautical heritage, the next frontier worthy of historic preservation."

Those of us who live on the river understand about personal property taxes, permits, moorage fees, and also about leasing the water under our homes from the State Land Board which moneys are dedicated to the General School Fumd. In essence, we pay a premium to live the way we do and the governments do get the benefit.



# RIVER PLAN / SOUTH REACH

THE RIVER PLAN

## What is the River Plan?

The River Plan is the first update to the Willamette Greenway Plan in more than twenty years. The Plan will guide, inspire, and facilitate actions and investments along the Willamette River, building on previous work outlined in the River Renaissance Vision (2001), River Renaissance Strategy (2004), and River Concept (2006).

The River Plan is being carried out in phases, each focusing on a different stretch of the Willamette River: the North Reach, the Central Reach and the South Reach. The reaches are interrelated but distinct, and phasing allows planning to focus on the unique issues facing each reach. Planning for the North Reach is expected to be complete this year. Planning for the Central and South Reaches is just getting underway.

## The South Reach

The South Reach includes areas south of the Ross Island Bridge to the city boundary and parts of urban unincorporated Multnomah County (see map at right). The River Concept, endorsed by City Council in 2006, characterizes the future for the South Reach as follows:

*The South Reach will provide unique fish and wildlife habitat, parks and trails in the center of the city, easily reached from established neighborhoods.*

The River Plan / South Reach will address the following topics:

- Access to, along and across the River
- Fish and wildlife habitat
- Riverfront communities (e.g., John's Landing/Macadam, floating homes)
- Water based recreation
- Educational or interpretive opportunities
- Other topics as identified

## Stay informed

Visit the project website to find out more information and sign up for our monthly electronic newsletter, River Plan News.

Project Contacts:

Sallie Edmunds, River Planning Manager  
Phone - (503) 823-6950  
Diane Hale, River Team Planning Assistant  
Phone - (503) 823-2281

River Team email - [riverplan@ci.portland.or.us](mailto:riverplan@ci.portland.or.us)  
River Plan website - [www.portlandonline.com/riverplan](http://www.portlandonline.com/riverplan)

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APR 06 2009  
BY: \_\_\_\_\_



### **River Concept guidance for the South Reach**

The following pages are excerpted from the River Concept, endorsed by the Portland City Council related planning over the last decade from adopted documents as well as recent policy

The River Plan Team is in the process of updating the River Concept for the South Reach. Comments to [riverplan@ci.portland.or.us](mailto:riverplan@ci.portland.or.us) or call Diane Hale at (503) 823-2281.

## **THE SOUTH REACH: Neighborhoods and Natural Areas**

The "Clean and Healthy River" and "Front Yard" River Renaissance Vision themes have a higher profile in the South Reach.

### **Clean and Healthy River**

- Opportunities to protect, conserve and restore fish and wildlife habitat, including streams, wetlands, riparian areas and upland vegetation will be explored and implemented through public and private actions. In the south reach, restoration of Ross Island will result in the highest quality riverine habitat in Portland. Mitigation required of public and private parties will improve habitat functions.
- Stormwater quality and quantity will be managed at the source where practicable, using approaches that suit the site conditions and the type of development. In the south reach this will often be achieved through landscaping and pervious pavement.
- Innovative bank treatments and plantings that work for riverfront development and provide fish and wildlife habitat will be achieved through public and private investment.
- Riverfront and watershed actions achieved through public and private investments will improve water quality and help make the river swimmable.

### **Prosperous Working Harbor**

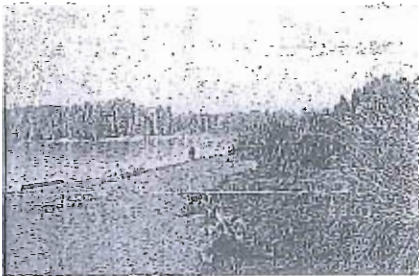
- Public improvements to truck routes such as McLoughlin Boulevard will enhance freight mobility.
- The river channel will be maintained to allow easy passage for barges and other river traffic.

### **Vibrant Waterfront Districts and Neighborhoods**

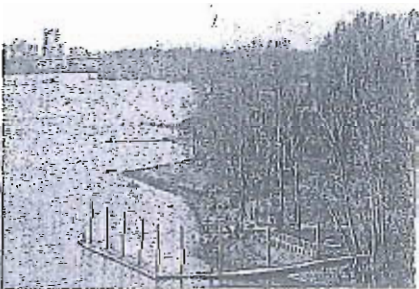
- Sellwood will continue to be a vibrant neighborhood with both natural areas and parks on its waterfront. Connection to the waterfront will be improved with the completion of the Springwater Corridor, a new Sellwood Bridge, and commercial activity at the bridgehead on Tacoma Street.
- Existing floating home moorages, marinas, water related business, and recreation will play an important role in the vitality of Portland's waterscape through the acknowledgement and support of the City and its partners.
- Transit and trail improvements in the South Waterfront and Macadam areas will provide strong connections to downtown and areas to the south.
- River access in the John's Landing and Macadam area will improve as areas along the riverfront redevelop.



The Oaks Bottom Wildlife Refuge and Ross Island complex provide habitat for species such as the great blue heron and the bald eagle.



Beaches along the Willamette may someday beckon visitors to swim along the riverbanks.



The public boat dock is a popular feature at Sellwood Riverfront Park.



# GUIDANCE FOR SOUTH REACH AREAS

## Sellwood/Oaks Bottom

The city's most pristine riverine natural areas are the Oaks Bottom Wildlife Refuge, a 160-acre wetland, and Ross Island. Ross Island, once mined for gravel, will be transferred from private ownership into the City's open space portfolio. Continued restoration of Oaks Bottom and Ross Island will ensure they provide an oasis for bald eagles and other wildlife.

Oaks Bottom is easily accessible from the riverfront and will be increasingly accessible from the bluff neighborhood of Brooklyn across McLoughlin Boulevard to viewpoints and trailheads leading to the river.

The Sellwood area offers opportunities for people to experience the river from trails, parks, picnic sites, beaches, docks, viewpoints, non-motorized boat launches, and from floating homes. Tacoma Street, which leads to the Sellwood Bridge, will continue to develop into a bustling pedestrian oriented mixed-use main street. A new Sellwood Bridge will create a safe link for pedestrians and bicyclists to the west side of the river.

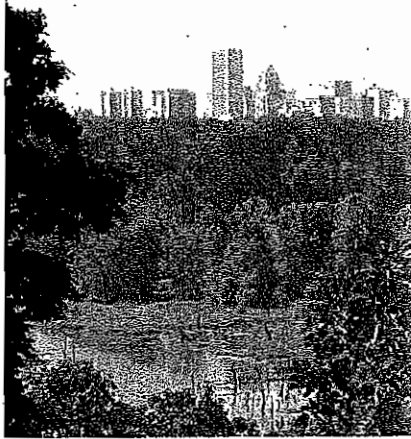
## Southwest

The John's Landing area will continue to be a diverse mix of residential and commercial activity, but less intensely developed than the emerging South Waterfront District to the north. Access to the river will be improved through clearer connections, smoother trail surfaces, and places to sit.

Willamette Park continues to be one of the most heavily used parks on the river, offering a motorized boat launch, playground equipment, an off-leash dog park, and lawns that support field sports. Ongoing restoration efforts will continue to add to its value in the region's natural resource system.

## Dunthorpe / Ira Powers Marine Park

Dunthorpe, a residential area outside of the City of Portland, but within its planning jurisdiction, will remain a community of single-family homes on large lots with a prime riverfront location. The extensive tree cover and other natural vegetation contribute significantly to the natural resources in this reach of the river. The confluence of Stephens Creek with the Willamette and the Powers Marine Park area will remain important habitat areas that warrant continued restoration. Dunthorpe will connect to Portland neighborhoods to the north and east through trail improvements in Ira Powers Marine Park and improvements to the Sellwood Bridge. Improved trail and transit options will better connect Portland with Lake Oswego.



Oaks Bottom Wildlife Refuge harbors pristine habitat just minutes from the Central City.



Residents from this south reach neighborhood have the Greenway Trail and the Willamette River at their front steps.



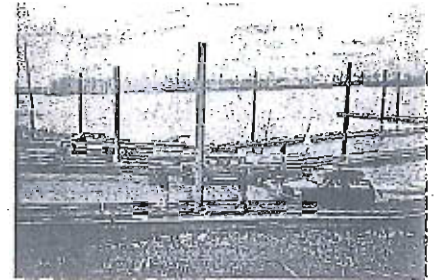
The Willamette River shoreline at Ira Powers Marine Park is beautiful as trees start to change color in the fall.



April 2006 as a guiding document for the River Plan. The Concept synthesizes river-  
id actions. Guidance is grouped by River Renaissance vision theme and neighborhood.  
ase review the following language and let us know what you think! Submit

### Portland's Front Yard

- Access from the Brooklyn neighborhood to the river will be improved across McLoughlin Boulevard.
- Access from southwest neighborhoods to the river will be improved across Macadam and Barbur Boulevards.
- The riverfront south of the Ross Island Bridge will continue to offer a fully connected riverfront trail, water access, several riverfront parks, and natural areas.
- The redesign of the Sellwood Bridge will accommodate pedestrian and bicycle traffic, connecting the east and west sides of the river in the Willamette Greenway Trail system.
- Existing gaps in the Willamette Greenway Trail will be completed. The existing trail will be upgraded to current standards as opportunities arise.



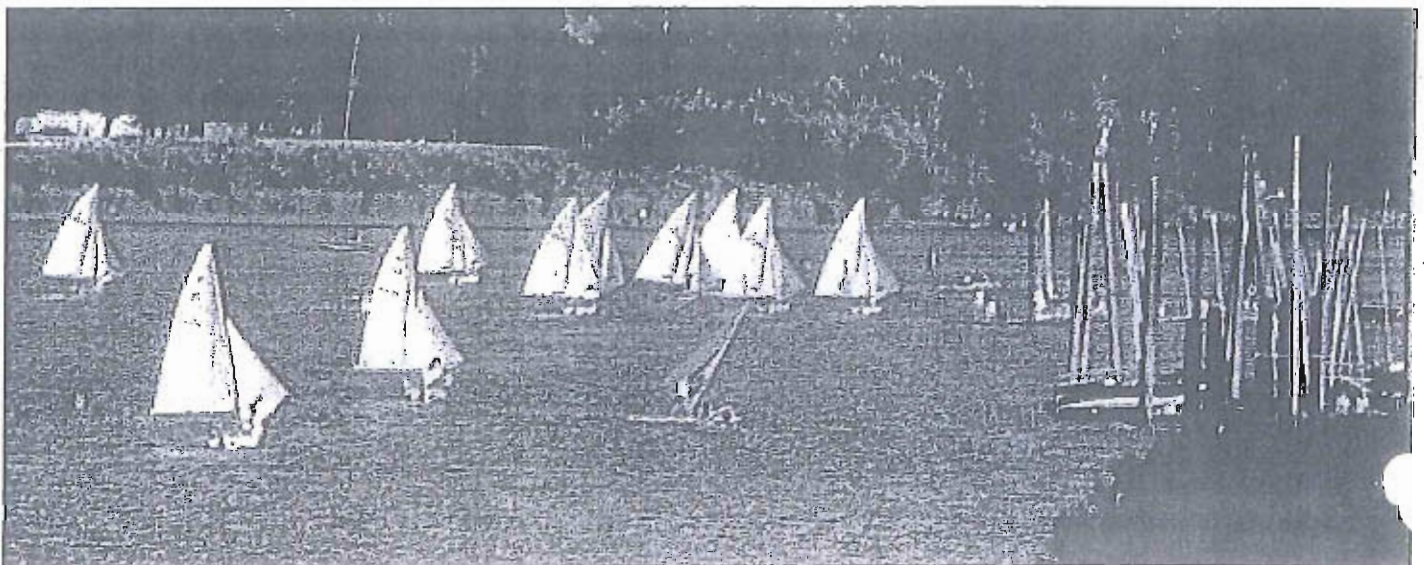
As the popularity of boating increases, so too will the need for access to the river.

### Partnerships, Leadership, and Education

- Relationships that foster positive change will be developed among property owners, businesses and business associations, neighborhood associations, environmental groups, recreation groups, cultural organizations, and agencies.
- The City will strive to make its regulations flexible, streamlined, and cost-effective and work with other agencies to simplify the overall river related regulatory process.
- The City will seek incentives, community partnerships, and facilitated development processes to encourage property owners and others to achieve the River Renaissance Vision.



Floating home communities are a unique housing type in this part of the city.



Portlanders set sail in the South Reach.

**BARBER Adam T**

---

**From:** TOKOS Derrick I  
**Sent:** Wednesday, April 08, 2009 12:09 PM  
**To:** BARBER Adam T  
**Cc:** BEASLEY Charles; DUFFY Sandra N  
**Subject:** FW: Majority vote of total membership

Adam,

Please include this with the PC packet materials for the May hearing.

Thanks,

Derrick I. Tokos, AICP  
Principal Planner  
Multnomah County  
ph. 503.988.3043 x22682

-----Original Message-----

**From:** DUFFY Sandra N  
**Sent:** Tuesday, April 07, 2009 3:09 PM  
**To:** TOKOS Derrick I  
**Cc:** DUFFY Sandra N  
**Subject:** RE: Majority vote of total membership

Derrick:

Here is my legal opinion on a procedural issue that need to be clarified for the May 4, 2009, recommendation by the Planning Commission for the Rocky Pointe Marina matter:

**How many votes are necessary to pass a recommendation to grant a goal exception?**

The Planning Commission can pass a motion to recommend approval of the goals exception application with a majority of the quorum present to vote. Monday there were 8 commissioners present. Julie Cleveland recused herself from the matter and should not be considered part of the quorum for this matter. Thus, 4 votes of the 7 member quorum will be necessary to pass the motion.

However, because this goals exception matter is legislative and is an "action on a [comprehensive] plan, the Board of County Commissioners must approve the goal exception(s) by a majority of the entire Board (i.e.3 votes whether there are 5, 4 or 3 members present). See ORS 215.060, below:

215.060 Procedure for **action on plan**; notice; hearing. Action by the governing body of a county regarding the plan shall have no legal effect unless the governing body first conducts one or more public hearings on the plan and unless 10 days' advance public notice of each of the hearings is published in a newspaper of general circulation in the county or, in case the plan as it is to be heard concerns only part of the county, is so published in the territory so concerned and **unless a majority of the members of the governing body approves the action...**"

If the Commissioner who was absent at last evening's meeting wants to participate in the vote, he will need to listen to the tapes of the hearing and review all of the documents submitted in this matter. If 8 commissioners are present and vote, it will take 5 votes to pass the recommendation.

Please pass this on the Planning Commission before the May 4, 2009, continued hearing.

Sandy

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APR 15 2009  
BY:

PROPOSED  
SLIP CONVERSION

PROPOSED  
SLIP CONVERSION

PROPOSED  
SLIP CONVERSION

PROPOSED  
ADDITION

Flowing solutions



Flowing Solutions  
3305 SW 87th Avenue  
Portland, OR 97225  
Phone (503) 297-6311  
Fax (503) 297-6053

TITLE: SITE PHOTO

1"=250'

DATE:  
1/26/09

ROCKY POINT MARINA  
23586 NW ST. HELENS ROAD  
PORTLAND, OR 97231

RIVER: MULTNOMAH CHANNEL  
DATUM: NGVD

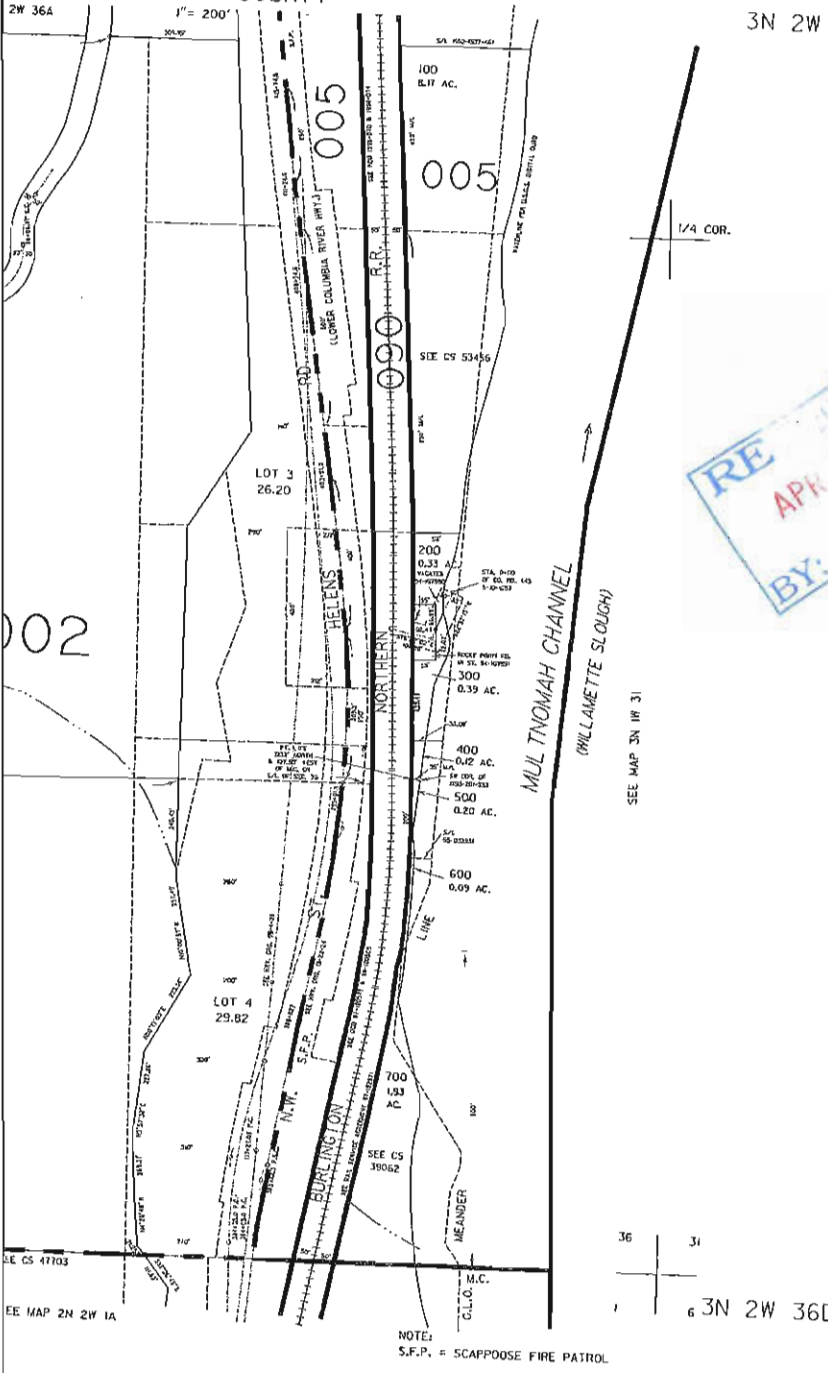
SHEET NO.  
2



ORIGINAL TAX MAP

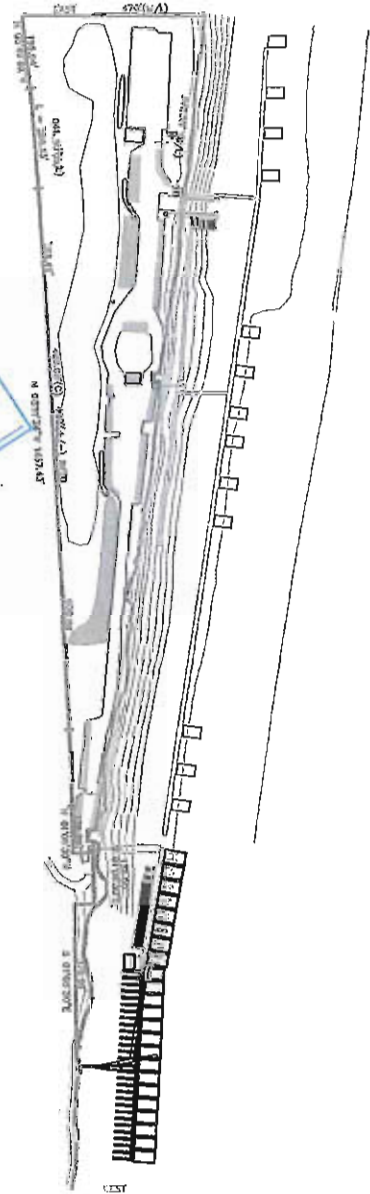
TAX LOT CONSOLIDATION

SE1/4 SEC. 36 T.3N. R.2W. W.M.  
MULTNOMAH COUNTY



3N 2W

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APR 15 2009  
BY:



36 31  
6 3N 2W 36E

NOTE:  
S.F.P. = SCAPPOOSE FIRE PATROL

Flowing solutions



Flowing Solutions  
3305 SW 87th Avenue  
Portland, OR 97225  
Phone (503) 297-6311  
Fax (503) 297-6053

TITLE: TAX LOT CONSOLIDATION

1"=500'

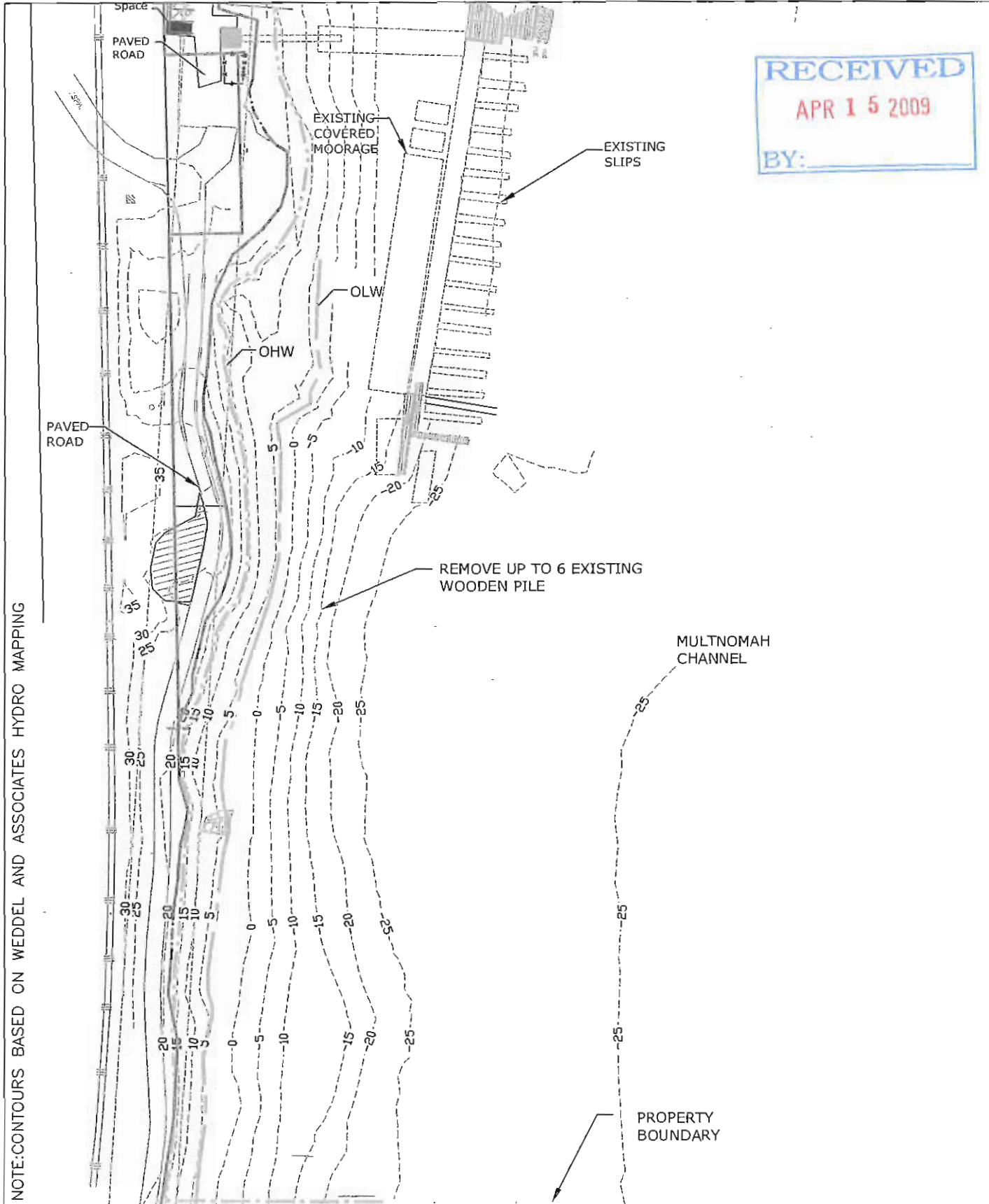
DATE:  
1/26/09

ROCKY POINT MARINA  
23586 NW ST. HELENS ROAD  
PORTLAND, OR 97231


RIVER: MULTNOMAH CHANNEL  
DATUM: NGVD

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3

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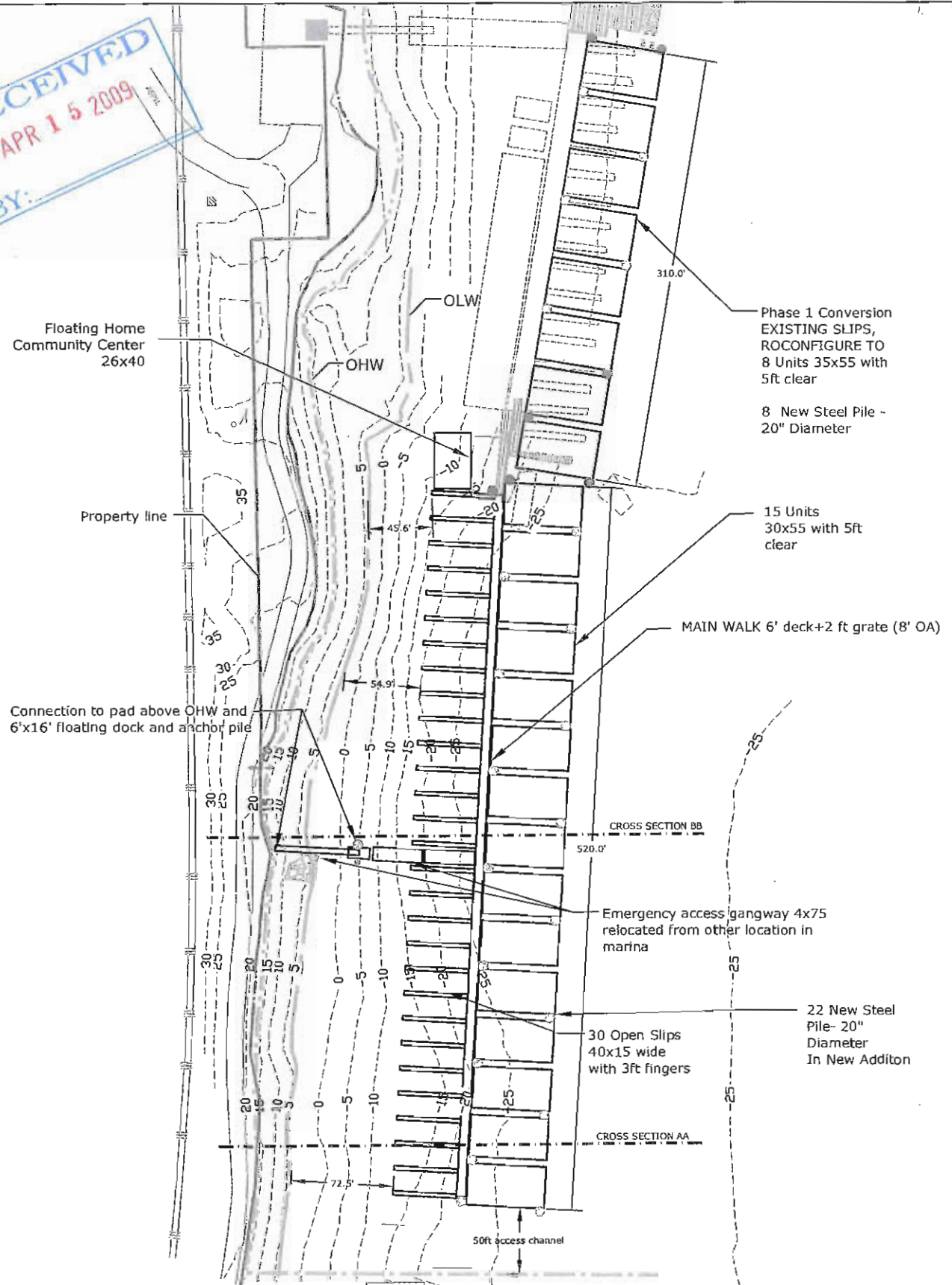



NOTE: CONTOURS BASED ON WEDDEL AND ASSOCIATES HYDRO MAPPING

 <p>Flowing Solutions          3305 SW 87th Avenue          Portland, OR 97225          Phone (503) 297-6311          Fax (503) 297-6053</p>	TITLE: EXISTING SITE	1"=100'	DATE: 1/26/09
	ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231	RIVER: MULTNOMAH CHANNEL DATUM: NGVD	SHEET NO. 4

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 BY: \_\_\_\_\_

NOTE: CONTOURS BASED ON WEDDEL AND ASSOCIATES HYDRO MAPPING

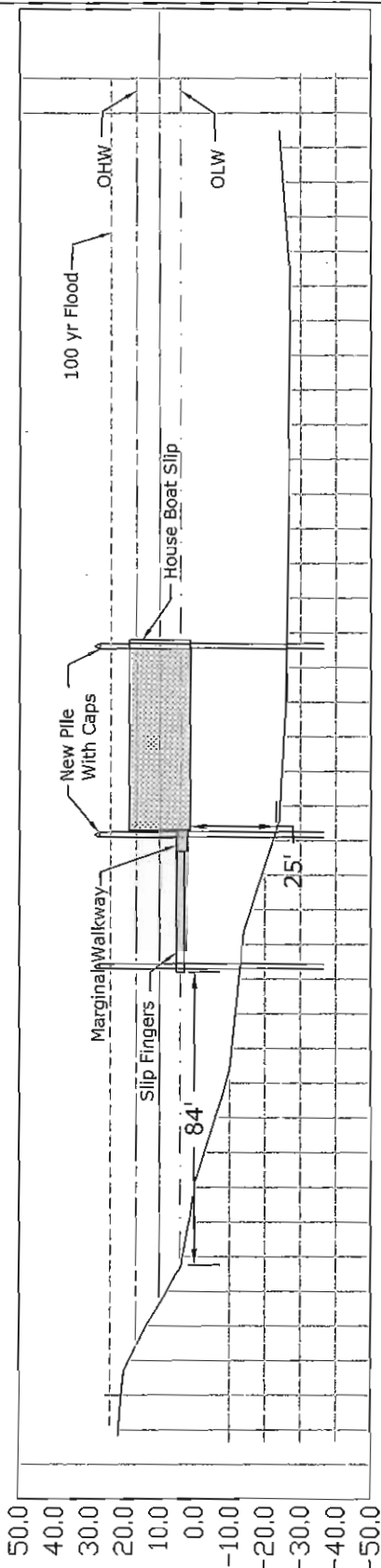


 <p>Flowing Solutions        3305 SW 87th Avenue        Portland, OR 97225        Phone (503) 297-6311        Fax (503) 297-6053</p>	TITLE: SITE-MARINA-PROPOSED NEW DOCK		1"=100'	DATE: 1/26/09
	ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231	RIVER: MULTNOMAH CHANNEL DATUM: NGVD	SHEET NO. 5	



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 APR 15 2009  
 BY:

Section-AA



Flowing solutions



Flowing Solutions  
 3305 SW 87th Avenue  
 Portland, OR 97225  
 Phone (503) 297-6311  
 Fax (503) 297-6053

TITLE:

SECTION AA

1"=50'

DATE:

1/26/09

ROCKY POINT MARINA  
 23586 NW ST. HELENS ROAD  
 PORTLAND, OR 97231

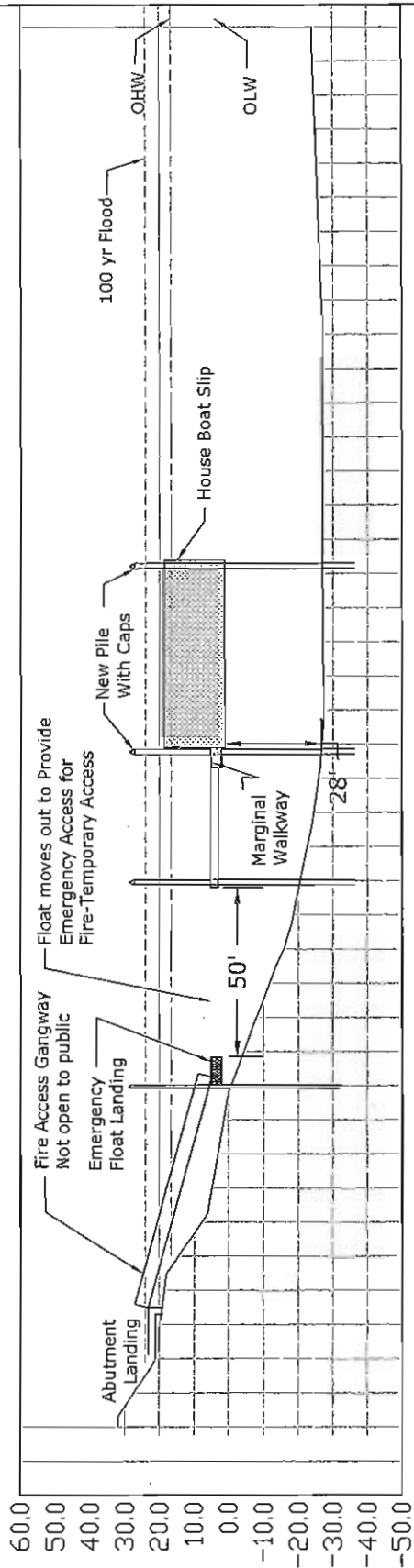
RIVER: MULTNOMAH CHANNEL  
 DATUM: NGVD


SHEET NO.

6

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 BY: \_\_\_\_\_

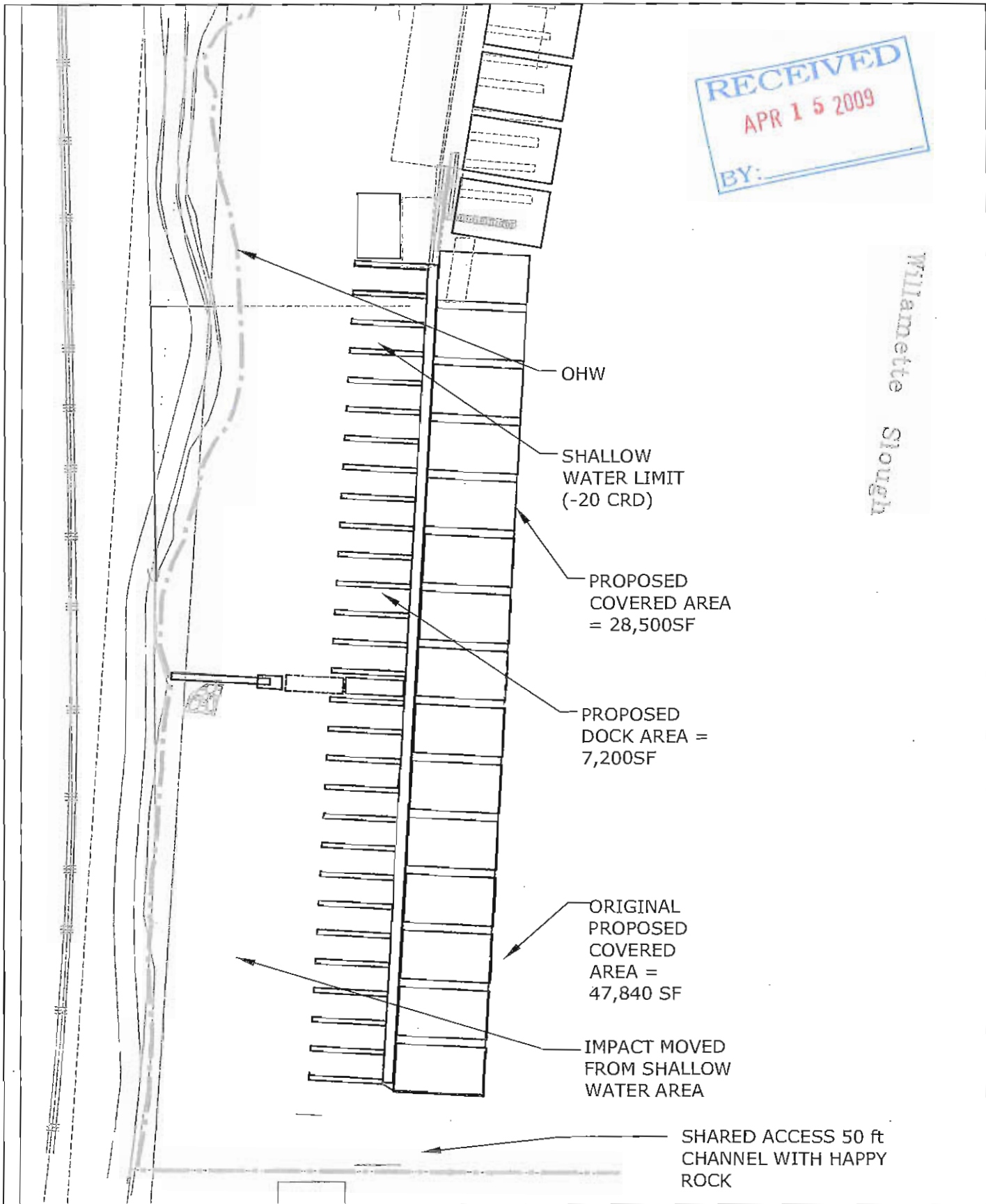
**Section-BB**



 <p>Flowing Solutions          3305 SW 87th Avenue          Portland, OR 97225          Phone (503) 297-6311          Fax (503) 297-6053</p>	TITLE: SECTION BB	DATE: 1/26/09
	ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231	RIVER: MULTNOMAH CHANNEL DATUM: NGVD

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 APR 15 2009  
 BY: \_\_\_\_\_

Willamette Slough



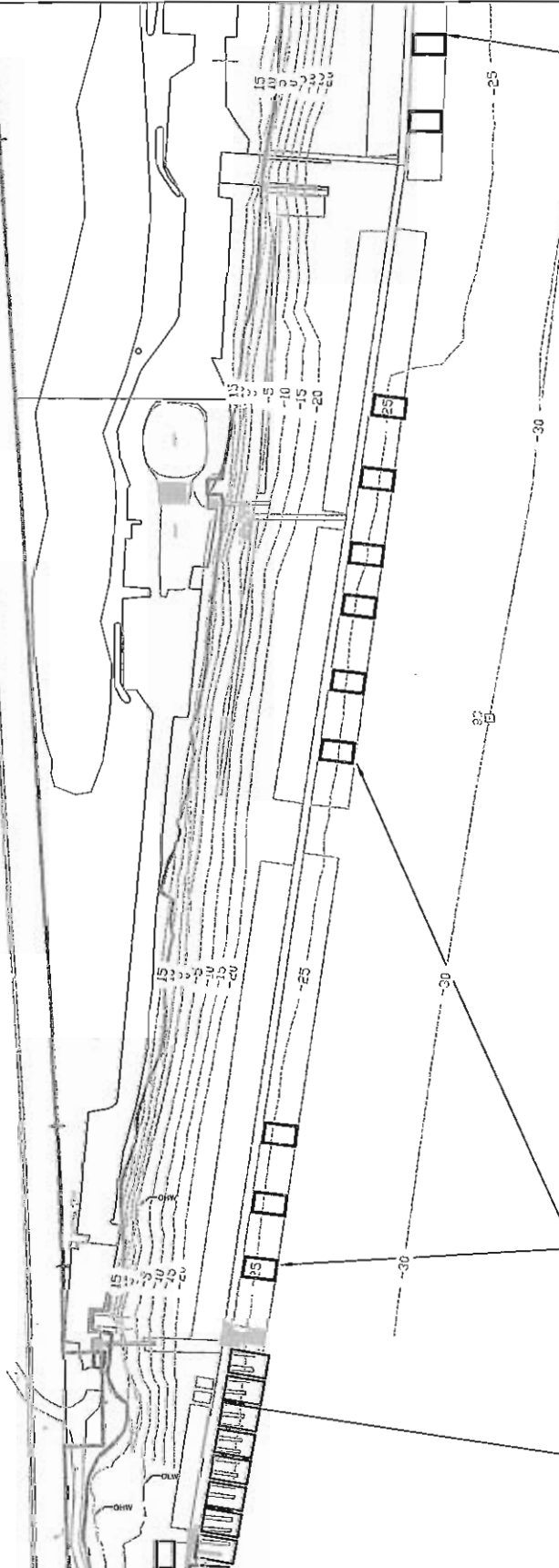
**Flowing solutions**



Flowing Solutions  
 3305 SW 87th Avenue  
 Portland, OR 97225  
 Phone (503) 297-6311  
 Fax (503) 297-6053

TITLE: ALTERNATIVE IMPACT COMPARISON		DATE: 1/26/09
ROCKY POINT MARINA 23586 NW ST. HELENS ROAD PORTLAND, OR 97231		SHEET NO. 8
RIVER: MULTNOMAH CHANNEL DATUM: NGVD		1"=80'

NOTE: CONTOURS BASED ON HAND SOUNDINGS



Phase 2 Conversion Moorage converted to House Boat (13 Conversions Phase 2, two not shown above)

Each conversion will replace or require one 20' pile

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APR 15 2009  
BY:

- Slip Conversion
- Phase 1 = 8 Pile
  - Phase 2 = 13 Pile
  - New Addition 22 Pile

TOTAL PILE 43

Phase 2 Conversion Moorage converted to House Boat

Each conversion will replace or require one 20' pile

Phase 1 Conversion Moorage converted to House Boats (SEE PAGE 5)

Flowing solutions



Flowing Solutions  
3305 SW 87th Avenue  
Portland, OR 97225  
Phone (503) 297-6311  
Fax (503) 297-6053

TITLE: SLIP CONVERSION PLAN

1"=250'

DATE:  
1/26/09

ROCKY POINT MARINA  
23586 NW ST. HELENS ROAD  
PORTLAND, OR 97231

RIVER: MULTNOMAH CHANNEL  
DATUM: NGVD

SHEET NO.  
9

2153 SW Main Street, #105, Portland, Oregon USA 97205 • Fax (503) 274-1415 • pfinleyfry@aol.com  
April 22, 2009

Multnomah County Planning Commission  
c/o Multnomah County  
Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Avenue  
Portland, OR 97233



RE: T4-08-001

We provide the following comments in response to issues raised at the Public Hearing.

**Impact on Fish and Wildlife**

Our wildlife expert has provided a short memorandum summarizing his findings. He will be available at the rebuttal hearing to respond to specific questions.

**Parking**

Multnomah County requires two parking spaces per residential units that have to be two feet above the flood plain. METRO prohibits jurisdictions from requiring more than one space per resident. FEMA does not prohibit parking in the floodplain. At any one time, the current parking lots are 50% vacant. Nevertheless, we have three different strategies to provide sufficient parking **without** any fill or encroachment into wetlands or natural areas. The parking issue will be reviewed through the conditional use process.

**Rocky Pointe's Houseboats are not Legal**

Rocky Pointe was the first and only marina to formally go through the conditional use process in 1993. 40 houseboats were legally established at that time.

**Purpose of Special Plan Area**

The special plan area's purpose is to allow for master planning the marina which we have done and to allow appropriate legalization of incremental improvements which is being done as part of this process. Many of the improvements that were done without the County's permission were mandated by State agencies to improve the environment.

We have shown that there is a public need for more residents due to population growth and displacements. House boats are a type of residence that can not be discriminated against. The density issue is not to be decided in this process. A conditional use process will determine the appropriate carry capacity of the land in regards to impact on

**Peter Finley Fry AICP  
Stan and Jen Tonneson  
Rocky Pointe Marina  
Goal Exception and Special Plan Area**

**April 22, 2009**

natural areas, services, and roads. The criteria in this process are qualitative. The criteria in the conditional use process will be quantitative.

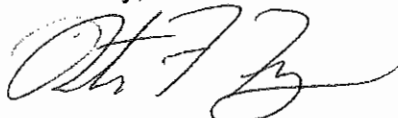
**Separation between Happy Rock and Rocky Pointe**

Happy Rock and Rocky Pointe owners are working to a solution and expect to have their agreement a condition of the conditional use permit.

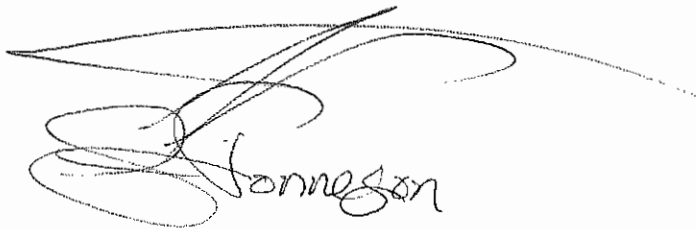
**Characteristics of the Channel**

We provide aerial photos that show that Multnomah Channel is only developed on the west bank. The east bank and most of the channel itself is natural and free flowing. The developed area on the east bank is heavily forested with natural areas rising up Rocky Point into the hills.

Sincerely;



**Peter Finley Fry  
Stan and Jen Tonneson**







## Potential Effects of Proposed Expansion of Rocky Pointe Marina

A Biological Assessment (BA) has been prepared to address the potential effects of the proposed Rocky Pointe Marina Expansion Project on Endangered Species Act (ESA) listed fish, wildlife, and plant species and their habitats. It provides a detailed description of the project and the existing environmental conditions within the marina. The BA is a standardized communication with state and federal agencies which have legally defined the terms and methods used in making a determination of effect.

### **Fish-**

Based on the analysis of effects and consideration of conservation measures that would be implemented to avoid and reduce these effects, we determined that incidental harm or harassment of juvenile or adult ESA-listed salmonids during the proposed Project is extremely unlikely to occur. However, even a remote possibility cannot be entirely discounted and National Marine Fisheries has defined this level of risk as "*likely to adversely affect*".

Mindful design of the proposed expansion has largely limited the risk of harming or harassing fish to short term construction impacts resulting from the removal of old creosote piling and the driving of new steel pile. Short-term and localized increases in turbidity and temporary acoustic disturbances could create stresses or behavioral changes for fish within the project area during construction activities. By scheduling any in-water work during the preferred Oregon Department of Fish and Wildlife (ODFW) in-water work window for Multnomah Channel (*July 1 to October 31*), vulnerable life stages and peak migration periods will be avoided.

Long-term project effects to fish may arise from the shading caused by over-water and in-water structures. Shading has sometimes been identified as increasing predation on juvenile salmonids and in some environments, such as Puget Sound, it has been shown to effect shallow water plant growth. To ensure there would be no shading problems with this project, grated metal walkways have been used to maximize light penetration. Additionally, the proposed expansion has been intentionally placed so that less than three percent of the entire project (0.69 acres) would be over shallow water habitat.

The potential short-term impacts on water quality and feeding opportunities are expected to be minimal. Project impacts would be limited to short-term "harassment" of ESA-listed salmonids, meaning there is no reasonable expectation that fish will be killed or injured as a result of the Project. The implementation of conservation measures and best management practices will help reduce the potential for effect to listed salmonids.

No significant long-term adverse impacts (months to years) to ESA-listed salmonids are anticipated. The removal of creosote-treated wood piling is expected to improve habitat for listed fish species in the Multnomah Channel. The Project would not affect the long-term survival and/or recovery of any listed salmonids that utilize the Project action area.

**Wildlife -**

This reach of the Multnomah Channel has been developed as a residential area for decades and continues to support a diversity of wildlife within the vicinity of the project action area. There are no ESA-listed plant or wildlife species known to occur at the Project site, and as such the BA does not discuss potential effects to plants or wildlife. The proposed Project is expected to have "no effect" on ESA-listed plant or wildlife species or their habitat.

Wildlife currently utilizing the channel within the Marina includes species that are typically unconcerned with human presence or activity such as crows, migratory geese, beavers and nutria. Additionally, residents of the existing marina encourage the presence of such backyard birds as humming birds and finches.

Birds that prey on fish such as eagles, osprey and herons are known to forage and roost along the Multnomah Channel, in the vicinity of the proposed project. The closest known bald eagle and osprey nests are located approximately 1.4 and six miles from the proposed project site respectively. Acoustic disturbances resulting from pile driving could deter use during construction activities but will not be of sufficient duration to result in any permanent avoidance of the area. Pile driving activities would occur within the preferred ODFW in-water work window (*July 1<sup>st</sup> thru October 31<sup>st</sup>*), which avoids sensitive breeding seasons for both the eagle (February and March) and osprey (March thru May).

The Project site is not considered a source of sediment contamination and construction activities are not expected to significantly increase the bio-availability of contaminants to wildlife. Incidental harm or harassment of bird species by the proposed project would be avoided through prudent use of appropriate conservation measures.

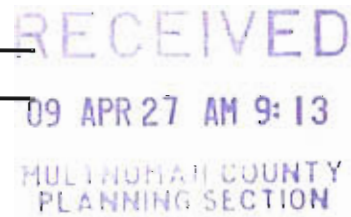


Aerial View of Multnomah Channel from South (Portland) to North (end of County)  
Marina's on order from bottom to top.

Happy Rock Moorage, Rocky Pointe Marina, Big Oak Marina, Pirates Cove, Casselman's and Rivers Bend



**Department of Community Services**  
**MULTNOMAH COUNTY OREGON**



Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Avenue  
Portland, Oregon 97233-5910  
PH. (503) 988-3043 Fax (503) 988-3389  
[www.co.multnomah.or.us/landuse](http://www.co.multnomah.or.us/landuse)

4/27/09

TO: Multnomah County Planning Commission  
FROM: Adam Barber, Multnomah County Case Planner

RE: **Oregon Administrative Rule 660-004-0018(2) Clarification,  
Case T4-08-01 (Rocky Pointe Marina Goal Exception)**

The Planning Commission inquired about the applicability of a density reference in Oregon Administrative Rule 660-004-0018 during the April 6<sup>th</sup> hearing on the Rocky Pointe Goal Exception/Special Plan Area request. We discussed this rule with DLCD Staff after the April hearing and offer the following amendments to findings on pages 56 – 58 of the staff report to help clarify this issue:

**8.0 PLANNING AND ZONING FOR EXCEPTION AREAS (OAR 660-004-0018)**

**8.1 OAR 660-004-0018(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.**

*Applicant: The applicant is proposing physically developed and irrevocably committed exceptions to Goal 11 and 14 that is intended to recognize existing marina development and sewer system.*

**Staff:** The following rules apply to this goal exception request because it involves adoption of zoning provisions authorizing an increase in residential density. These rules relate to residential densities (i.e. Goal 14) rather than sewer densities (Goal 11).

**8.2 OAR 660-004-0018(2) For "physically developed" and "irrevocably committed" exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those:**

**Staff:** Either 2(a), 2(b), 2(c) or 2(d) must be met for this proposal. Below, Staff will explain how the project qualifies under 2(a) and why 2(b), 2(c) and 2(d) do not apply.

**(a) That are the same as the existing land uses on the exception site;**

**Staff:** This standard requires the new zoning resulting from a goal exception to specify a numeric lot size and limit uses, density and services to those that are the same as the existing land uses. With an approved exception in place, the existing Multiple Use Agriculture-20 (MUA-20) zone will be applied to the exception areas because the SPA zone change has not been justified. The MUA-20 zoning code already establishes a 20-acre minimum lot size and specifies the allowed range of uses in MCC 34.2800 – 34.2885, as required by this standard. Additionally, the approved exception would allow the owners to apply for expansion under the 1:50 density limitation codified in the current MUA-20 zone. Staff finds 2(a) is met as long as the expansion does not exceed the 1:50 land use density limitation in current county code<sup>1</sup>.

**(b) That meet the following requirements:**

**(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and**

**(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-004-0028; and**

**(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;**

**Staff:** This standard is not applicable. Provision 2(b) does not have to be met because the project qualifies under 2(a).

**(c) For which the uses, density, and public facilities and services are consistent with OAR 660-022-0030, "Planning and Zoning of Unincorporated Communities", if applicable, or**

**Staff:** Not applicable. Provision 2(c) does not have to be met because the project qualifies under 2(a).

**(d) That are industrial development uses, and accessory uses subordinate to the industrial development, in buildings of any size and type, provided the exception area was planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.**

*Applicant: The zoning limits the uses, density and public facilities on the subject property and marina to those that are the same as the existing land uses on the exception site/marina pursuant to OAR 660-004-0018(2)(a).*

**Staff:** Not applicable. Industrial development is not proposed.

---

<sup>1</sup> The county's 1:50 density limitation was not derived from state law.

**8.3 OAR 660-004-0018(3) Uses, density, and public facilities and services not meeting section (2) of this rule may be approved only under provisions for a reasons exception as outlined in section (4) of the rule and OAR 660-004-0020 through 660-004-0022.**

*Applicant: This rule is not applicable because the uses, density and public facilities and services meet section (2) of this rule.*

**Staff:** Not applicable. Section (2) has been met via 2(a).

**8.4 OAR 660-004-0018(4) "Reasons" Exceptions:**

**(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;**

**(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required;**

**(c) When a local government includes land within an unincorporated community for which an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, which ever is more stringent.**

*Applicant: No "reasons" exception is being proposed, and therefore, this rule is not applicable.*

**Staff:** Staff concurs.



RECEIVED

09 APR 27 PM 12:40

MULTNOMAH COUNTY  
PLANNING SECTION

April 26, 2009

To: Multnomah County Land Use and Transportation  
Planning Commission

From: Estella (Ginger) Curtis  
Happy Rock Moorage

Re: Rocky Pointe Expansion Hearing

Dear Planning Commission,

To begin with, we are in favor of granting Rocky Pointe Marina exceptions to Goal 11 and Goal 14 if the following considerations are given to protect the interest of our business.

Number One: We need a wider setback (waterway) between the new expansion of Rocky Pointe Marina and Happy Rock Moorage than the original proposal of 50-feet. We need the ability to evict a tenant and my tenant needs to be able to move his house if he chooses. We already have a fifty foot by fifty foot floating home on that end that would not be able to move out with only a fifty-foot waterway and we have a space on the inside for a sixty-foot floating home. As a landlord, we have to abide by the Landlord Tenant laws of Oregon, which simply put means we need the ability to evict and they need the ability to leave.

Number two: We have two fifty foot boat slips on that end. The boats in these slips need to be able to easily enter and leave their slips otherwise; we will not be able to rent them. That would be a loss of income for us. A boat needs (at least) its length plus ½ more of its length, which would be seventy-five feet to pull out or into their slips. If it is not easy for them to do this, they will not rent the slip.

This means that we need somewhere between one hundred feet and at the very minimum seventy-five feet for a waterway between the expansion and Happy Rock Moorage. Mr. Tonneson suggested 60 feet and he would agree to move the house on the end if we needed more room to move a house. We are not in favor of this. Having to rely on another marina's cooperation to move floating homes in and out is an awkward and uncertain position to be in. It also does not solve the problem with our boat slips.

There are other aspects of this expansion that could affect our moorage. They may not be relevant to this hearing but we will include them anyway. We would like assurance that we can continue to remove river debris from our moorage in the manner

that we do now. We also want to be assured that there will be no parking on our entrance road or along our entrance road. We would like appropriate signage put up to discourage this. These requests could be satisfied with a letter from Rocky Pointe Marina for our records.

Respectfully,

Estella (Ginger) Curtis and David Curtis

Jan R. Hamer  
River's Bend Marina  
27448 NW Saint Helens Road, Slip No. 344  
Scappoose, OR 97056-9620

April 27, 2009

Multnomah County Planning Commission  
c/o Multnomah County Land Use and Transportation  
1600 SE 190<sup>th</sup> Avenue  
Portland, OR 97233

**RE: T4-08-001**

Dear Sir or Madam,

I built and currently own River's Bend Marina for the past twelve years. River's Bend is located at the northern Multnomah County line and is the group of Marina/Moorages that is zoned for same from Happy Rock Moorage to the Multnomah/Columbia County line.

River's Bend and all the marina/moorages in Multnomah Channel except for Casselman's Warf and Happy Rock Moorage were in compliance with Multnomah County's Rural Area Plans Inventory Process completed in December, 1998.

I also have managed and rebuilt Jantzen Beach Moorage over the past nine years on Hayden Island. Jantzen is a houseboat moorage with 177 slips and over 300 residents. In summary, I have been active in river houseboat communities for over twenty years. I am past president and a current director of the Waterfront Organization of Oregon.

I am in favor of the proposed Rocky Point Plan and offer the following information in support:

**Houseboat Density**

- There are approximately 1,660 houseboats in the state.
- 90% are located in the Portland Metro area.
- 250 are located in Multnomah Channel with 50% in the Sauvie Island bridge area and the remaining 50% from Happy Rock Moorage to the Multnomah county line.

RECEIVED  
09 APR 27 PM 2:44  
MULTNOMAH COUNTY  
PLANNING SECTION

**Policy 26 Comments – Demand**

- Demand remains high for open slips. Between Jantzen Beach Moorage and River's Bend, I receive two to four requests per month throughout the year. Realtor requests add to this demand.
- Please note in the attached letter from Kathy Busse dated April 29, 1998 referring to the requirement to increase slips ("Special Plan Area or a Community Service Use application").
- Also Section C of the attached Policy 26 lists "the criteria needed for locating or expanding a houseboat moorage".

**Future Need**

- The new I-5 bridge over Hayden Island will remove 28 houseboats. The proposed Sellwood Bridge will also remove multiple houseboats.
- Metro's growth rate projects a growth rate for residences of 1.3% per year. If you apply this to houseboats, it would be a demand rate of 21 house/slips per year. NOTE: There are very few open slips available currently in the entire Metro area.
- There are only four remaining empty lots zoned to build either a houseboat or boat moorage available under the Policy 26 zoned areas. Two lots are owned by the Oregon State Parks Department and are not for sale. The third and fourth lots have major development issues (i.e. wetlands and railroad crossing access.)

**Special Plan Area – Policy 13 of the Rural Area Plan**

- I worked on the RAP for almost two years and helped coordinate citizen involvement to get people to attend the meetings. I chaired some of the subcommittee activity. See minutes of meeting on November 13, 1997. See memo in my handout. I also chaired the subcommittee on what was then called Policy 12. Note the high ranking of "Floating Homes:" regarding more desirable river uses, dated December 10, 1996.
- The Rural Area Plan final document Policy 13 set forth the tone and directive to have Multnomah County revise their SPA code to allow the property owner to request its initiation when an expansion or alternation is requested.

In summary, I respectfully request the county to also consider the infill concept as it would apply to houseboat moorages to allow limited additional growth within their waterway lease footprints.

Sincerely,



Jan R. Hamer  
River's Bend Marina  
Attachments



Multnomah County Transportation and  
Land Use Planning Division  
2115 SE Morrison Street  
Portland, OR 97214  
phone: (503)248-3043 fax: (503)248-3389  
email: land.use.planning@co.multnomah.or.us

April 29, 1998

**River's Bend Marina**

ATTN: Jan Hamer  
27448 NW St. Helens RD  
Scappoose, OR 97056

RE: River's Bend Moorage

Dear Mr. Hamer:

This is the letter we agreed to send to moorage owners pursuant to Policy 10 of the Sauvie Island/Multnomah Channel Rural Area Plan (SI/MC RAP) which states:

"...Through this inventory, the County will 1) determine the level of existing development to be considered as a permitted use (number of existing dwelling units as determined using the Multnomah County Moorage Report Listing of Floathouses and Watercraft as of July 1, 1997 and reconciled through supplemental information provided by the moorage owners); and 2) receive proof that the non-County permits have been obtained."

I want to thank you for your cooperation in completing the SI/MC RAP, Policy 10 inventory and reconciliation task for your moorage. The result of this effort is an agreement between you and the County that pursuant to land use action CU 11-86, CS 9-86, and WRG 1-86 River's Bend Moorage is permitted for 19 houseboats and 38 boathouses. A copy of the approved site plan is attached as Exhibit A.

During the inventory of floating structures and the review of the Multnomah County Moorage Report Listing of Floathouses and Watercraft as of July 1, 1997 it was confirmed that you were operating within your current permit. The inventory process was as follows:

1. An inventory of floating structures on Multnomah Channel was undertaken in December 1997 pursuant to Policy 10 subsection 4 of the SI/MC RAP.
2. The Multnomah County Moorage Report Listing of Floathouses and Watercraft as of July 1, 1997 was reviewed and the differences were reconciled through discussion with you, a review of existing permits, and supporting documentation you provided.



In response to Policy 10, subsection 4, you provided copies of the appropriate state permits for the River's Bend Moorage. A checklist of these permits is attached as Exhibit B and a complete record of them is available in your file. These permits you submitted satisfy the requirements of Policy 10, subsection 4.

You have completed the requirements of Policy 10, SI/MC RAP, any new land use action will be processed under the current code. The process for considering new land use actions at River's Bend Moorage will entail one of the following:

- For "switching" or moving houseboats in or out, fill out one of the blue slips attached (titled Application for Floating Structure Placement within a Moorage) and submit it to the Transportation and Land Use Planning Division prior to moving any structure.
- For increasing the number, requests will be processed as either a Special Plan Area (once available under code provisions) or a Community Service Use application. Both of these processes will begin with a visit to the Planning Department to receive the proper code documents and applications.
- For decreasing the number, there is no required process.

Sincerely,



Kathy Busse  
Planning Director



## **POLICY 26: HOUSEBOATS**

[Introduction](#) • [Policy](#) • [Strategies](#)

### **Introduction**

Houseboats have been a housing option in Multnomah County for nearly a hundred years. Once little more than floating shacks, houseboats today are often substantial structures with all the amenities of traditional houses, and are home to middle and upper income citizens.

Moorage sites are limited in the County, and demand for moorage space is high. Local moorages are all at or near capacity. However, demand for houseboat space should not be equated with need. Houseboats were not considered in Multnomah County's housing needs inventory, nor are they required to fulfill the County's housing obligation. Projected housing demand to the year 2000 can be met with lands already zoned for residential development. Therefore, houseboats may be considered a desired housing choice, but not a needed one.

The demand for houseboat space conflicts with other legitimate demands on the finite amount of available public waterways in the County. A houseboat location policy must attempt to reconcile the conflicting interests of houseboat owners, recreational boaters, conservationists, industrial developers, and the general public. It must ensure the protection of houseboat residents from the inherent hazards of waterway life and also provide for protection of the general public from possible negative impacts of houseboat development.

[Introduction](#) • [Policy](#) • [Strategies](#)

[Back to Top](#)

### **Policy 26**

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



**MULTNOMAH COUNTY**  
*Land Use Planning Division*

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

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

C. The following criteria for locating or expanding a houseboat moorage:

1. The mean low water line exceeds five feet;
2. The moorage area should be protected from siltation problems which might require costly dredging to achieve the proper water depth;
3. The moorage is adequately protected from the adverse effects of wind, wave action, icy conditions, and other hazards;
4. Adequate land area exists to accommodate parking and any accessory building requirements;
5. The proper maintenance and operation of dikes, as determined by the army corps of engineerst is not adversely affected by the moorage;
6. The upland area adjacent to the moorage does not have unique recreational, ecological or wildlife habitat value; and
7. The upland area adjacent to the moorage is not zoned for exclusive agricultural use.

The following areas are designated as suitable for houseboats:

1. Multnomah Channel (west side). >
2. (a) From Rocky Point Moorage, or from an area 1650 feet north of the southern boundary of Section 36, T3N, R2W, known as Rocky Point, north to the Columbia County boundary.
3. From the City of Portland corporate limits north to 1/2 mile north of the Sauvie Island Bridge. *Beeth off*

D. Oregon Slough.

- a. the south shore of Tomahawk Island.
- b. any other areas identified as suitable for houseboats by
- c. the Hayden Island Plan.

E. Columbia River (near 185th Avenue).

- a. From the northwest corner, George B. Pullen D.L.C., To the northeast corner, Pullen D.L.C.

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

No houseboats shall be located on the columbia river east of the Sandy River, or in violation of Federal Aviation Administration Clear Zone Standards, or in violation of any other applicable federal, state or local standards.

Introduction • Policy • Strategies

[Back to Top](#)

Strategies

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

The Zoning Ordinance should be amended to:

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

---

[Introduction](#) • [Policy](#) • [Strategies](#)

[Back to Top](#)

# Rocky Pointe

23586 NW St. Helens Hwy.  
Portland, OR 97231

Marina  
tel 503-543-7003  
fax 503-543-5170  
Boatyard  
tel 503-543-2785



## Applicant Testimony

Jen Tonneson  
Co-Owner, Rocky Pointe Marina  
211 NE 39<sup>th</sup> Ave  
Portland, Oregon 97232  
503-234-3466 - H  
503-543-7003 - O

In The Matter Of Case #T4-08-001

My husband and I are the second-generation owners of Rocky Pointe Marina. Our family has been involved in the Portland boating community for 50 years! Stan and I are involved with two boating clubs and own a home in our moorage. We acquired the marina nearly 3 years ago from Stan's father, who was aging and unable to keep up with the enormous task of daily operations.

From the beginning, we knew there would be work to do. Imagine living on a street, filled with RV's with people living in them, some of them parked between your homes. Imagine them outnumbering the homeowners 2 to 1. In a marina where the tenant/landlord relationship had been all but abandoned and enforcement of rules ignored, the frustration of homeowners was escalating. Some had given up and sold their homes. Police presence was a common occurrence, the FBI was investigating a person living under an assumed identity, loud parties, public intoxication, drug dealing. The list went on! Of 150 boats in the marina, 103 were not even currently registered, and 83% were uninsured.

Stan and I began a plan for creating a community that would be grounded with the common thread of livability. People needed to feel safe at night on the docks and in their homes. They needed to feel comfortable bringing their grandchildren here. We needed to promote that.

We dedicated our vision statement to that effect:

*"Our goal is to provide a well maintained, clean, secure and safe facility.  
A marina you are proud to bring your friends and family to."*



More than just a great marina!

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Our mission then became to create a sense of community, and to build upon that. We are excited about the community center our new moorage will contain. Not only will it bring our neighborhood together for functions such as books clubs, mother's groups and the like. But also open a door for service organizations dedicated to the marine lifestyle, such as Sea Scouts, U.S. Power Squadron, boater safety classes and Neighborhood Watch.

We are proud that Rocky Pointe Marina is the first marina in Oregon to receive the "Clean Marina" designation. This voluntary program promotes the stewardship of our river and uplands. We share this award with our tenants, as we could not do it without their participation. Our marina has also been awarded "preferred status" with Red Shield, Oregon's largest floating home insurer, for our proactive stance in our role with the Clean Marina program, as well as promoting good maintenance on the floating homes within our moorage.

We consider the safety and well being of our boating community as a priority. Every year, we have arranged with U.S. Power Squadron, Beaverton, to come to our moorage and provide free vessel safety checks before the boating season begins. We conduct fire safety training marina wide, and have spent over a year formulating a fire response plan.

Working to bring our community together to form a common bond. Providing and promoting community action and involvement. Celebrating our beautiful river. That's our vision and we are working everyday to achieve that end!

Thank you for your consideration of our project.

Respectfully submitted;

Jen Tonneson  
April 6, 2009

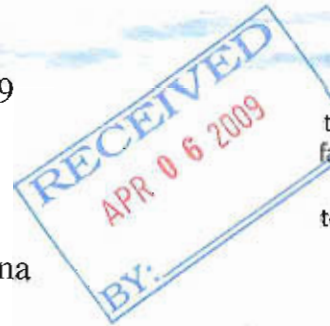


# Rocky Pointe

23586 NW St. Helens Hwy.  
Portland, OR 97231

Applicant Testimony 4-6-09  
Case File #T4-08-001

Stan Tonneson  
Co-owner Rocky Pointe Marina



Marina  
tel 503-543-7003  
fax 503-543-5170  
Boatyard  
tel 503-543-2785

My wife and I **purchased** the marina property in 2006 from my father and along with it came an expansion project for a large covered marina. It was very complex, had a lot of impact on the environment and was opposed by our neighbors. After being involved in the marina community for a year we came up with a much simpler proposal that has practically zero environmental impacts and our neighbors are comfortable with.

We plan to simply extend our existing dock an additional 520 feet to the south towards Happy Rock Marina and provide a standard 50ft fairway all on our property in between the 2 marinas. The existing 310 feet of dock will be widened from 5' to 8' for greater safety and 2 feet of the entire length will be grated to provide more light for fish while also providing us access to our utilities. All utilities are in place and we will simply tie into the line. We plan on having all new construction homes in this section of the marina for up to 23 homes. (**See artwork my wife has helped design**) It will have its own secure entrance and a community room for all floating home tenants to meet and socialize. We will utilize this facility to promote car pooling, ride share and use of public transportation.

All boat slips on the outside will be moved to the inside. We have found it hard to rent the outside slips for boats because of the cross current of the water . There are 13 spaces throughout our marina that we propose to infill with floating homes. There will provide ample space for a home, 10ft fire code spacing and enough space left over to space out all of our homes in the entire marina to meet new code. I am on the City of Portland River Community Advisory Council and 1 of our top agenda items is to get Multnomah County to adopt the **Title 28** Floating Home building and safety codes. The tenants occupying and adjoining these spaces will be given **first right of refusal**.



More than just a great marina!  
Boat Yard • Professional Boat Repair • Fuel Dock



As for parking, we have lots of space. 25- 30 % of our floating homes are vacation homes – this is local average. It's the live aboards that we have, or did, tax the capacity we have. When we first acquired the marina there were over 100 additional cars than we have now we know the capacity of the marina. If we are required to provide more parking we have ample space open just beyond the entrance gate (**show on Picture**). However, we are actively promoting a request for less required parking so we can reduce traffic further, promote **carpooling ,use of public transit and the use of bicycles**. Our desire is to create a community that is both respectful to the water and to the land.

A **special note** that our marina is the only facility on Multnomah Channel in Multnomah County that has an **automated railroad crossing** making us and Happy Rock Moorage next door who is also accessed by this road logical candidates for moorage expansions.

**Overall density** of our entire facility on both land and water has been planned to be reduced substantially starting with the reduction of 72 live aboard boats and the related 100 plus cars they had. The County Staff report believes our density reduction analysis to be void since liveaboard are a non compliant use. However, **Policy 13** of the Sauvie Island Plan specifically describes the strategy that any moorage determined to be in violation of a zoning code to you through a Special Plan Area process. This strategy paves the way to **Policy 14** that the specific plan will look at such things as “legally existing issues and non-conforming status and carrying capacity of the land to determine the number of dwellings. Our population density analysis shows a 32% reduction in population after factoring in the 36 additional floating homes. This proves that we will not be increasing density or traffic.

**In Closing-**The reality is that we added **570ft more property**, We are reducing the number of **boat slips by 16**, we will have **eliminated 72 liveaboards** and then **increasing the spacing between all houses** in the entire marina for fire and safety access. In my eyes we are not increasing density but actually reducing density and traffic along with it. Our impact on the water and uplands has been reduced to practically nothing

I **respectfully ask** you vote in favor of our request for a goal exception and a special plan area.

Respectfully submitted  
Stan Tonneson 4-6-09



# Yacht Service Yard Services

Painting- Competitive rates on painting which includes haul out, h, running gear inspection, 2 coats Pettit Trinidad SR or relative SR and return to the trailer.

Repair- Expert repairs from coat scratches to structural hulls, keels, decks and stringers. Most advanced materials, Vinyl raTek, for maximum strength and water resistance.

and Mechanical- Gas and diesel engine tune ups, rebuilds. Servicing gearboxes, transmissions, I/O fuel tanks, generators, steering controls, engine hakes and models. Furnaces and toilets.

Painting- Hulls, topsides, decks and boot stripes all professionally sprayed with Awl Grip or EZPoxy. Year round inside our shelters.

Blisters, Wet Hulls & Decks- The local experts on these repairs. We test each hull for moisture and dry to dry boat hulls or decks in days with our ure machines.

Aluminum- sandblasting, welding and speciality all metal boats.

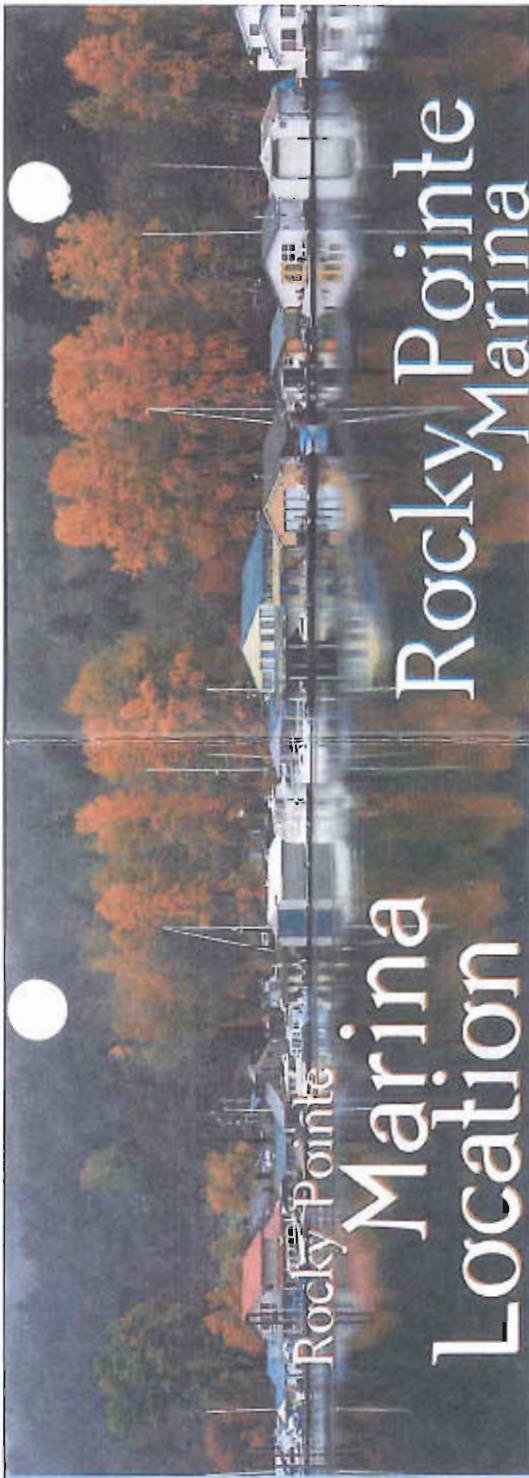
Shafts- From a simple prop swap or inspection or replacing bent props, shafts, rudders and struts. nment of shafts. PSS drip less seals a speciality.

and Planking- Our 65' enclosed dry-dock safely lift your older wooden boat the way it was lled woodworkers install planks, ribs, stringers g wood from Honduran Mahogany to Alaskan Yel-

and Systems- With one or more ABYC certi- ins on staff, we can install and wire just about any system from radar, dinghy w or stern thrusters.

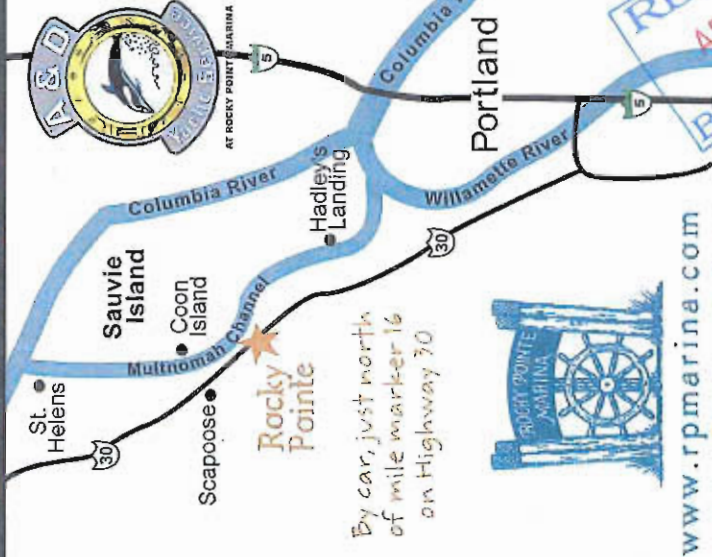
ices- Mast stepping, rig- irt loading, surveys, detail- wax, insurance estimates tside contractors allowed r lay days and we clean fore it leaves our dock.

Hours: Mon-Fri 8-4pm, Sat til noon



# Rocky Pointe Marina Location

# Rocky Pointe Marina



# A&D Yacht Service

More than just a great marina!

- ★ 25 minutes from downtown Portland
- ★ Oregon's first Clean Marina
- ★ Secure gated, card access facility
- ★ Fuel Dock

"Our goal is to provide a well maintained, clean, secure and safe facility. A marina you are proud to bring your friends and family too."



503.543.7003



www.rpmarina.com

6 miles past the Sauvie Island Bridge.  
23586 NW St. Helens Hwy. • Portland, OR 97231  
office: 503-543-7003 • fax: 503-543-5170  
www.rpmarina.com

## Hours

Winter Hours (Oct-May)  
Mon-Fri 8:30-3pm  
Sat&Sun 11-3pm

Summer Hours  
Mon-Fri 8:30-5pm  
Sat&Sun 10-5pm



# A&D Yacht Service Boatyard Services

**Bottom Painting-** Competitive rates on bottom painting which includes haul out, pressure wash, running gear inspection, sanding prep, 2 coats Pettit Trinidad SR or Pettit CPP Ablative SR and return to the water or your trailer.

**Fiberglass Repair-** Expert repairs from cosmetic gel coat scratches to structural repairs on hulls, keels, decks and stringers. We use the most advanced materials, Vinyl Ester and DuraTek, for maximum strength and water resistance.

**Engines and Mechanical-** Gas and diesel engine tune ups, re-powers or rebuilds. Servicing gearboxes, transmissions, I/O units, linkage, fuel tanks, generators, steering controls, engine mounts. All makes and models. Furnaces and toilets.



**Painting-** Hulls, topsides, decks and boot stripes all professionally sprayed with Awi Grip or EZPoxy. Year round inside our shelters.

**Blisters, Wet Hulls & Decks-** The local experts on these repairs. We test each hull for moisture and have the ability to dry boat hulls or decks in days with our HotVac Hull Cure machines.

**Steel and Aluminum-** sandblasting, welding and specialty coatings for all metal boats.

**Props and Shafts-** From a simple prop swap or inspection to repairing or replacing bent props, shafts, rudders and struts. Precision alignment of shafts. PSS drip less seals a specialty.

**Woodwork and Planking-** Our 65' enclosed dry-dock allows us to safely lift your older wooden boat the way it was designed. Skilled woodworkers install planks, ribs, stringers with matching wood from Honduran Mahogany to Alaskan Yellow Cedar.

**Electronics and Systems-** With one or more ABYC certified electricians on staff, we can install and wire just about any electronic or system from radar, dinghy winch, to bow or stern thrusters.

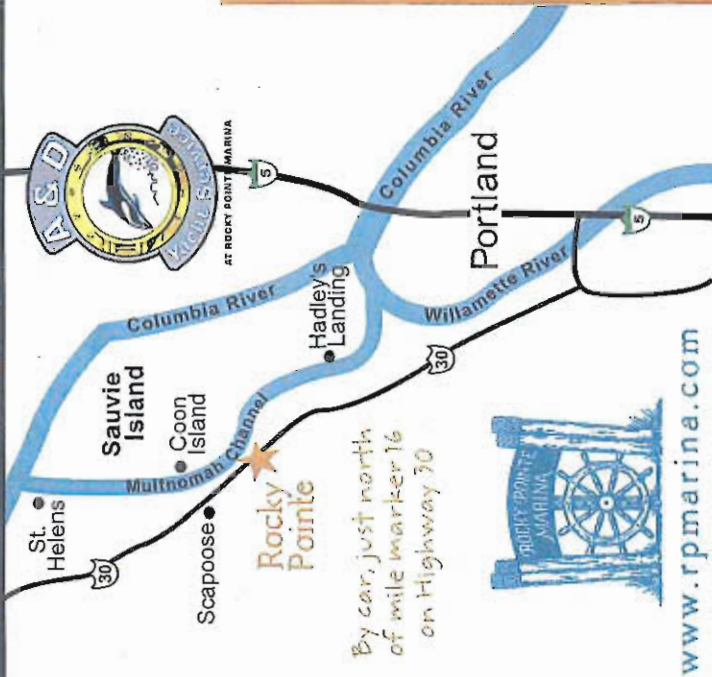
**Other Services-** Mast stepping, rigging, transport loading, surveys, detailing, buff and wax, insurance estimates and more. Outside contractors allowed no charge for lay days and we clean your boat before it leaves our dock.



Hol Mon-Fri 8-4pm, Sat til noon

# Rocky Pointe Marina Location

## A&D Yacht Service and More than just a great marina



- ★ 25 minutes from downtown
- ★ Oregon's first Clean Marina
- ★ Secure gated, card access facility
- ★ Fuel Dock

"Our goal is to provide a well maintained, clean, secure and safe marina you are proud to bring your friends and family too."

6 miles past the Sauvie Island Bridge.  
23586 NW St. Helens Hwy. • Portland, OR 97231  
office: 503-543-7003 • fax: 503-543-5170  
[www.rpmarina.com](http://www.rpmarina.com)

### Hours

Winter Hours (Oct-May) Summer Hours  
Mon-Fri 8:30-5pm Mon-Fri 8:30-5pm  
Sat&Sun 11-3pm Sat&Sun 10-5pm

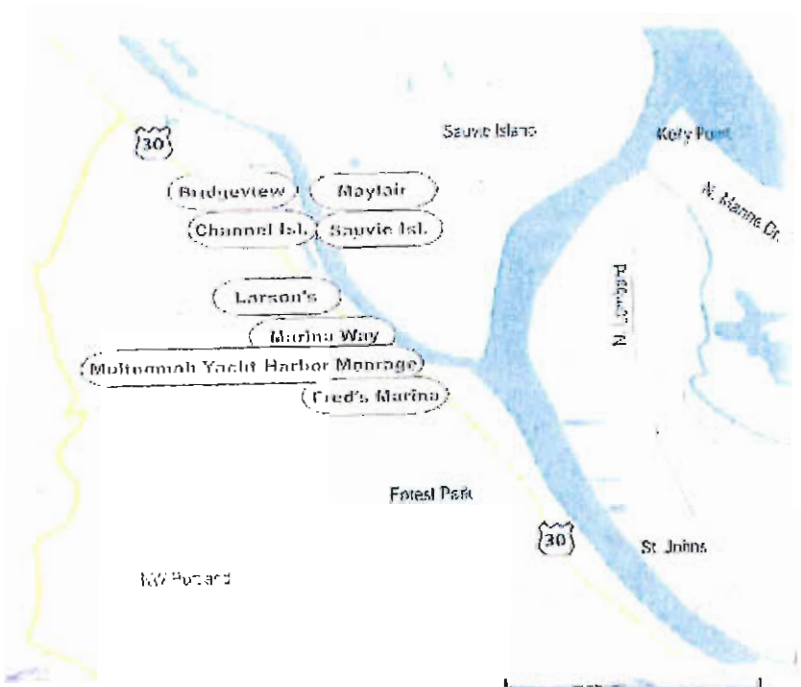
503.543.7003



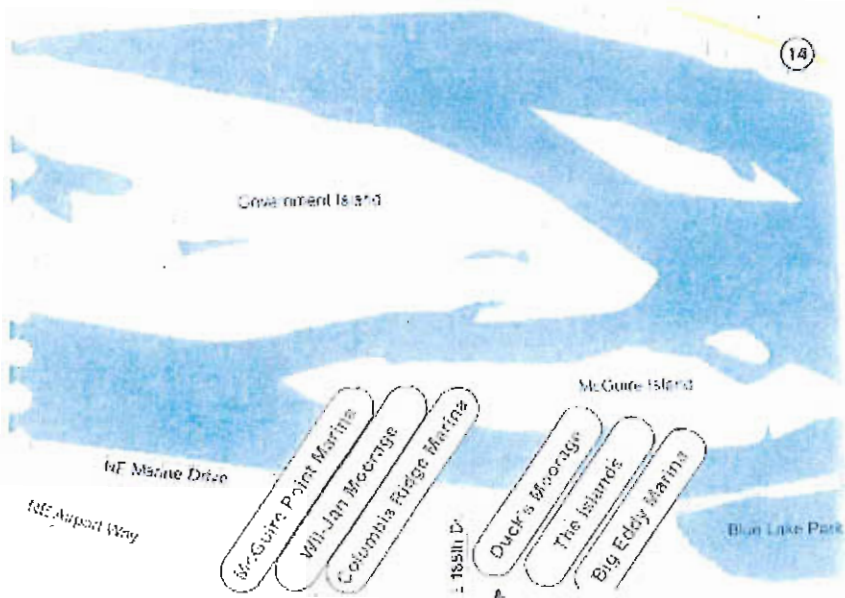




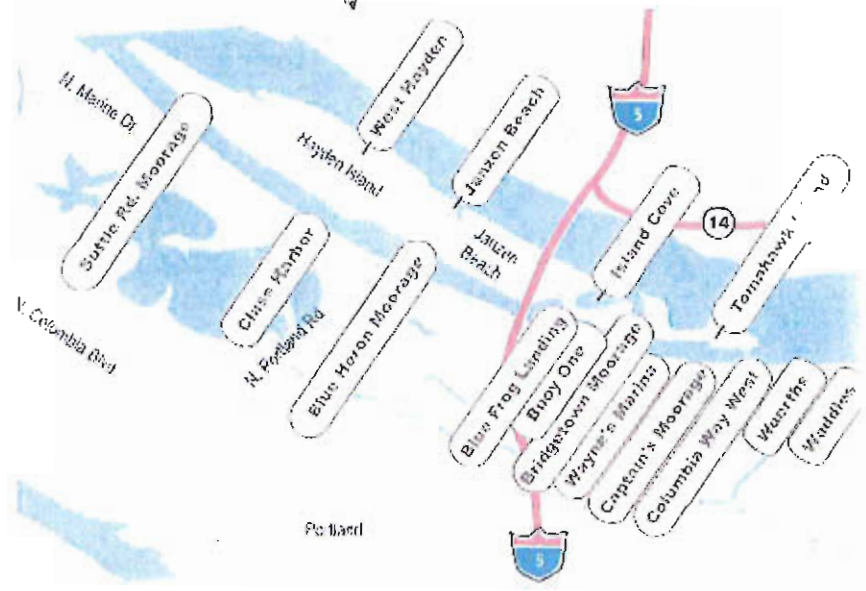
Multnomah Channel,  
North Sauvie Island.



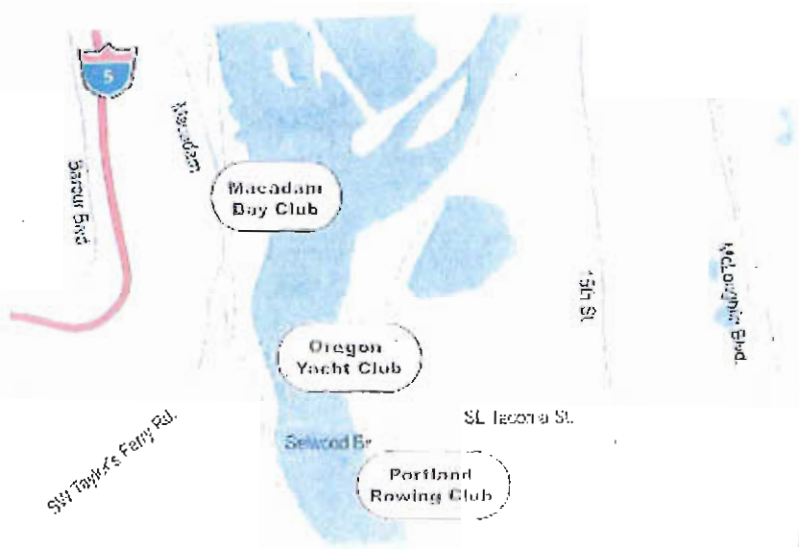
Multnomah Channel,  
South Sauvie Island.



**N. Portland Harbor, Hayden Island.**



**Upper Columbia River, McGuire Island.**



**Willamette River, Sellwood Bridge.**

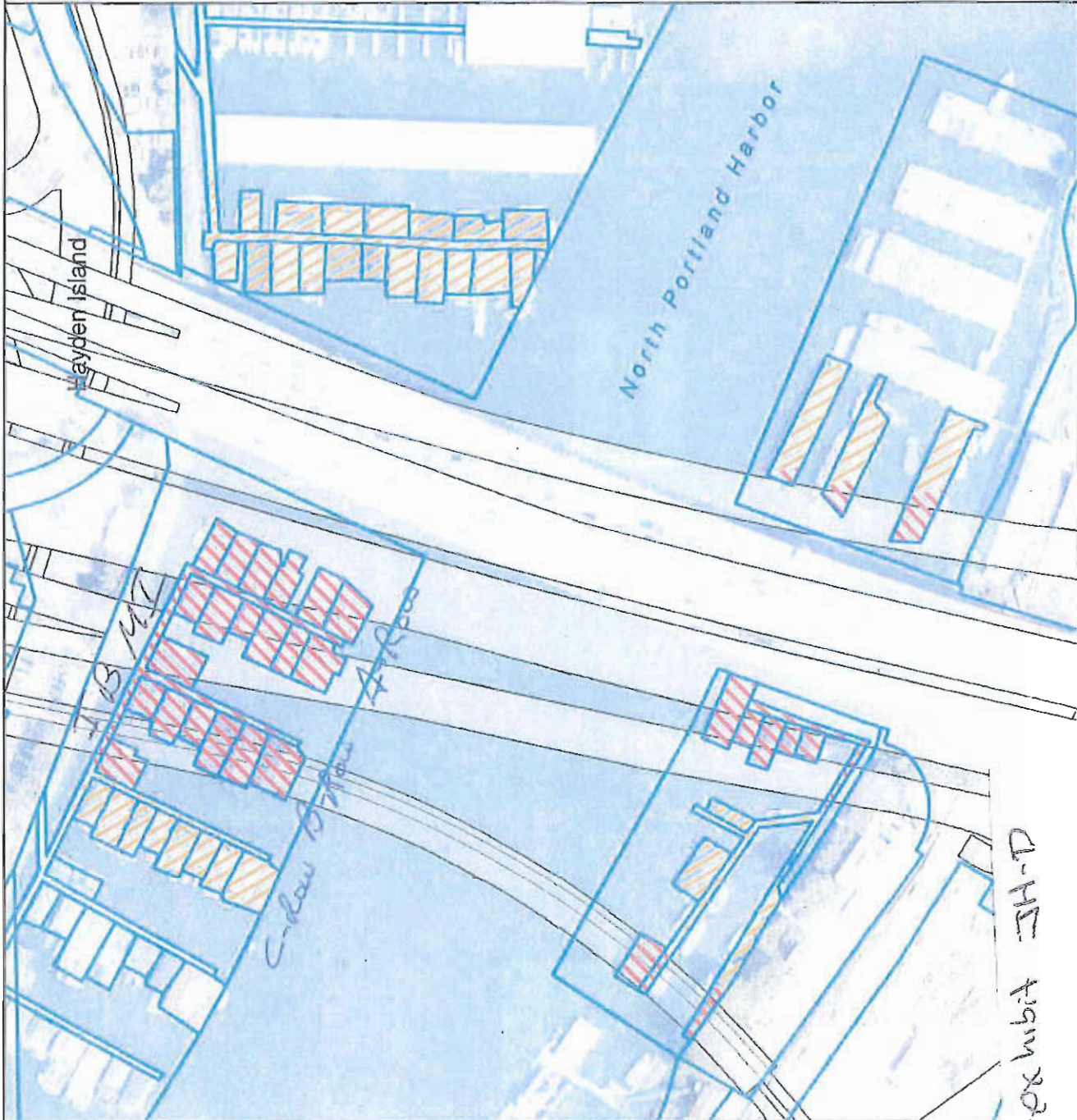
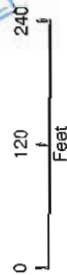


Proposed In-water  
Displacements in  
North Portland Harbor

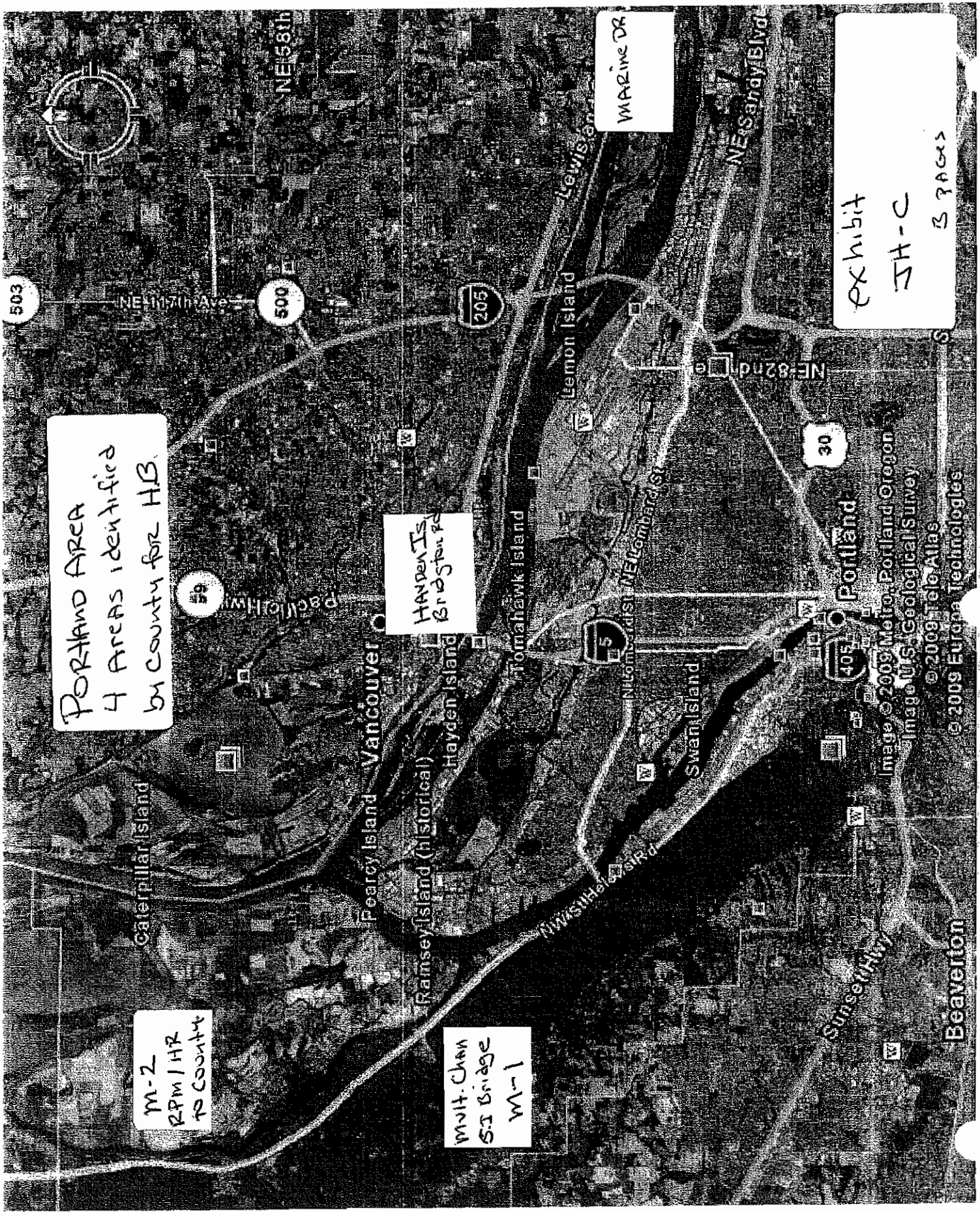
- Proposed Displacements by  
Project Footprint
- Construction Related Impacts  
Project Footprint

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APR 06 2009  
BY:







PORTLAND AREA  
4 AREAS IDENTIFIED  
BY COUNTY FOR HB.

M-2  
RPM / HR  
TO COUNTY

MULT. CHAN  
SI BRIDGE  
W-1

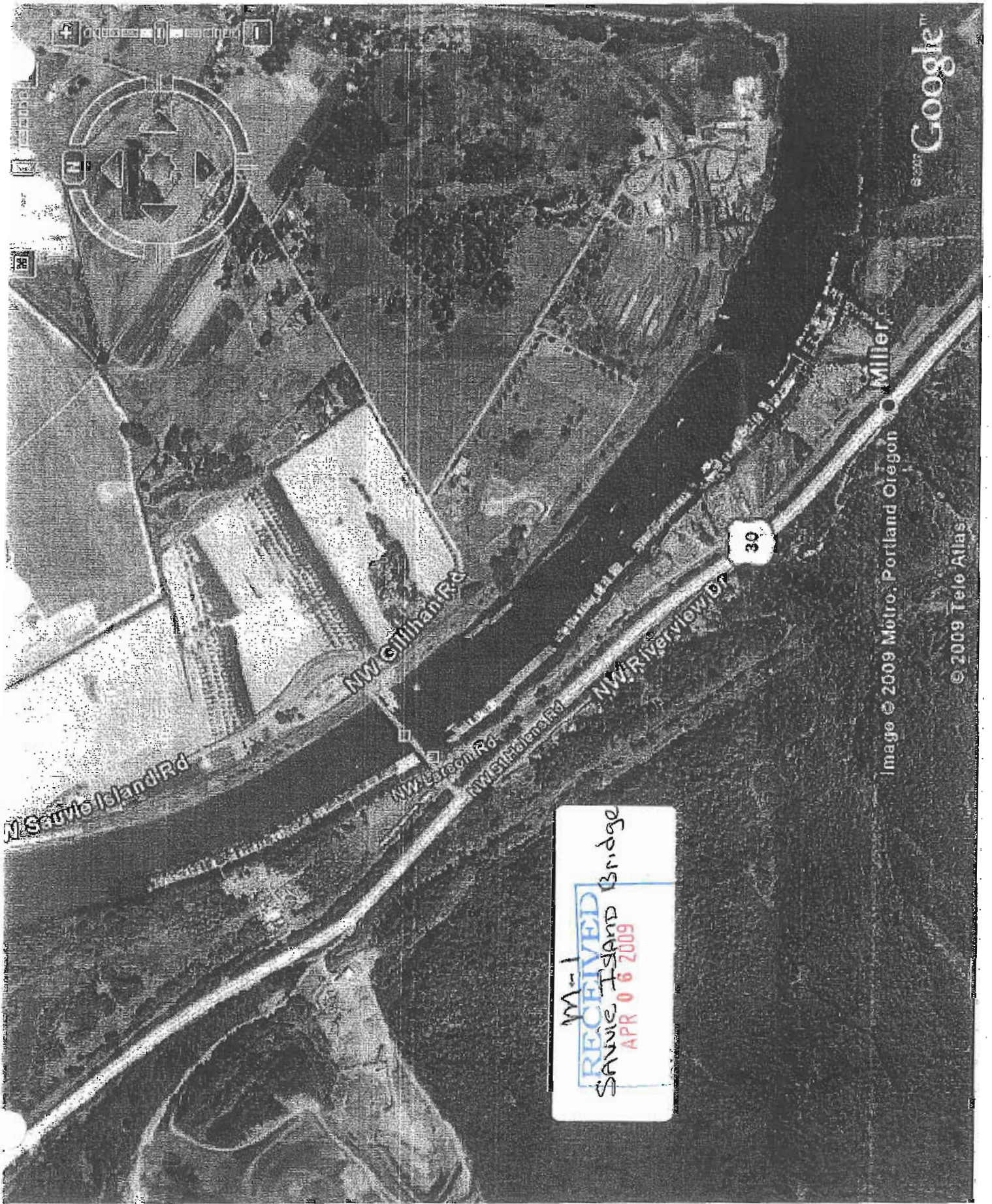
HAYDEN IS.  
BRISTON RD

MARINE DR

exhibit  
JH-C  
B 3 AGES

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Images U.S. Geological Survey  
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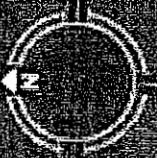
Miller

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APR 06 2009





Google

Rocky Point / Happy Rock  
N. to County Line  
M-2

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© 2009 Tele Atlas  
Image U.S. Geological Survey

2-Lots OR  
+  
1-Lot No  
RRX-Class

NW 51 Helens Rd

1 Lot  
Could  
Expand

Rocky Pt →  
Happy Rk ←

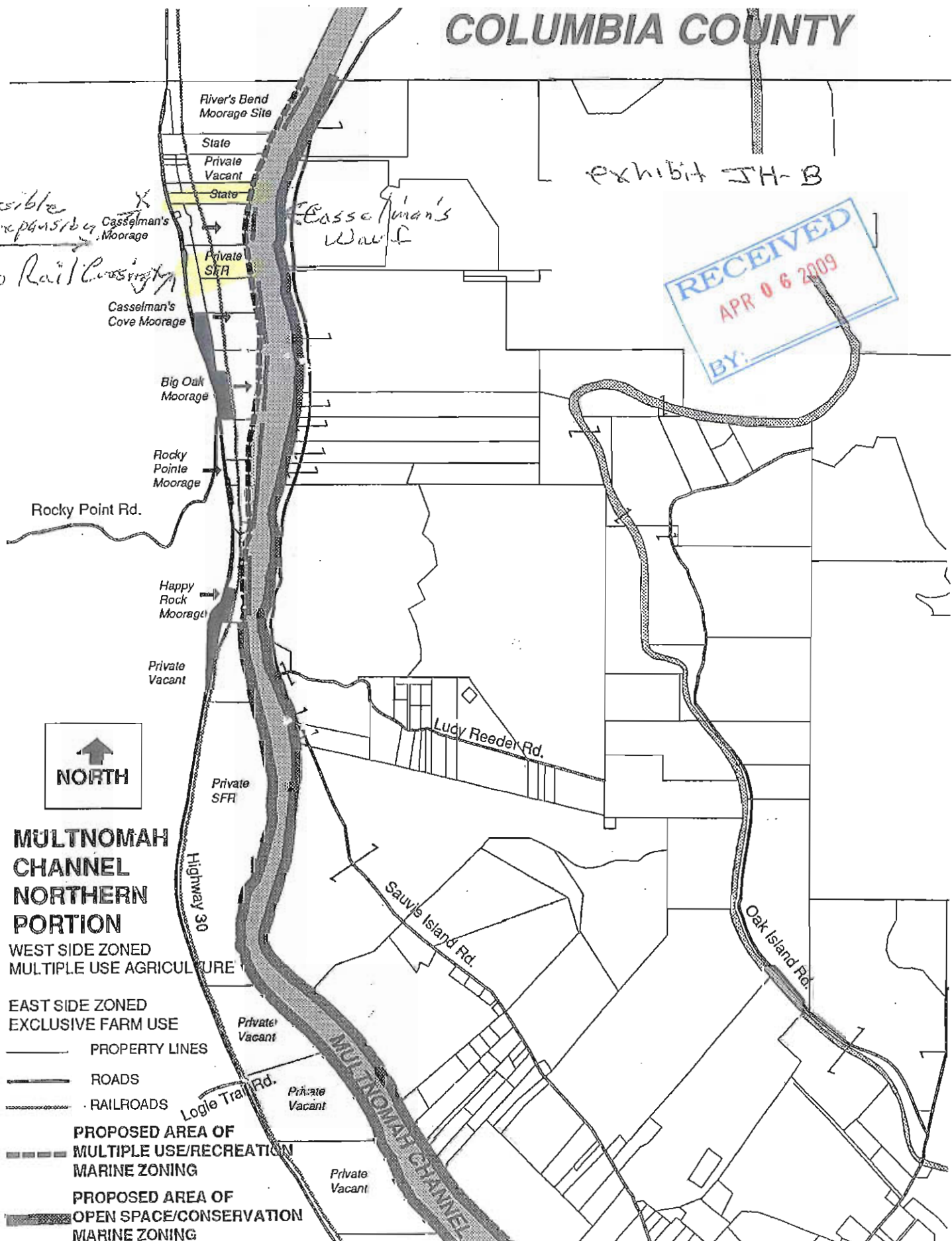
# COLUMBIA COUNTY

exhibit JH-B

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*possible  
Expansion  
No Rail Crossing*

*Casselman's  
Ward*



## MULTNOMAH CHANNEL NORTHERN PORTION

WEST SIDE ZONED  
MULTIPLE USE AGRICULTURE

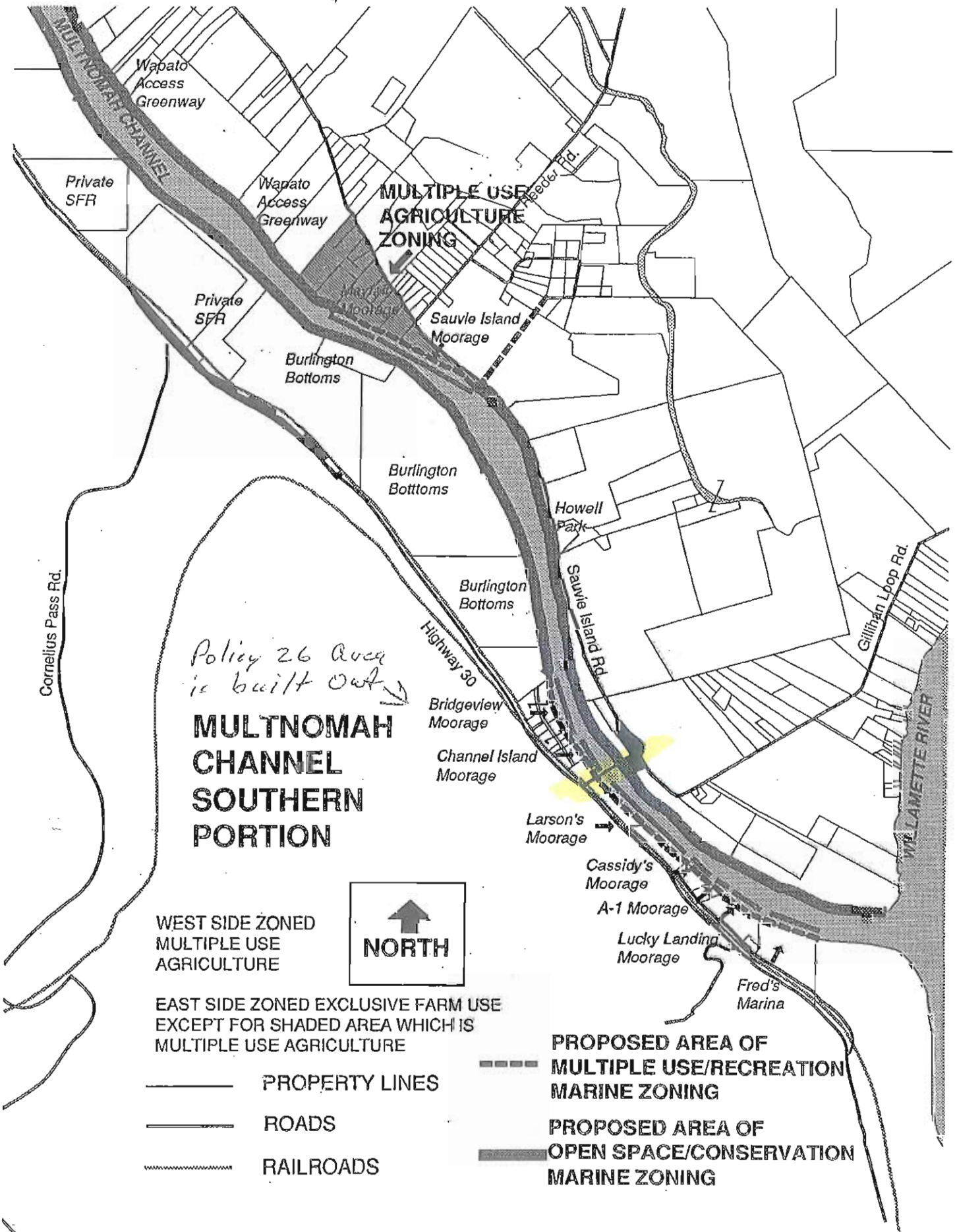
EAST SIDE ZONED  
EXCLUSIVE FARM USE

- PROPERTY LINES
- ROADS
- RAILROADS

PROPOSED AREA OF  
MULTIPLE USE/RECREATION  
MARINE ZONING

PROPOSED AREA OF  
OPEN SPACE/CONSERVATION  
MARINE ZONING





*Policy 26 Area is built out*

**MULTNOMAH CHANNEL SOUTHERN PORTION**

WEST SIDE ZONED  
MULTIPLE USE  
AGRICULTURE

EAST SIDE ZONED EXCLUSIVE FARM USE  
EXCEPT FOR SHADED AREA WHICH IS  
MULTIPLE USE AGRICULTURE



- PROPERTY LINES
- ROADS
- RAILROADS

- PROPOSED AREA OF MULTIPLE USE/RECREATION MARINE ZONING
- █ PROPOSED AREA OF OPEN SPACE/CONSERVATION MARINE ZONING





# WATERFRONT OWNERS & OPERATORS OF OREGON

## SPECIAL MEETING

**Multnomah Channel & Sauvie Island Rural Area Plan  
Minutes of the Meeting  
November 13, 1997**

The purpose of the special meeting was to inform those moorages and marinas located on the Multnomah Channel within Multnomah County of the permitting requirements and procedures under the Multnomah Channel/Sauvie Island Rural Area Plan. All moorages and marinas on the Multnomah Channel falling under the jurisdiction of Multnomah County were invited to attend this meeting.

The meeting was called to order by Jan Hamer, vice president/president elect, at 6:15 pm.

**WOOO Members** in attendance included: Cherie Sprando - Fred's Marina & pres.; Jan Hamer - River's Bend Marina & vice pres./pres. elect; Tracy Hamer - River's Bend Marina & sec.; Bill Casselman - Casselman's Cove & Wharf & Board Member; Dan Gulbrandson - A-1 Moorage & Board Member; Duane Larson - Larson's Moorage & Board Member; Steve Harmon, Mr. & Mrs. Archibald, and Phyllis Bottomly - Bridgeview Moorage; George Kimmill - Marina Way Moorage; Jay McCaulley - Marine Enviro. & Developing; Curt and Ginger Curtis - Happy Rock Moorage; & Sherry Casselman - Casselman's Cove & Wharf.

**Additional participants** included: J. Michael Albrich - Mayfair; Mike Yerger - Lucky Landing; Kevin Brady - Fulcrum Consulting; Kym Londahl & Cheri Galloway - Channel Island Marina; Richard Tonneson - Rocky Point Marina; Ole Dinsmore; Bill Hauck; and, Bob Knox.

Multnomah County was represented by Susan Muir, Senior Planner, Department of Environmental Services Transportation & Land Use Planning Division, 2115 SE Morrison, Portland, Oregon 97214, # (503) 248-3043.

The Multnomah Channel Sauvie Island Rural Area Plan has established procedures for existing moorages and marinas to be considered for approval at existing densities for floating homes under the Plan. Moorages and marinas must understand that approving their densities as they exist under the Plan, does not necessarily mean being accepted in an "existing as is" condition, but rather establishes a process by which they may reconcile discrepancies with their existing permits. Eventually, all entities must have all appropriate permits.

Moorages and Marinas have three options by which they may ameliorate discrepancies: (see next column)

### Option 1. Policy 10 - A two step process:

**Step 1.** The entity must provide applicable permits from the Division of State Lands, Army Corp. of Engineers, Fire Department, Department of Environmental Quality, and State Department of Health. These permits must have been issued prior to July 1, 1997 to be accepted under the provisions of this Policy.

In addition, entity must make application for the following three permits by December 1, 1997: Public Utility Commission, OR Dept. of Transportation, and County Right of Way (if applicable). Contact Gary Hunt, ODOT @ 653-3086 - PO Box 1339, Clackamas OR 97015 or Craig Riley, ODOT @ 503-986-4273. Contact Alan Young, County Right of Way @ 248-3582 - 2115 SE Morrison, Portland OR 97214.

**Step 2:** Participate in an inventory interview with Lynn Dingler. Lynn Dingler is a consultant hired by the Board of County Commissioners who will work with each marina & moorage to assess the permits the entity has, review other pertinent documents, review the site plan, etc. **Do not wait to meet with Lynn prior to making application for the three permits as noted in Step 1. All entities must have applied for those three permits by December 1, 1997.** If your entity needs assistance with these permits, contact Jay McCaulley of Marine Environmental & Development or Kevin Brady of Fulcrum Consulting. These two firms have been involved with marinas and are familiar with the appropriate procedures and contacts.

Lynn will bring an Assessment and Taxation Report and help each marina and moorage work through the Willamette Greenway Permit Process and advise the entity how to demonstrate compliance with this permitting process.

### Option 2. Existing Permit Process as provided by current Code.

### Option 3. Special Area Plan / Conditional Use

The program is still in the early stages of development and is at least 6 months from being a viable option for gaining compliance. Option 3 is also likely to be a difficult process, therefore, moorages and marinas are strongly encouraged to utilize option 1 or 2 at this time.

Susan warned that Multnomah County will begin active enforcement. The County is currently in the process of developing and adopting new enforcement procedures which will include monetary fines for those entities who do not comply.

Meeting was adjourned at 7:00 pm.

Respectfully submitted by:

Tracy L. Hamer, secretary

November 10, 1997

**Multnomah Channel Subcommittee**  
**Proposed Policies**

*See Page 3*

The channel was discussed as a topic in June of this year and the Citizen Advisory Committee formed a subcommittee to come up with proposed policies regarding the uses in the channel. The subcommittee has held 4 meetings since that time, and reported back to you once in July. In July we received approval from the CAC to continue pursuing the following concepts:

Original Issues

1. All existing moorages/marinas should be legalized/legitimized
2. The definitions of floating structures need to be updated/revised
3. The permitting process should be simplified but still remain public
4. The County needs an accurate inventory of all existing moorages and marinas
5. The County needs to better enforce the Willamette River Greenway standards
6. Log storage should remain as a use permitted outright
7. The Committee should recommend a speed limit through the channel.

In fine tuning these issues the subcommittee would like to recommend the following policies for your discussion:

**Original Issue 7. The Committee should recommend a speed limit through the channel.**

The subcommittee felt that this should be broadened to include education, enforcement and new standards.

**Policy 1: The County should participate in educational information and programs to better educate channel users on safety issues and required laws and speed limits.**

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

**Policy 2: The County should recommend that all boaters be required to obtain licenses through the state prior to operating marine craft.**

Discussion: Boat operators are not required at this time to meet any guidelines or qualifications prior to operating watercraft. Multnomah County should value the importance of safe conditions in the channel and work through the Marine Board in establishing minimum criteria for boat operators.

**Policy 3: The County should make river patrol and enforcement of laws in the channel a higher priority to the Sheriff's Department.**

Discussion: The lack of Sheriff's presence in the channel presents a problem with regard to law enforcement. The County should prioritize enforcing the existing laws in place in the channel and maintain a presence to enforce the laws.

**Policy 4: The County should begin studying the noise impacts of personal water craft and motorized watercraft in order to establish base levels of noise pollution in the channel.**

Discussion: With the increase in noise associated with personal watercraft, the residents of the channel would like the County to start documenting base noise levels in the event of increases due to increased channel traffic. Currently personal water craft do not violate state standards for noise levels, however with increased volume and traffic on the channel, an inventory of average noise levels is needed to gather information for future studies.

**Original Issue #5: The County needs to better enforce the Willamette River Greenway standards**

The subcommittee believes that there is currently an inconsistency factor in the staff and public interpretation of the WRG standards because they are general in nature and allow for loose interpretations of design standards.

**Policy 5: The County should adopt guidelines regarding lighting, landscaping and architectural design within the Willamette River Greenway.**

Discussion: Currently the WRG guidelines have a lot of vague language in them that make enforcement of them inconsistent. The County should look at adopting a set of design guidelines that the Planning Section can use to help interpret the WRG guidelines. This will allow for consistency in interpretation of the existing guidelines. These guidelines should specifically address the guidelines on lighting, landscaping and architectural design. The subcommittee was very concerned about maintaining the character of the area of the channel and avoid getting 'cookie-cutter' or urban type marina and moorages in the area.

**Original Issue #1 All existing moorages/marinas should be legalized/legitimized**

As part of the July 10, 1996 meeting the CAC recommended that all existing marinas and moorages be recognized as legal and legitimate. The CAC will be making this recommendation to the Planning Commission and Board of County Commissioners who will more than likely be looking to County Counsel for legal opinions on this matter.

**Policy 6: All existing moorages/marinas existing as of January 1, 1997 should be legalized.**

**Original Issues #4 The County needs an accurate inventory of all existing moorages and marinas**

Discussion: If the County is to legalize all existing marinas and moorages, an accurate account of all floating structures on the channel must be done as soon as possible.

**Policy 7: The County should develop and maintain a current inventory of all marinas and moorages.**

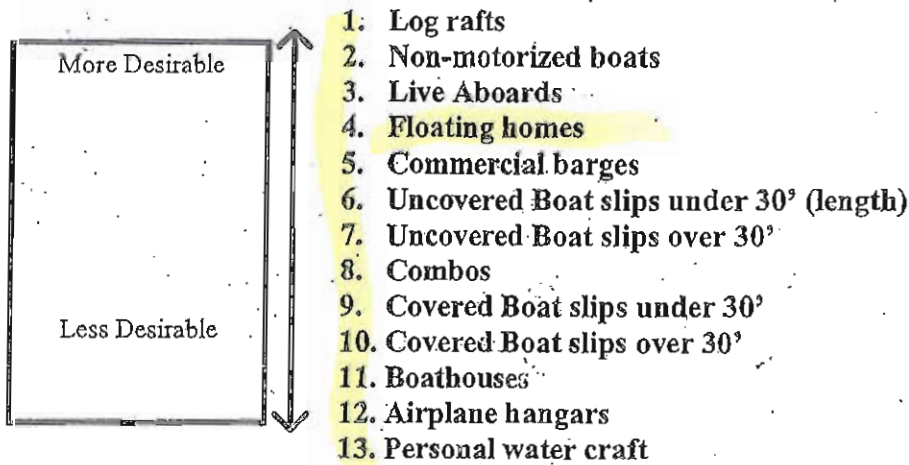


EXHIBIT B-1-A

compos. Houseboats should be redefined to: floating structures (excluding vessels) that are habitable (defined as having a potable water and sewer hookup) including houseboats, combos and boathouses. For purpose of density calculations, "houseboats" shall be defined as primary residences (occupied 7 or more days per month).

**POLICY 11:** The houseboat density for any new application or alteration of an existing use shall not exceed 1 houseboat per 35% of lineal land frontage.

**POLICY 12:** The County zoning code should be updated to reflect a less burdensome application procedure for moving to more desirable uses in the channel.



**POLICY 13:** Three approval procedures should be incorporated into the code for development or redevelopment of existing marinas/moorages.

1. If the application is to move up the use list, no public hearing would be required. This type of application would still need a Willamette River Greenway Permit.
2. If the application is moving up the use list, and does not exceed the existing number of slips, no public hearing would be required. This type of application would still need a Willamette River Greenway Permit.
3. If the application is increasing the existing number of slips, and/or moving down the list, a process involving a public hearing would be required in addition to the Willamette River Greenway Permit.

All application types would be required to demonstrate compliance with level of service standards for fire protection, sheriff protection, sewer, water, schools and roads.

**POLICY 14:** Implement a combined overlay zone to include the same area as the Willamette River Greenway Overlay along the channel to incorporate the more



Multnomah County Transportation and  
Land Use Planning Division  
2115 SE Morrison Street  
Portland, OR 97214  
phone: (503)248-3043 fax: (503)248-3389  
email: land.use.planning@co.multnomah.or.us

April 29, 1998

River's Bend Marina  
ATTN: Jan Hamer  
27448 NW St. Helens RD  
Scappoose, OR 97056

RE: River's Bend Moorage

Dear Mr. Hamer:

This is the letter we agreed to send to moorage owners pursuant to Policy 10 of the Sauvie Island/Multnomah Channel Rural Area Plan (SI/MC RAP) which states:

"...Through this inventory, the County will 1) determine the level of existing development to be considered as a permitted use (number of existing dwelling units as determined using the Multnomah County Moorage Report Listing of Floathouses and Watercraft as of July 1, 1997 and reconciled through supplemental information provided by the moorage owners); and 2) receive proof that the non-County permits have been obtained."

I want to thank you for your cooperation in completing the SI/MC RAP, Policy 10 inventory and reconciliation task for your moorage. The result of this effort is an agreement between you and the County that pursuant to land use action CU 11-86, CS 9-86, and WRG 1-86 River's Bend Moorage is permitted for 19 houseboats and 38 boathouses. A copy of the approved site plan is attached as Exhibit A.

During the inventory of floating structures and the review of the Multnomah County Moorage Report Listing of Floathouses and Watercraft as of July 1, 1997 it was confirmed that you were operating within your current permit. The inventory process was as follows:

1. An inventory of floating structures on Multnomah Channel was undertaken in December 1997 pursuant to Policy 10 subsection 4 of the SI/MC RAP.
2. The Multnomah County Moorage Report Listing of Floathouses and Watercraft as of July 1, 1997 was reviewed and the differences were reconciled through discussion with you, a review of existing permits, and supporting documentation you provided.

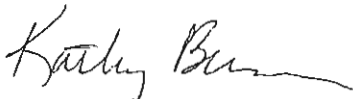


In response to Policy 10, subsection 4, you provided copies of the appropriate state permits for the River's Bend Moorage. A checklist of these permits is attached as Exhibit B and a complete record of them is available in your file. These permits you submitted satisfy the requirements of Policy 10, subsection 4.

You have completed the requirements of Policy 10, SI/MC RAP, any new land use action will be processed under the current code. The process for considering new land use actions at River's Bend Moorage will entail one of the following:

- **For "switching" or moving houseboats in or out**, fill out one of the blue slips attached (titled Application for Floating Structure Placement within a Moorage) and submit it to the Transportation and Land Use Planning Division prior to moving any structure.
- **For increasing the number**, requests will be processed as either a Special Plan Area (once available under code provisions) or a Community Service Use application. Both of these processes will begin with a visit to the Planning Department to receive the proper code documents and applications.
- **For decreasing the number**, there is no required process.

Sincerely,



Kathy Busse  
Planning Director

# Multnomah Channel Moorage/Marina Inventory 1997/98



Last Date File Active:	12/9/97
Site Name:	Rivers Bend
Site Address:	27448 NW St Helens Rd.
Contact Name:	Jan Hamer
Contact Phone:	(503)543-6223

## Physical Inventory – Floating

Date of Inventory: 11/26/97

### Covered Structures

Site Plan	Yes:	X	No:	
Houseboats				9
Combos				
Residence		5		
Non-Residence		0		
Total Combos				5
Boathouses				1
Total Covered Structures				15

### A & T Moorage Report 1997

Houseboats		7	
Combos			
HB/C		4	
BH/C			
Total Combos		4	
Boathouses		1	
Total Covered Structures			12

### Boat Slips

Covered	0
Open	27
Total Boat Slips	27

### Floating Dock

Linear Feet	1982'
-------------	-------

### Service Structures for Owners/Renters

Garage	N	Showers	Y	Storage	Y	Boiler	Y	Wash Room	Y
--------	---	---------	---	---------	---	--------	---	-----------	---

**Dock Notes:**

## Physical Inventory – Upland

Parking Spaces or Parking Area:	
Parking Signage:	
Hard Surface:	
Gravel:	X
Dirt:	
Garbage Facility:	Yes

**Upland Notes:**

# Growth: Landlocked cities must turn inward

Continued from Page A6

to make expansions work." Critics such as the Home Builders Association of Metropolitan Portland believe the Metro council is philosophically opposed to expanding the urban growth boundary.

"How many (housing) units you say we need is one thing — it's all based on modeling," said Joe Keizer, interim government affairs director for the homebuilders. "You can fit in anything you want if you want to go vertical, and turn all the neighborhoods into six-story condos."

Keizer said homebuilders are eager to see the growth report and will examine how Metro arrived at its projections. Development groups have been critical of past Metro reports, such as an October study that concluded it costs more to extend streets, water and sewers to areas outside the urban growth boundary than it does to serve new development within the urban core.

Business groups said the report was skewed because in some cases, a city seeking to expand may have built high-capacity infrastructure to the edge of the boundary and could extend it for less cost than retrofitting old infrastructure.

For some cities, growth choices are already clear. Tigard has turned inward and has the capacity to absorb more people, said Mayor Craig Dirksen.

"The issues for Tigard are very different than the rest of Washington County," he said. "Tigard, like Portland, is landlocked, we have no urban growth boundary on our border. We have to anticipate ways to deal with future growth without expanding."

Metro's housing estimate derives from a population forecast, released earlier this month, that said the seven-county Portland-Vancouver-Beaverton area will have 2.9 million to 3.2 million people by 2030. It now has about 2.2 million.

Historically, about 62 percent of population growth within the seven-county area

has settled in the three counties included within Metro's urban growth boundary. Based on that, Metro concluded the need for as many as 300,000 additional homes.

The growth report concludes that housing needs can be met within the current urban growth boundary through a mix of zoning changes, density increases, clearing polluted "brownfield" sites, incentives for housing near transit centers and new financing tools to pay for infrastructure.

Past expansions of the urban growth boundary haven't resulted in much growth, according to the report. About 87 percent of new development has occurred within the original growth boundary established in 1979, the report said.

The next report from Metro is a 20-year employment forecast in late April. The combined reports set the foundation for growth decisions that will culminate in 2011 when Metro decides whether to expand the urban growth boundary.

Eric Mortenson: 503-254-7636;  
ericmortenson@  
news.oregonian.com

The Oregonian  
MONDAY, MARCH 30, 2009

# METRO

NEWSROOM: 503-227-8100  
NEWSROOM@NEWS.OREGONIAN.COM

A6

NEWS FROM THE PORTLAND AREA AND THE NORTHWEST

## 300,000 more houses? Where?

**Metro report** | Looking toward 2030, debate will focus on infill or expanding the urban growth boundary

BY ERIC MORTENSON  
THE OREGONIAN

The recession may have slowed the Portland area's population surge, but an analysis of housing capacity shows the region's urban growth boundary will be

under great pressure as development resumes during the next 20 years.

A report by Metro, the regional government, estimates that 224,000 to 301,500 more houses, apartments and condominiums will be needed in Multnomah, Washington and Clackamas counties by 2030.

Metro's Urban Growth Report, to be publicly released Tuesday, doesn't attempt to say where all those homes will be built. Instead, Metro councilors and

other elected officials are quick to say the housing needs estimate provides an opportunity for a regional debate about how we grow and how we pay for it.

"Most of the Metro council doesn't want to engage in the game of allocation," Metro Councilor Carl Hostick said during a media briefing last week.

He and other officials say the focus should be on choices and investments — whether growth should be

accommodated within existing urban centers by infill and redevelopment, or by expanding the urban growth boundary.

"We can accommodate projected growth within the current UGB and achieve what we want for our communities if we plan carefully and invest wisely," Hostick said in a news release.

"If we choose to expand, we still need to find a way to pay for the infrastructure. Please see **GROWTH**, Page A7







# Goodbye to those ugly infill houses?

## Portland Plan |

Randy Leonard muses about "minimum" design standards

By JAMES MAYER  
THE OREGONIAN

Portland City Commissioner Randy Leonard wondered aloud Tuesday what it would take to require design standards for new homes here.

Leonard brought up the idea as the council held a work session on the Portland Plan a three-year effort just under way to guide the physical, economic, social, cultural and environmental development of Portland over the next 30 years. It will involve a rewrite of the city's basic planning documents.

A major goal of the plan is to cope with an additional million residents in the Portland metro region by 2030.

Leonard cut through the bureaucratic haze to spotlight one of the thorniest political issues lurking in the plan: higher densities to cope with all those new people.

He said density and planning get a bad name when Portlanders connect the urban growth boundary with the ugly infill house next door. It isn't the fact of higher density that bothers people so much as the way many of the new houses look.

"What would it take to establish minimum standards for

## More information

To learn more about the Portland Plan and how you can get involved, go to [www.portlandonline.com/portlandplan](http://www.portlandonline.com/portlandplan)

houses?" Leonard asked Planning Director Gil Kelley.

Kelley said that an "urban form" report will be part of the plan, which will establish a framework for new development, and that preapproved designs such as the city now uses for "skinny" houses might be a "fruitful area to explore."

He said the city was planning to ask the 2009 Legislature to expand Portland's design review authority to include "mixed-use" projects — developments with commercial and residential aspects — and said he would explore the idea of expanding the request to include single-family development.

"Homebuilder anxiety goes up," Kelley warned.

Mayor-elect Sam Adams commented that Leonard had "raised a great issue" but noted that a legislative change "is going to be hard."

Adams suggested that the Planning Bureau devise a pilot project. "I think we could do something about that," Kelley said.

James Mayer: 503-294-5988;  
[jimmayer@news.oregonian.com](mailto:jimmayer@news.oregonian.com)



SAUVIE ISLAND/MULTNOMAH CHANNEL RURAL AREA PLAN

DRAFT SCOPING REPORT

JULY, 1995

Prepared for:

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

Prepared by:

Cogan Owens Cogan  
10 NW Tenth Avenue  
Portland, OR 97209-3120



- ◆ Need for safety improvements at high accident locations
- 9. Protection/maintenance of drainage ditches
  - ◆ Protection of right-of-ways to drainage ditches/structures
    - Notification to Drainage District of structures proposed within 100 feet
  - ◆ Trespass in drainage ditches
  - ◆ Burning and use of carp as maintenance options
  - ◆ Spoils disposal
- 10. Maintenance of the area's rural character
  - ◆ Protection of commercial farmland
    - Limits on additional non-resource development
    - Maintaining tax deferral programs
  - ◆ Protection of open space
- 11. User conflicts
  - ◆ Beach access across private land
  - ◆ Conflicts between hunting and watchable wildlife
- c. **Multnomah Channel-Specific Issues**
- 12. Conflicts among various waterway users
  - ◆ Conflicts between recreational and commercial boating
- 13. Conflicts between moorage residents and waterway users
  - ◆ Impacts of no-wake zones on general public use of waterways
- 14. Emergency services to moorages/marinas
  - ◆ Adequacy of rural road standards for emergency access
  - ◆ Need for required fire protection measures for marinas
- 15. Zoning/land use regulations
  - ◆ Providing opportunities for moorage/marina expansions
  - ◆ Identification of infill areas
  - ◆ Addressing illegal expansions
- 16. Design standards for housing/boat houses to protect visual quality
- 17. Need for Multnomah Channel management plan (per Lower Willamette River Management Plan)
- 18. Impacts to wildlife habitat from waterway uses
  - ◆ Protection of remaining undisturbed wildlife corridors

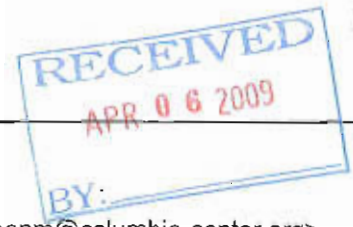
14. Better management of state lands to reduce geese impacts on private lands

**c. Multnomah Channel-Specific Issues**

15. Study per Lower Willamette River Management Plan to define uses, regulations
  - ◆ Effects of Urban Reserves on Multnomah Channel area
  - ◆ Effects of West Hills Plan on this planning area
  - ◆ Effects of addition of Lower Columbia River to the National Estuary Program
16. Expansion of existing waterfront development
  - ◆ Maximizing existing areas through controlled growth and infill
  - ◆ Expanding in existing area vs. areas zoned for marine wildlife
  - ◆ Need for additional marina services to respond to growth in boating
17. Marine zoning
  - ◆ Zoning that recognizes all viable marine uses and clearly identifies allowable uses, e.g. MUM -- multi-use marine
  - ◆ Dry docking facilities on uplands as permitted use
  - ◆ Simplified permitting process
  - ◆ Clarification of definition of floating structures
18. Potential DSL lease terminations
19. Need for additional law enforcement
  - ◆ Refuse, transient boaters, especially in middle stretch of Channel
    - Lack of response to enforcement requests
    - Navigation hazards
  - ◆ Security factor provided by houseboat/marina mix
  - ◆ Speed limit enforcement
20. Sewage pump out for boaters
  - ◆ Marine Board intentions re: pump out facilities
21. Dike erosion

**D. NEWSLETTER QUESTIONNAIRE**

A newsletter, with a scoping questionnaire, was mailed to all addresses in the planning area. The newsletter explained the rural area planning process, described the Sauvie Island/Multnomah Channel planning area and current land uses, and announced the Community Open House.



**JBMI**

---

**From:** "JBMI" <jbmiinc@comcast.net>  
**To:** <riverplan@ci.portland.or.us>  
**Cc:** "Schutten-WOOO, Mary" <mschutten@nologos.org>; "Jean McNulty" <jeanm@columbia-center.org>  
**Sent:** Thursday, December 01, 2005 3:41 PM  
**Attach:** River Concept Draft Plan JHamer Memo 120105.doc  
**Subject:** Comments on Draft River Concept

Attached is a memo from Jan Hamer to Joan Hamilton regarding comments on the Draft River Concept. Please contact us if there is any difficulty receiving this document.

Thanks  
Sherre  
Jantzen Beach Moorage  
1881 N Jantzen Ave  
Portland OR 97217  
Ph# (503) 283-2151  
Fax# (503) 283-2171  
Email: [jbmiinc@comcast.net](mailto:jbmiinc@comcast.net)  
Website: [jbmi.net](http://jbmi.net)



Lately we have heard a lot about "River Renaissance" and the resulting "River Concept".

As an organization we have been working on getting wording into these documents that reads that Floating Homes are "water dependent", which would add to our strength.

The people involved in these "studies" would do well to read *The Houseboat Book* by Barbara Flanagan with Photos by Andrew Garn.

This is an extremely comprehensive book that I believe we discussed a year or so ago. If you have not read it, you really should. It delves into the history of floating homes which in our area came about during the mid-1800s while North America was expanding its transportation system and felling trees to build new towns in the Pacific Northwest. Timber companies built floating logging camps to move loggers along the shorelines, where they could cut trees and move them directly into the water, where they could then be tied into log rafts and towed to lumber mills. The camps started out as all-male work dorms for loggers, but later grew into villages, complete with wives and children. Floating houses were joined by floating cookhouses, hotels and general stores, all reached by boat. Some camps survived well into the mid-twentieth century. The Oregon Historical Society has a lot of information, as well as pictures of floating structures in our area.

One of the last things Ms. Flanagan had to say was the following:

"NEW RESIDENTIAL MARINAS"

"Think of post-industrial waterfronts as a new frontier ready for colonization by pioneers- those impassioned people with high standards for adventure and lower requirements for normalcy. (Replacing Western frontiers-man are artists taming messy urban frontiers.)

Working together in public-private partnerships, developers and city officials could do the following: Seal a parcel of industrial land with pavement and planting; build access roads, parking, storage, and maybe a few amenities for marina visitors. Build an infrastructure of permanent or moveable docks. Size the slips for a combination of floating homes, houseboats, live-aboard boats, pleasure boats and perhaps working boats too (fishing, ecotourism, sailing schools).

Governments could collect revenue from personal property taxes, permits, moorage fees, etc. They could also provide affordable housing in mixed-income neighborhoods, monitor and clean the environment, promote outdoor recreation, reduce sprawl, and uphold historic preservation--duties governments are supposed to embrace.

The best houseboat communities are compact, socially mixed, and inexpensive to build. (It's the dearth of slips that keeps prices high.) Houseboaters are potential stewards of the environment. Like wildlife, they prefer quiet, calm, no-wake zones with swimmable waters. They can alert officials to emergencies and emerging problems, and help to provide a sense of security for other boats on the water. They are also potential protectors of nautical heritage, the next frontier worthy of historic preservation."

Those of us who live on the river understand about personal property taxes, permits, moorage fees, and also about leasing the water under our homes from the State Land Board which moneys are dedicated to the General School Fund. In essence, we pay a premium to live the way we do and the governments do get the benefit.

# RIVER PLAN / SOUTH REACH

THE RIVER PLAN

## What is the River Plan?

The River Plan is the first update to the Willamette Greenway Plan in more than twenty years. The Plan will guide, inspire, and facilitate actions and investments along the Willamette River, building on previous work outlined in the River Renaissance Vision (2001), River Renaissance Strategy (2004), and River Concept (2006).

The River Plan is being carried out in phases, each focusing on a different stretch of the Willamette River: the North Reach, the Central Reach and the South Reach. The reaches are interrelated but distinct, and phasing allows planning to focus on the unique issues facing each reach. Planning for the North Reach is expected to be complete this year. Planning for the Central and South Reaches is just getting underway.

## The South Reach

The South Reach includes areas south of the Ross Island Bridge to the city boundary and parts of urban unincorporated Multnomah County (see map at right). The River Concept, endorsed by City Council in 2006, characterizes the future for the South Reach as follows:

*The South Reach will provide unique fish and wildlife habitat, parks and trails in the center of the city, easily reached from established neighborhoods.*

The River Plan / South Reach will address the following topics:

- Access to, along and across the River
- Fish and wildlife habitat
- Riverfront communities (e.g., John's Landing/Macadam, floating homes)
- Water based recreation
- Educational or interpretive opportunities
- Other topics as identified

## Stay informed

Visit the project website to find out more information and sign up for our monthly electronic newsletter, River Plan News.

Project Contacts:

Sallie Edmunds, River Planning Manager

Phone - (503) 823-6950

Diane Hale, River Team Planning Assistant

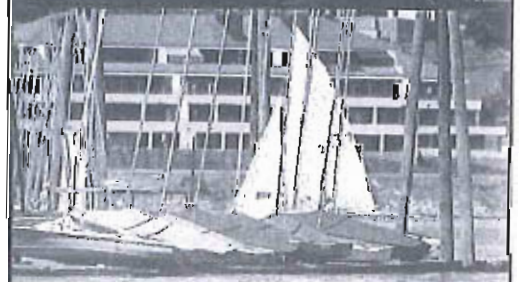
Phone - (503) 823-2281

River Team email - [riverplan@ci.portland.or.us](mailto:riverplan@ci.portland.or.us)

River Plan website - [www.portlandonline.com/riverplan](http://www.portlandonline.com/riverplan)

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### ***River Concept guidance for the South Reach***

*The following pages are excerpted from the River Concept, endorsed by the Portland City Council, related planning over the last decade from adopted documents as well as recent policy studies.*

*The River Plan Team is in the process of updating the River Concept for the South Reach. Comments to [riverplan@ci.portland.or.us](mailto:riverplan@ci.portland.or.us) or call Diane Hale at (503) 823-2281.*

## **THE SOUTH REACH: Neighborhoods and Natural Areas**

*The "Clean and Healthy River" and "Front Yard" River Renaissance Vision themes have a higher profile in the South Reach.*

### ***Clean and Healthy River***

- Opportunities to protect, conserve and restore fish and wildlife habitat, including streams, wetlands, riparian areas and upland vegetation will be explored and implemented through public and private actions. In the south reach, restoration of Ross Island will result in the highest quality riverine habitat in Portland. Mitigation required of public and private parties will improve habitat functions.
- Stormwater quality and quantity will be managed at the source where practicable, using approaches that suit the site conditions and the type of development. In the south reach this will often be achieved through landscaping and pervious pavement.
- Innovative bank treatments and plantings that work for riverfront development and provide fish and wildlife habitat will be achieved through public and private investment.
- Riverfront and watershed actions achieved through public and private investments will improve water quality and help make the river swimmable.

### ***Prosperous Working Harbor***

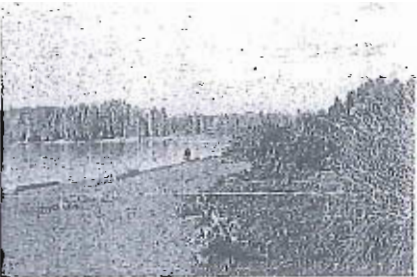
- Public improvements to truck routes such as McLoughlin Boulevard will enhance freight mobility.
- The river channel will be maintained to allow easy passage for barges and other river traffic.

### ***Vibrant Waterfront Districts and Neighborhoods***

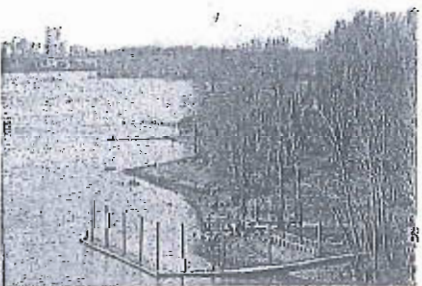
- Sellwood will continue to be a vibrant neighborhood with both natural areas and parks on its waterfront. Connection to the waterfront will be improved with the completion of the Springwater Corridor, a new Sellwood Bridge, and commercial activity at the bridgehead on Tacoma Street.
- Existing floating home moorages, marinas, water related business, and recreation will play an important role in the vitality of Portland's waterscape through the acknowledgement and support of the City and its partners.
- Transit and trail improvements in the South Waterfront and Macadam areas will provide strong connections to downtown and areas to the south.
- River access in the John's Landing and Macadam area will improve as areas along the riverfront redevelop.



The Oaks Bottom Wildlife Refuge and Ross Island complex provide habitat for species such as the great blue heron and the bald eagle.



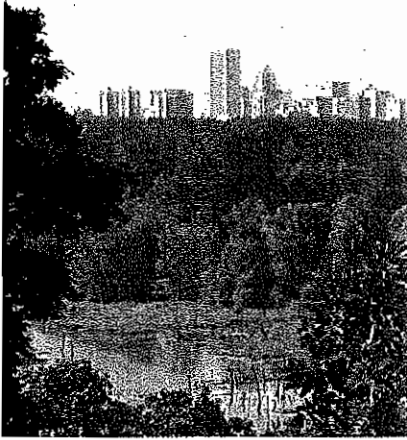
Beaches along the Willamette may someday beckon visitors to swim along the riverbanks.



The public boat dock is a popular feature at Sellwood Riverfront Park.

# GUIDANCE FOR SOUTH REACH AREAS

## Sellwood/Oaks Bottom



Oaks Bottom Wildlife Refuge harbors pristine habitat just minutes from the Central City.

The city's most pristine riverine natural areas are the Oaks Bottom Wildlife Refuge, a 160-acre wetland, and Ross Island. Ross Island, once mined for gravel, will be transferred from private ownership into the City's open space portfolio. Continued restoration of Oaks Bottom and Ross Island will ensure they provide an oasis for bald eagles and other wildlife.

Oaks Bottom is easily accessible from the riverfront and will be increasingly accessible from the bluff neighborhood of Brooklyn across McLoughlin Boulevard to viewpoints and trailheads leading to the river.

The Sellwood area offers opportunities for people to experience the river from trails, parks, picnic sites, beaches, docks, viewpoints, non-motorized boat launches, and from floating homes. Tacoma Street, which leads to the Sellwood Bridge, will continue to develop into a bustling pedestrian oriented mixed-use main street. A new Sellwood Bridge will create a safe link for pedestrians and bicyclists to the west side of the river.

## Southwest



Residents from this south reach neighborhood have the Greenway Trail and the Willamette River at their front steps.

The John's Landing area will continue to be a diverse mix of residential and commercial activity, but less intensely developed than the emerging South Waterfront District to the north. Access to the river will be improved through clearer connections, smoother trail surfaces, and places to sit.

Willamette Park continues to be one of the most heavily used parks on the river, offering a motorized boat launch, playground equipment, an off-leash dog park, and lawns that support field sports. Ongoing restoration efforts will continue to add to its value in the region's natural resource system.

## Dunthorpe / Ira Powers Marine Park

Dunthorpe, a residential area outside of the City of Portland, but within its planning jurisdiction, will remain a community of single-family homes on large lots with a prime riverfront location. The extensive tree cover and other natural vegetation contribute significantly to the natural resources in this reach of the river. The confluence of Stephens Creek with the Willamette and the Powers Marine Park area will remain important habitat areas that warrant continued restoration. Dunthorpe will connect to Portland neighborhoods to the north and east through trail improvements in Ira Powers Marine Park and improvements to the Sellwood Bridge. Improved trail and transit options will better connect Portland with Lake Oswego.



The Willamette River shoreline at Ira Powers Marine Park is beautiful as trees start to change color in the fall.

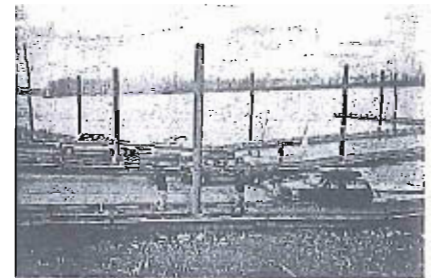


April 2006 as a guiding document for the River Plan. The Concept synthesizes river-  
id actions. Guidance is grouped by River Renaissance vision theme and neighborhood.

ase review the following language and let us know what you think! Submit

### Portland's Front Yard

- Access from the Brooklyn neighborhood to the river will be improved across McLoughlin Boulevard.
- Access from southwest neighborhoods to the river will be improved across Macadam and Barbur Boulevards.
- The riverfront south of the Ross Island Bridge will continue to offer a fully connected riverfront trail, water access, several riverfront parks, and natural areas.
- The redesign of the Sellwood Bridge will accommodate pedestrian and bicycle traffic, connecting the east and west sides of the river in the Willamette Greenway Trail system.
- Existing gaps in the Willamette Greenway Trail will be completed. The existing trail will be upgraded to current standards as opportunities arise.



As the popularity of boating increases, so too will the need for access to the river.

### Partnerships, Leadership, and Education

- Relationships that foster positive change will be developed among property owners, businesses and business associations, neighborhood associations, environmental groups, recreation groups, cultural organizations, and agencies.
- The City will strive to make its regulations flexible, streamlined, and cost-effective and work with other agencies to simplify the overall river related regulatory process.
- The City will seek incentives, community partnerships, and facilitated development processes to encourage property owners and others to achieve the River Renaissance Vision.



Floating home communities are a unique housing type in this part of the city.



Portlanders set sail in the South Reach.



RECEIVED

09 APR -2 PM 2:23

MULTNOMAH COUNTY  
PLANNING SECTION

RECEIVED  
APR 06 2009  
BY:

Send To:  
Multnomah County  
Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Ave.  
Portland, OR 97233  
Attn: Adam Barber

Regarding: Case File T4-08-001

To Whom It May Concern,

In response to the "NOTICE OF PUBLIC HEARING" Case File T4-08-001 the impact of crowding in more floating homes here at Rocky Pointe Marina by displacing the co-mingled boat slips between every two homes degrades the breezeways, the views, the safety, and the livability.

Impact on already stressed parking, currently there is not enough parking, people are parking in the grass and off-parking lot areas. Not to mention all the summer home and boating season people. This has been a marina for live-aboard boaters and floating home owners for over 12 years that I know of, I am sad to see that the live-aboard boat owners are not welcome anymore.

It is my opinion that the \$20,000 floating home hook-up fees are strictly in the interest of the marina owners not the community and livability. Rocky Pointe Marina has been a great floating community for boat owners and home owners alike. I hope it does not become an overcrowded house-to-house-to-house living environment rather than a floating community. To live here is to know how special it is here.

I wish to remain anonymous as not to endure repercussions or eviction, the phrase "I don't even need a reason to evict" keeps most people quiet.

Sincerely,

Long Time Rocky Pointe Marina Resident

Multnomah County  
Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Ave.  
Portland, OR 97233



MULTNOMAH COUNTY  
PLANNING SECTION

09 APR -2 PM 2:21

RECEIVED

Re: Case File T4-08-001

Dear Adam Barber,

This letter is in response to the "NOTICE OF PUBLIC HEARING" I received from your office concerning above mentioned case file. The applicant and owners are requesting exceptions to the statewide planning Goals 14 (Urbanization) and 11 (Public Facilities and Services) to expand the Rocky Point Marina with 36 new houseboats and to establish a Special Plan Area zoning district.

I have significant concerns with this request due to several factors. The first being that the current layout of the marina has visual and livability appeal. The current layout has a couple of floating homes placed next to each other with a couple of boats between the next set of floating homes, this allows the home owners to have a buffer between them and the next set of floating homes. This gives the home owner and boat owners a view of the river, though limited it does allow some view and space. If floating homes are situated right next to each other as the current proposal suggests the floating home owners will be right next to each other living in a crowded "apartment like" community rather than a marina. To increase the occupancy at this marina will reduce the livability for all tenants.

Another concern is parking, adding more cars will decrease the available parking spaces which are very limited. The parking lot is also used by children of the current tenants to play basketball, catch, ride bikes; etc., and is also used by tenants to walk their dogs or take a walk themselves. If more cars are driving through the parking lot and parking in the green areas of the lot this will reduce the areas for children to play, people to walk and cause a potential safety concern.

A third concern I have is the fresh water system, which is marginal at best. Though it is better than it was in the past, quite often it has an odor and will be brown in color, which will stain clothes, sinks, showers, etc. The impact of the additional load on the current system will be significant.

The closest city to the marina is Scappoose, which due to the current housing market and economy has new houses sitting empty, unable to sell or rent (Steinfeld Farms), and a recent land development site (on Old Portland Road, behind Fred Meyers) without the buyers and/or financing to build new homes. The average person is going to purchase a home on land. There is limited buyer's market for floating homes as is evidenced by length of time that floating home stay on the market for sale. I do not believe that the local area has the population growth to support an increase of 36 homes,

Living in a floating home on the water, is a wonderful and peaceful lifestyle, we experience the joy of watching the wildlife and enjoy the boating community. Packing more people with floating homes into this home/boat mix marina will decrease the livability of Rocky Pointe Marina.

Thank you for the opportunity to share my feelings on this sensitive issue.



April 6, 2009

To whom it may concern,

My name is Jane Betts-Stover; I have been a practicing Realtor since 2002, specializing in Floating Homes. Along with a few other Realtors, I sell many of the floating home listings.

I would like to attest to the fact that there is a shortage of slips in the Portland Area. Most moorages are full with no space to create new slips. The slips that are for sale are only a handful.

I repeatedly have clients who are wishing to build a new home and cannot find a slip to their liking. One of the delights of living on a floating home is the ability to move it from one location to another. This is very difficult to do, currently. If a client likes a home but not the slip, they often expect that they can find another suitable slip. This is not the case, due to their scarcity.

It is my belief that the floating home communities are growing, even in these difficult economic times, and there is a need for the creation of more slips, now as well as in the future.

Most sincerely,

Jane Betts Stover

Jane Betts-Stover GRI: Broker  
Specializing in Floating Homes  
Oregon Realty Company

[www.jbsfloatinghomes.com](http://www.jbsfloatinghomes.com)

**PRE 1993 CURRENT PROPOSED TOTAL**

<b>Floating Homes</b>	14	40	23 (+13 ***)	76
<b>Boat Slips</b>	600	150	-16	134
<b>Boat Garages</b>	75	7	0	7
<b>Parking Spaces *</b>	75	166	64	230
<b>River Frontage</b>	2,080 feet	2,580 feet	3,150 feet**	3,306 feet

\* 166 parking spaces were approved in 1993 that allowed houseboat parking below the 100 year flood plain. We propose to dedicate these approved spaces for the floating home parking spaces at 2 per home ( $2 \times 76 = 152$  parking spaces). Alternatively, we would seek at 30% reduction in the required parking. Multnomah County requires 2 spaces per one residential unit. Portland requires 1 space per residential unit. METRO's Table 3.07-2 Regional Parking Ratios apply 1 space per residential unit and does not allowed this requirement to be exceeded.

\*\* 570 feet of river frontage upstream south was acquired in 2001. The Rocky Pointe Marina has a total river frontage more then 3,150 feet. All tax lots have been consolidated into a single lot of record totaling 16.22 acres.

\*\*\* 1 floating home is allowed for every 50 feet of river frontage ( $3,150$  feet river frontage /  $50 = 63$  homes). We currently have 40 homes allowing 23 additional homes. In addition, we request a 13 more homes through the provision of a Special Plan Area as provided for in The Sauvie Island Plan.

#1  
MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

---

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 1-22-10

SUBJECT: Rocky Point Marina

AGENDA NUMBER OR TOPIC: R-3

FOR: \_\_\_\_\_ AGAINST:  THE ABOVE AGENDA ITEM

NAME: Wallace STODDARD

ADDRESS: 23548 NW St Helens Rd

CITY/STATE/ZIP: Portland OR

PHONE: \_\_\_\_\_ DAYS: 503 847-2011 EVES: \_\_\_\_\_

EMAIL: \_\_\_\_\_ FAX: \_\_\_\_\_

SPECIFIC ISSUE: 100 ft Set Back

WRITTEN TESTIMONY: Renting space

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.



#2

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 1/21/10

SUBJECT: Rocky Pointe Expansion

AGENDA NUMBER OR TOPIC: R-3

FOR: \_\_\_\_\_ AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Ginger Curtis

ADDRESS: 23548 N.W. St Helens Road

CITY/STATE/ZIP: Portland Oregon 97231

PHONE: \_\_\_\_\_ DAYS: 1-503-543-7464 EVES: \_\_\_\_\_

EMAIL: \_\_\_\_\_ FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: Yes

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

January 19, 2010

To: Multnomah County Board of Commissioners

From: Estella (Ginger) Curtis  
Happy Rock Moorage

Re: Rocky Pointe Expansion Hearing

Multnomah County Board of Commissioners,

My name is Ginger Curtis, owner of Happy Rock Moorage. Happy Rock Moorage lies south of the proposed Rocky Pointe Expansion project. There are some matters of concern I would like to address that affect my business.

Waterway setback- This is the most important concern. We need a wider setback (waterway) between the new expansion of Rocky Pointe Marina and Happy Rock Moorage than the original proposal of 50-feet. We need the ability to evict a tenant and my tenant needs to be able to move his house if he chooses. We already have a fifty foot by fifty foot floating home on that end that would not be able to move out with only a fifty-foot waterway and we have a space on the inside for a sixty-foot floating home. As a landlord, we have to abide by the Landlord Tenant laws of Oregon, which simply put means we need the ability to evict and they need the ability to leave. In addition, we have two fifty foot boat slips on that end. The boats in these slips need to be able to easily enter and leave their slips otherwise; we will not be able to rent them. That would be a loss of income for us. A boat needs (at least) its length plus  $\frac{1}{2}$  more of its length, which would be seventy-five feet to pull out or into their slips. It is doubtful that seventy-five feet will really be enough. It would be better to have one hundred feet if it is not easy for them to do this, they will not rent the slip.

In conclusion, we really need one hundred feet for a waterway between the expansion and Happy Rock Moorage. Mr. Tonneson suggested 50 to 60 feet and he would agree to move the house on the end if we needed more room to move a house. In the beginning, we thought



this would be enough but after discussion with boaters and floating home movers it became apparent that was not enough and we are not in favor of his suggestion. Having to rely on another marina's cooperation to move floating homes in and out is an awkward and uncertain position to be in. It also does not solve the problem with our boat slips. I would like the Commissioners and the hearings officer to consider the appropriate setback that would have the least impact on my business.

Parking- We have a very narrow one-lane access road to my moorage. It runs along the western side of the project. There are some natural cutouts that allow us to pull over for oncoming traffic. I want to be assured that there will be no parking in these areas or on our road and that signage will be provided to discourage parking. These cutouts are on railroad property and the railroad does not want these used for parking either.

Debris- Certain times of the year debris, such as logs, trees, misc. garbage floats downriver into the inside channel of our moorage. This collects on the inside walk of our entrance walkway and has to be pushed downriver. If we allow it to collect, it puts strain on our walkway besides becoming stagnant. At this time when we push it off, it float downriver onto Tonnesons' undeveloped 520 feet. Rocky point has a shirr log tied just above where their boats go in and out of their boat slips. Then they use a boat to push it off into the main channel. When this new expansion is in place there will be no room for a shirr log within the 50 feet he proposes between moorages. Some other method might have to be used. I am mentioning this because I don't want to lose the right that we have always had to remove debris.

If this project is approved, it is important that during construction my tenants have access in and out of the moorage.

I hope you will consider my requests if this project is approved.

Respectfully,

Ginger Curtis

DAVID CURTIS CONSTRUCTION

January 20, 2010

David Curtis

23528 NW St. Helens Rd.

Portland, Or. 97231

503-459-8179 Cell

Bonded and Insured

CCB: 142318

To Whom It May Concern: I build and move floating structures for a living. I have been doing this for more than 18 years and have a lot of experience in moving floating structures by river. I do live at Happy Rock Moorage and have seen the plans of the proposed site of the expansion of Rocky Pointe Marina. In order to move any house or floating structure in or out of Happy Rock Marina and the proposed expansion of Rocky Point Marina I would need at least 100 feet in order to do so.

I also own a 30' power boat and it is very difficult to move a twin engine boat at that length in tight areas. I would also recommended 100' for not just my power boat but for all the other boats including the sailboats that we have at Happy Rock Marina.

Thank you,

David Curtis

A handwritten signature in cursive script, appearing to read "David W. Curtis".

#3

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 1/21/10

SUBJECT: Proposed ordinance amending Scuvie Island/  
Multnomah Channel Rural Area Plan

AGENDA NUMBER OR TOPIC: ~~214~~

FOR: \_\_\_\_\_ AGAINST:  opposed to goal exception  
THE ABOVE AGENDA ITEM

NAME: Donna Matrazzo

ADDRESS: 19300 NW Scuvie Island Rd

CITY/STATE/ZIP: Portland OR 97231

PHONE: \_\_\_\_\_ DAYS: 503 621-3049 EVES: same

EMAIL: matrazzo@msn.com FAX: \_\_\_\_\_

SPECIFIC ISSUE:

WRITTEN TESTIMONY:

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.



#4

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: 1/21/2010

SUBJECT: Exemptions and permissims

AGENDA NUMBER OR TOPIC: T4-08-001 R-3

FOR:      AGAINST: X THE ABOVE AGENDA ITEM

NAME: Kim Atwill

ADDRESS: 23564 NW St. Helens Rd N8

CITY/STATE/ZIP: Portland, OR 97231

PHONE: DAYS: 602-363-0622 EVES:     

EMAIL: kimatwill1@gmail.com FAX:     

SPECIFIC ISSUE: The proposal submitted by Rocky

Point Marina is vague, incomplete, and violates an easement with

WRITTEN TESTIMONY: Attached - presented Happy Rock

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.


**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

This document is in response to Resolution No. T4-08-001 before the Planning Commission for Multnomah County, Oregon, on behalf of the Happy Rock Moorage Home Owners' Association (Registry No. 650615-91), a Mutual Benefit Domestic Non-profit Corporation.

 \_\_\_\_\_, President David Jacob-Daub

 \_\_\_\_\_, Vice-president Justin Seeliger

 \_\_\_\_\_, Treasurer John Atwill

 \_\_\_\_\_, Secretary Kim Atwill

Under review are two specific requests that, if approved, would allow Rocky Pointe Marina to extend approximately 520 additional feet to the south. This would then allow for 30 additional houseboat slips that would require 65 additional parking spaces.

The two requests require:

- 1) exemption to Statewide Planning Goals 11 and 14; and
- 2) permission to exceed the residential density limit of one floating home per fifty feet of waterfront in the Rocky Pointe Marina.

The 25 houseboat-owning members of the Happy Rock Moorage Homeowners' Association (HRMHOA), the moorage adjacent to the south end of the Rocky Pointe Marina's (RPM) planned expansion, would like the Planning Commission to consider the following concerns before making a final ruling:

With regard to the overall impact of the proposal and subsequent expansion of the south-side of RPM:

**HRMHOA concern:** While the members understand that the Planning Commission requires exemptions prior to considering the building plans for RPM, they are concerned that there is only a vague outline of what this expansion will actually look like when completed. The members of the HRMHOA hope that any exemptions and/or permissions do not insinuate or otherwise streamline the approval of the final project and building plans. RPM has not provided details regarding how this expansion will be undertaken without impacting the river, river life, vegetation, and the residents living at either moorage.

**In sum, the HRMHOA respectfully requests the exemptions and permissions be denied until greater detail be provided on a complete and comprehensive plan, including exact locations and dimensions of all proposal elements, and accompanying plans for minimizing negative environmental impacts during the expansion.**

With regard to request #1 (exemption to Statewide Planning Goals 11 and 14):

a. Statewide Planning Goal 14 restricts rural development outside of the Urban Growth Boundary to one dwelling per parcel.

**HRMHOA concern:** The applicants' description of the south-side expansion area is too general and lacks relevant details:

*Applicant: The exception area is basalt rock, wet, steeply sloped, or developed.*

The south-side expansion area in question is also a very thin strip of waterfront bounded on the west by a railroad line. There is a steep bank between the waterline and the existing one lane road, and a second steep bank from the one lane road up to the railroad. In support of their exemption to the Urban Growth rule, the applicants purport that RPM already is urban in many regards and propose adding 'urban' elements to the shoreline parallel to the waterway expansion to accommodate recreational pursuits (e.g., a dog walking lane, horseshoes, volleyball, and



picnicking). The specifics on how to carve all of this out of a 45-degree-plus steep bank are not provided, leading the HRMHOA to wonder about the value of this argument.

Second, the road that serves Happy Rock Moorage is, at points, only wide enough for one vehicle, with steep banks on either side. The HRMHOA is skeptical whether the terrestrial improvements can be accomplished without inconveniencing the tenants at Happy Rock, including NOT using Happy Rock's lower parking lot as a construction turn around and/or parking overflow area.

**In sum, the HRMHOA respectfully requests the exemption be denied until greater detail be provided on the locations of the proposed terrestrial improvements and how they will be achieved without negatively impacting the Happy Rock residents.**

b. Statewide Planning Goal 11: The HRMHOA does NOT disagree that the RPM south-side expansion would qualify as a 'committed exception'.

**HRMHOA concern:** The details of the proposed expansion are vague and incomplete. In particular, an easement has been previously established that extends between RPM and Happy Rock to allow for houseboats to move in and out from the north end, shore-side of Happy Rock. In the event of an eviction, for example, the owner of Happy Rock has the right to force a houseboat and its owner to vacate the premises. The initial 50 foot easement was increased to 100 feet in 2009 to adjust for the current houseboat located on the shore-side north end; this houseboat is approximately 75 feet in length and would require at least 100 feet to be moved out. If the current expansion drawings are accepted without additional detail, the drawing only projects a 45-foot easement.

**In sum, the HRMHOA respectfully requests that the exemption be denied until greater detail is provided on the proposed waterway expansion to ensure that it adheres to the 100 foot easement previously awarded.**

With regard to request #2 (permission to exceed the residential density limit of one floating home per fifty feet of waterfront):

**HRMHOA concern:** The proposed waterway expansion area is "approximately 520 feet" (specific measurements requested previously). The existing density configuration would allow 10 houseboats to be moored parallel to this length of shoreline. RPM is proposing to *triple* that density. The HRMHOA concedes that moorage space is scarce, however this should not override the purpose of the density limit—protecting the quality of the living spaces and the environment that surrounds them.

Again, RPM has provided vague and incomplete plans for:

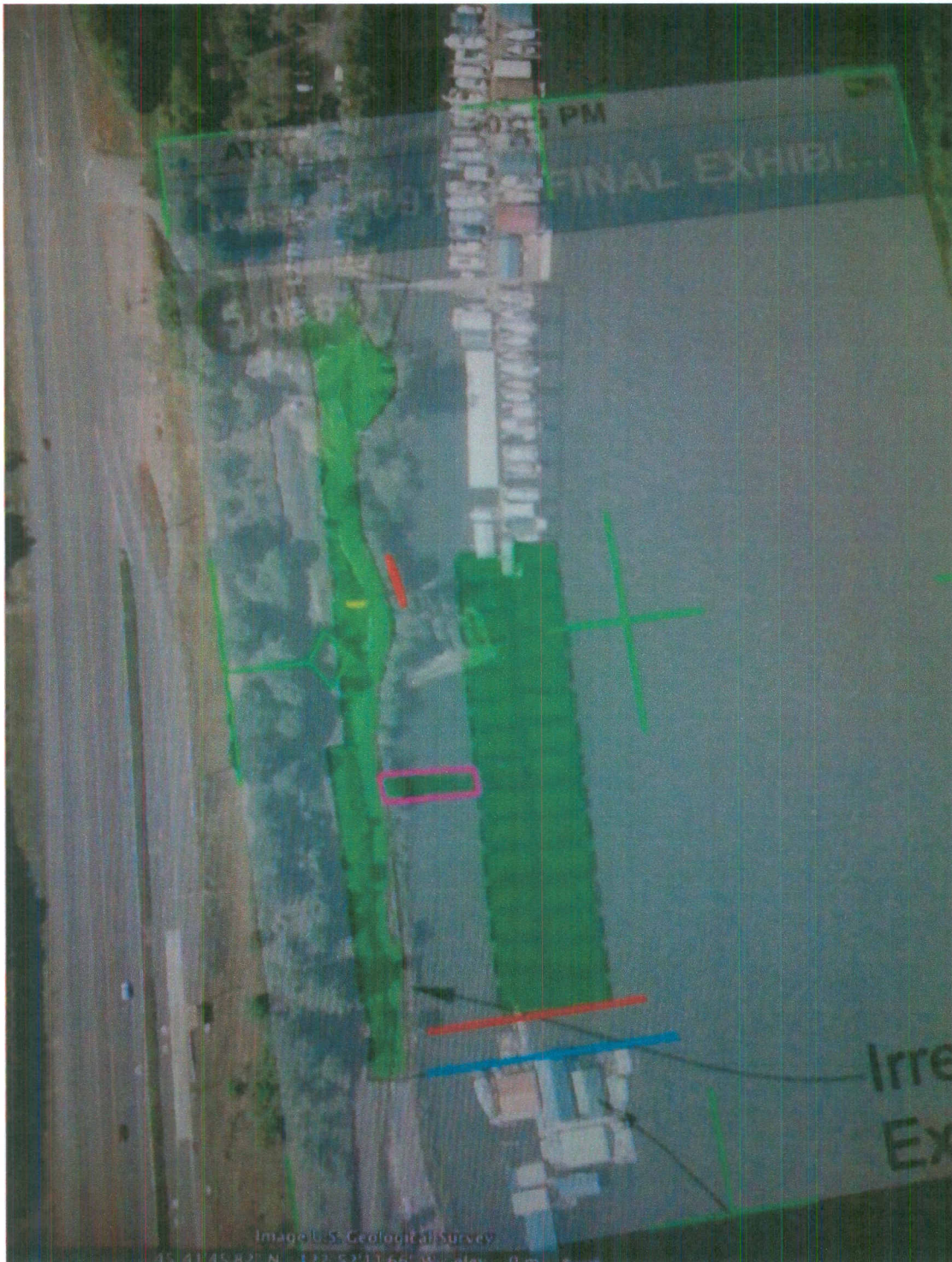
1. increased traffic on a one-lane road with numerous blind spots
2. increased pedestrians along identified one-lane road
3. increased traffic turning left (heading south) onto Highway 30

More significantly, RPM proposes to add 65 parking spaces to accommodate the residents who will reside in the proposed 30 additional houseboat slips. These 30 homes will 'float' along the moorage walkway parallel to the previously described thin strip of steep bank waterfront. Specifics on how RPM will create sufficient parking along this narrow passage is also lacking from the current proposal.

Estimating that a parking space is required to be at least 9' by 19', or 171 square feet, this would require more than 11,000 square feet of additional parking. RPM mentions filling in a portion of the river within the proposed expansion area along with a previously acquired permit to modify or fill in this area. Exactly how this will be done, and done *without* impacting the river, riverbank, and residents of either moorage is also not delineated.

**In sum, the HRMHOA respectfully requests that the permission be denied until greater detail is provided on how the additional density can be accommodated within a very small strip of land. Of course, HRMHOA also requests that regardless of the number of houseboat slips permitted, the waterway expansion adheres to the 100 foot easement previously awarded.**





Proposed expansion area in green. Blue line marks north boundary of Happy Rock Moorage. Distance between blue line and red line (south end of expansion) is egress easement; as depicted here is only 42'. Pink rectangle is location of proposed new ramp to access expansion houseboat slips. Red line along shore at north end of expansion marks 'assumed' area to be filled in to become parking spaces. The yellow marks the end of the parking area and is approximately 600 feet from the ramp.

#5a

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: 21 JAN 2010

SUBJECT: Roddy Point

AGENDA NUMBER OR TOPIC: R-3

FOR: \_\_\_\_\_ AGAINST: X THE ABOVE AGENDA ITEM

NAME: Brian H. Hickey

ADDRESS: 13392 NW Newberry Rd

CITY/STATE/ZIP: Portland

PHONE: \_\_\_\_\_ DAYS: \_\_\_\_\_ EVES: \_\_\_\_\_

EMAIL: \_\_\_\_\_ FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: Have written test

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.



January 21, 2010

TO: Multnomah County ~~Planning Commission~~ *ers*

FROM: Brian W. Lightcap  
13342 NW Newberry Rd  
Portland, Oregon 97231

RE: T4-08-001, Rocky Point Marina Expansion

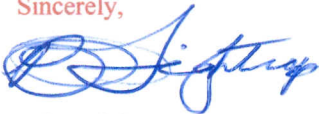
Honorable Commission Members,

I have a unique perspective on the marina development in Columbia and Multnomah Counties. I served with Corps of Engineers as wetland program leader, both in permitting and enforcement. I have met with Mr. Tonneson in the early ninties in order to have him avoid wetland fills. We also discussed an expansion he had in mind at that time.

We discussed the impacts that parking of trailers had at that time and how wetlands were degraded that way. I don't exactly remember what happened with his proposal to expand to the north. But a County approval was given for 40 units in 1993. I would like to know what the Corps permit number was, in association with the 1993 County approval.

I believe that for reference between 1993 and now, since Federal and State wetland decisions may have been made at that time, the Commission and staff should review any such decision. It may be relevant to future County decisions.

Sincerely,



Brian Lightcap

As a post note, the Commission should note that the far flung rural community in this area, known as West Hills and Island Neighbors fought the Wildwood regional landfill proposal near this marina. Also the SWCD board does have a history of commenting and involvement on the proposed regional landfill, that was to be built at Wildwood Golf course. We eventually got our state association, OACD to endorse our opposition to the landfill. Our actions definitely helped the desirability of living at Rocky Point. But, for this community effort, living at Rocky Point would have been entirely different.



# 56

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 21 JUN 10

SUBJECT: Rocky Point Expenses

AGENDA NUMBER OR TOPIC: R-3

FOR: \_\_\_\_\_ AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: WEST MULTNOMAH SOIL & WATER BRIAN

ADDRESS: 2701 NW Vaughn St Suite 450 LIGHTCAP

CITY/STATE/ZIP: Portland OR

PHONE: \_\_\_\_\_ DAYS: 238-4775 x106 EVES: \_\_\_\_\_

EMAIL: \_\_\_\_\_ FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: Have written testimony

**IF YOU WISH TO ADDRESS THE BOARD:**

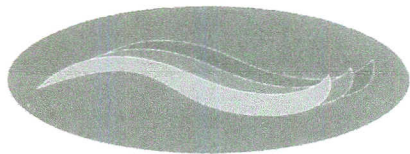
1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.



# WEST MULTNOMAH



SOIL & WATER CONSERVATION DISTRICT

January 21, 2010

TO: Multnomah County ~~Planning~~ Commission *ers*  
RE: T4-08-001

Our board has voted unanimously that I represent the board's concerns regarding this expansion of facilities. The following are just a few of the matters of concern

- We note that in 1993 the County rejected an expansion to 50 houseboats, allowing only 40. The public deserves in plain language, how the staff can now reconcile an additional 23 (applicant proposed 36).
- Page 11. The project continues to move forward with apparent integrity even with its tainted history of code violations and according to conversations with DSL, fill violations.
- We note that agencies with more comprehensive decision roles such as the County, DSL and the USACE are working on this project, but other agencies DEQ, WRD are also work on separate decisions, well in advance of the County.
- Page 15. We are confused by the statements regarding the present use versus actual capacity of the of the waste treatment system. Was the applicant saying that no disturbance of vegetation or wetlands will be required with the 36 floating home expansion in association with waste treatment?
- Page 16. Non native species such as laurel and other plants are out of place in this wetland/floodplain area.
- Page 17. "Special area" designation of this or any other expansion because it is irrevocably committed to urban justification, is not a solution for floating homes built on and over public waters. Moorage development along the channel in both Columbia and Multnomah County has always been a concern. Does a special area designation help protect the Greenway's integrity?
- Page 19. The wetland impact areas are of great concern to the board. With all the impacts of miles of moorages, especially in Columbia County and as well as the Sauvie Island dike extending for 20 plus miles along the other side of the channel, the presence of all wetlands is very important. We will discuss ways to stress this point as we comment to the USACE and DSL. The USACE has to evaluate 26 public interest factors in its ultimate decision, including cumulative impacts. Un-enforced or unseen wetland fill violations are part of cumulative impacts, thus, diminishing the amount of wetlands that the applicant is divulging. Wetland degradation is also a cumulative impact.
- Page 41. Does the Commission believe that it is possible for the County to properly evaluate this matter because the Channel spans two counties. We would like to hear the Commission's view on which state, county or Federal agency can do a cumulative impact assessment. There are losses to shoreline vegetation quality, floodplain capacity, water quality, certainly esthetics (see page 49). That photo is just a small hint of cumulative impacts. Until this matter is dealt with, the notion of seriously deliberating beyond the very generous 1993 decision to allow 40 floating house is a moot point.
- Page 42. Unresolved parking issues were seen by staff; thus we don't know what the wetland and water quality impacts will be. Some idea of what the future will be on this matter would be to see the current parking constraints. Has there been wetland degradation or losses in attempt to address seasonal parking issues? This can not be evaluated just in a hearing room.
- Page 52. How important is it to point out that agencies such as the USACE, DSL, State Parks, Metro, ODFW and several others didn't comment.

It is very discouraging when private parties tread on the public trust by not adhering to earlier County and state decisions, especially when public land and waters are involved. The landowner, County, the public, and many agencies worked very hard in 1993 to make the decision with all the complex factors to allow 40 floating houses. What is different about the history between that 1993 decision and what the County is embarking on now. The channel is a rather narrow waterway with waterway commerce, some moorages and a very significant number of fisheries

2701 NW VAUGHN STREET, SUITE 450 ♦ PORTLAND, OR 97210

P: 503.238.4775 ♦ F: 503.326.3942

[WWW.WMSWCD.ORG](http://WWW.WMSWCD.ORG)



#C

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 1/21/10

SUBJECT: Rocky Pointe Marina

AGENDA NUMBER OR TOPIC: \_\_\_\_\_

FOR: \_\_\_\_\_ AGAINST:  THE ABOVE AGENDA ITEM

NAME: Chris Foster

ADDRESS: 15400 NW McNamara Rd,

CITY/STATE/ZIP: Portland OR 97231

PHONE: \_\_\_\_\_ DAYS: 503-621-3564 EVES: \_\_\_\_\_

EMAIL: \_\_\_\_\_ FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: yes

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

January 20, 2010

Christopher H. Foster  
15400 NW McNamee Rd.  
Portland OR 97231

Multnomah County Board of Commissioners

RE: Case File T4-08-001; Rocky Pointe Goal Exceptions 11 & 14

Dear Commissioners,

This case came to the Planning Commission last Spring. It was not easy. I believe that Goal Exceptions are a serious matter worthy of your careful consideration. This is especially so here, because this is first of several similar ones that might come forward in the near future. After re-examining this case, my own personal view is that part of the area possibly meets the Goal Exception standard, but part of it does not.

### **Is the Expansion Area Irrevocably Committed to Urban Use?**

I would like to focus your attention on just one of the findings that must be made to grant the Goal Exceptions. That finding has to do with the open waterway expansion area that is in public ownership. The applicant recently purchased the shoreline and added it to the existing parcel. The finding must be that the vacant water area is “irrevocably committed” to residential use at urban densities. The Staff argues that by the mere fact that homes are among the several uses allowed, it is thereby committed.

Simply stated, the trouble with finding this area irrevocably committed is the the applicant neither owns the property nor is it currently developed. This is open waterway owned by the public. Further, the state lease by which the the applicant may use this area is by law revocable. There are a number of uses allowed here including docks, boat slips and services none of which needs a Goal Exception. I would argue that these uses are actually the predominate use on the Channel. Only the residential use at urban density requires Exceptions.

### **What's Next**

If the Board finds all areas here meet the “irrevocably committed” standard, the range of additional dwellings is from 0 to 23. If the finding is that the expansion area does not meet the standard, but the existing developed areas does, that range will be set lower. The exact number will be determined by a hearings officer after considering numerous regulations, environmental and safety concerns. Those issues include but are no limited to additional permanent shading of the water as a detriment to salmon survival, recreational access, whether or not any additional parking can legally be added to the floodplain, wetland fill issues, facilities including the sewage treatment lagoon that are subject to flooding, and traffic safety concerns regarding rail crossing and highway access.

### **The Context**

The policy issues in the background are inescapable. They range from how rigorously we should test Goal Exceptions (they are not mandatory and we can set additional tests), to the issues like to what degree we should be encouraging additional non-water dependent uses on the public waterway. There are a host of environmental questions too. I'm wondering whether granting the full Exception request will end up violating more County policies than it it satisfies. Beyond the decision, this is the Board's sole opportunity to comment or offer guidance to a hearings officer on this application. A step further is whether or not the Board should propose it own limitations under MCC1.15. 7115.



#7

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: 1/20/10

SUBJECT: R-3 Sawvir Island

AGENDA NUMBER OR TOPIC: R3

FOR: X AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Peter F Fry

ADDRESS: 3125 SW Main #105

CITY/STATE/ZIP: Portland OR 97205

PHONE: DAYS: 503-274-2744

EVES: \_\_\_\_\_

EMAIL: \_\_\_\_\_

FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: \_\_\_\_\_

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#1, #2, #3

Applicants &  
Representative

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: Jan 28, 2010

SUBJECT: Case T-4-08-001

AGENDA NUMBER OR TOPIC:

R517 Rocky Pointe Marina

FOR: X AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Jen Tenneson, Stan Tenneson, Peter Fry

ADDRESS: 23586 NW St Helens Rd

CITY/STATE/ZIP: Portland, OR 97231

PHONE: DAYS: 503-543-7003 EVES: 503-234-3466

EMAIL: jen@rpmarina.com FAX: 503-543-5190

SPECIFIC ISSUE: goal exception

WRITTEN TESTIMONY:

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

# Rocky Pointe

## Marina

23586 NW St. Helens Hwy.  
Portland, OR 97231

Marina  
tel 503-543-7003  
fax 503-543-5170

Boatyard  
tel 503-543-2785

Commissioner Shiprack  
Multnomah County

1-28-2010

Re: Goal Exceptions for Rocky Pointe Marina

Please find enclosed our responses to last week's testimony.

This has been a long process with close cooperation of the Department of Land conservation and development, your staff, and the Multnomah County Planning Commission. We hope that you can adopt the Multnomah County Planning Commission's recommendation. Should you feel a need for more information to support our goal exception, we ask for a continuance to provide that information.

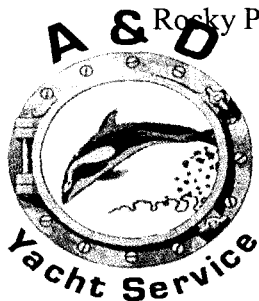
The Conditional Use process will address the concerns raised regarding environmental impact, access, parking, the debris boom, and separation of the marinas.

#### Enclosures

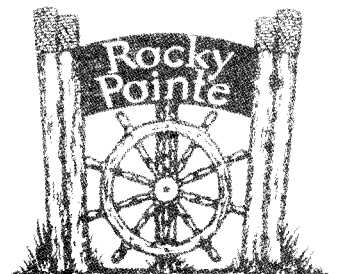
- Six photos showing the high degree of committed development
- Copy of Department of State Lands lease for Rocky Pointe Marina that shows the provision for 15 year perpetual renewals
- Biological Assessment showing no significant long term adverse effects
- A page from our joint application to National Marine Fisheries and Army Corp of Engineers listing impacts and all the construction mitigation proposed
- Landscape and maintenance plan proposed for our property. After the site meeting with Multnomah County Soil and Water Conservation District on 1-27-2010, this plan will be refined with their assistance. to create the best possible plan.

Thank you,

Stan and Jen Tonneson  
Rocky Pointe Marina

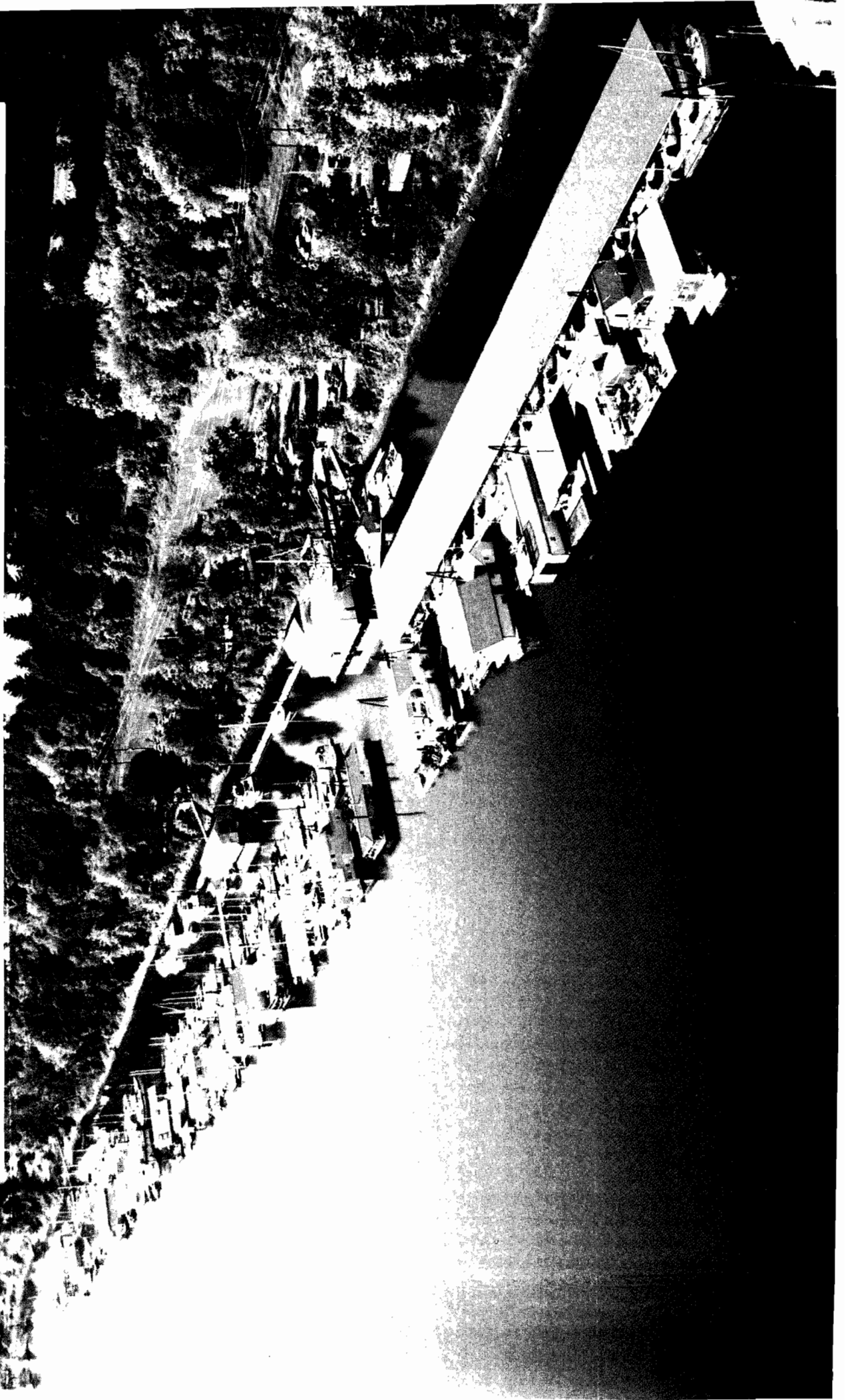


More than just a great marina!  
Boat Yard • Professional Boat Repair • Fuel Dock





The marina property consists of over 3300 feet of shoreline with 15 acres of uplands. There is a 5 acre lake and about the same of additional wetlands that is always left natural and undisturbed. All docks are served with water, power and sewer along all docks and these utilities are buried underground on the uplands.





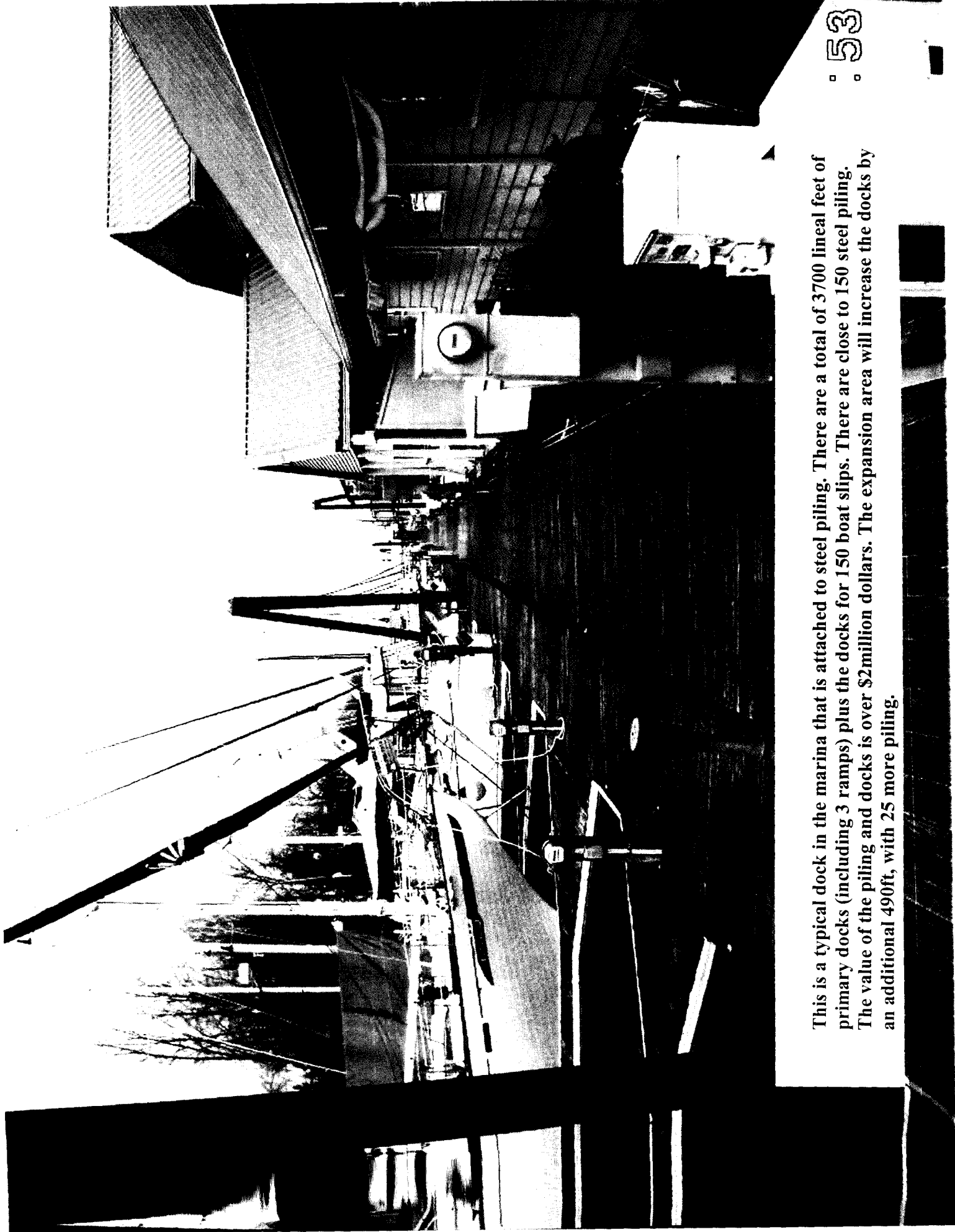
There is a floating office /store/fuel with public restrooms and public pump out facilities. The pump out facility was provided by a grant from the Oregon State Marine Board with funding from the Federal Clean Water Act. The public restrooms are furnished by the marina and are some of the very few restrooms available on the waterways of Portland. The marina proudly holds the distinction of "Clean Marina" by the standards set forth by the Oregon State Marine Board.



**This is the railway system for our Travelift crane that drives out over the water to lift boats out the water. The wash down pit just inland of the rails has a cleaning system that filters and reclaims all the water. The value of the lifting facility exceeds 1/2 million dollars. This picture was taken during our annual tenant fire training developed by our marina and the Scappoose Fire District.**

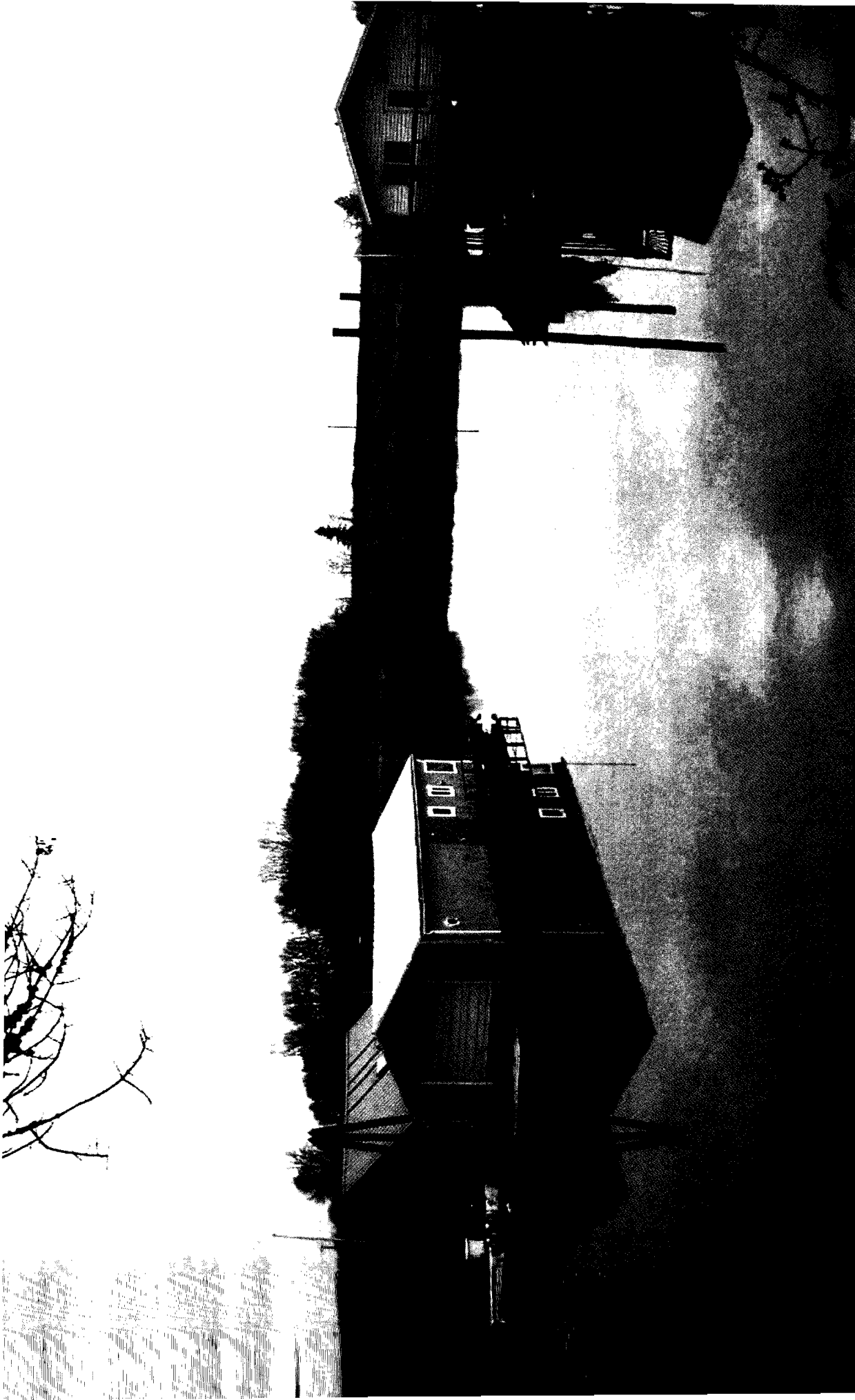


This is the current entrance ramp to the marina which will be replaced with a wider grated ramp. This ramp will be refurbished and used as the emergency ramp in the expansion. An extensive landscaping plan is proposed in our conditional use application. A Victory garden is planned for the tenants of our floating home community. All utilities for expansion area already exist down this ramp. The walkways at the base of the ramps will have grating installed to provide for light in the shallow waters.



This is a typical dock in the marina that is attached to steel piling. There are a total of 3700 lineal feet of primary docks (including 3 ramps) plus the docks for 150 boat slips. There are close to 150 steel piling. The value of the piling and docks is over \$2million dollars. The expansion area will increase the docks by an additional 490ft, with 25 more piling.



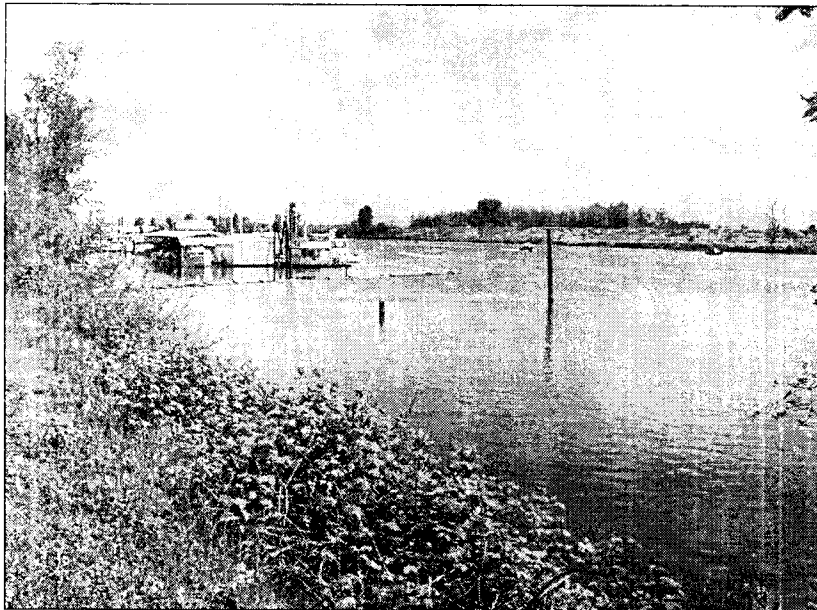


This is a typical 60feet wide fairway that exists within our marina. There is well over 100feet behind the houses and boats for any size floating home or a boat up to 75' to turn and get out the fairway. Note that the single story home can be moved out to create another 30 feet if needed ( 90 feet total) for something very large. In the past, there was a 112ft fishing vessel moored on the inside docks that moved easily through this fairway without removing the end house.

**BIOLOGICAL ASSESSMENT**

**ROCKY POINTE MARINA EXPANSION  
MULTNOMAH CHANNEL  
MULTNOMAH COUNTY, OREGON**

**ADDRESSING POTENTIAL IMPACTS ON FEDERALLY LISTED FISH, WILDLIFE,  
PLANTS AND THEIR HABITATS**



*Prepared for:*  
Rocky Pointe Marina Portland,  
LLC  
23586 N.W. St. Helens Hwy.  
Portland, OR 97231

*On behalf of:*  
U.S. Army Corps of Engineers

*For submittal to:*  
National Marine Fisheries  
Service

*And:*  
U.S. Fish and Wildlife Service

*Prepared by:*  
Ellis Ecological Services  
20988 S. Springwater Road  
Estacada, OR 97023

*And:*  
Flowing Solutions, LLC  
3305 SW 87<sup>th</sup> Ave  
Portland, OR 97225

April 7, 2008

Hereinafter referred to as the "Leasehold".

## SECTION 1 - LEASE TERM AND RENEWAL

- 1.1 **Term:** This Lease shall continue for the remaining 8 years of the original lease which commenced on February 1, 1994, the month and date of which shall be known as the "Lease Anniversary Date," and expiring on January 31, 2014, which date shall be known as the "Lease Expiration Date."
- 1.2 **Renewal:** Lessee shall have an option to renew this Lease for an additional period of 15 years after the original and each renewal lease term provided that Lessee has submitted a completed lease renewal application form to State not less than one hundred and eighty (180) days prior to the Lease Expiration Date. Upon receipt of such application, this Lease shall be renewed by State unless:
- 1.2.1 State determines, in its sole discretion, that Lessee has not complied with the terms of this Lease, the applicable statutes and Oregon Administrative Rules; or
- 1.2.2 Lessee is no longer the preference right holder as provided in ORS 274.040(1) and defined in OAR 141-082-0020(49); or
- 1.2.3 State determines that the renewal of this Lease for all or any portion of the Leasehold would be contrary to local, state, or federal law, or would be inconsistent with the policies set forth in OAR 141-082-0010.
- 1.3 Except as otherwise provided in this Lease, State shall provide Lessee two (2) years advance written notice of its intent to not renew this Lease for all or any portion of the Leasehold. In the event State determines not to renew this Lease, but less than two (2) years remain in the Lease term, State shall, at Lessee's request, extend the term of this Lease to complete the two (2) year notice period, within which time Lessee shall vacate that portion of the Leasehold upon which the Lease is not being renewed and relocate any sublessees in an orderly fashion.

## SECTION 2 - AUTHORIZED USES

- 2.1 **Purpose:** This Lease grants Lessee the right to use the Leasehold for the specific purpose(s) described below in accordance with the Lease terms and conditions, applicable local (including local comprehensive land use planning and zoning ordinances), state and federal laws and the applicable Oregon Administrative Rules.

Commercial Marina and Floating Home Moorage with maximum of 40 floating homes, 150 boatslips and 7 boathouse spaces.

All in-water work associated with construction activities would occur during the preferred ODFW in-water work periods for the Multnomah Channel (July 1 to October 31). Construction activities would generally be conducted between the hours of 7:00 AM and 7:00 PM.

COE APPLICATION

**Total New Impact:**

- 30 20" New steel piling for both phases of work
- 30 New single slips 15ftx40ft
- 15 New floating home spaces 30ftx55ft
- Total Additional Coverage 36,200 sf
- Other changes reconfigure within existing marina foot print and modify use only
- Replant native species within 6,500 sf of off channel shoreline
- Remove invasive species along 3000 lf of shoreline adjacent to project.
- No dredging or filling proposed

**ADDITIONAL MEASURES INTEGRATED BASED ON REVIEW COMMENTS-**

**Specific efforts include:**

- Discard linear float system along shoreline from consideration
- Eliminate 600 CY of Section 404 fill along shoreline for marina support parking
- Eliminate 13 house boat conversions within existing north marina from proposal
- Relocate large covered areas from near shore pod design toward center of river
- Eliminated additional work at haul out/travel lift
- Relocate proposed marina into deep water (greater than 20 ft)
- Relocate southern existing marina into deep water (greater than 20 ft)
- Existing covered moorage will be moved into deep water (rather than light panels)\*
- Remove 4 boat houses from upper moorage
- Remove old docks from near shore area in proposed marina area
- Remove up to 6 treated wood piling and one dolphin piling from work zone
- Reduced proposed coverage by 41% from 47,840 sf to 28,500 sf
- Reduce proposed pile count from 55 to 30.
- + Replace treated wood in 310 lf of dock with plastic wood and grating deck
- + Replace treated wood substructure with steel framing
- + Relocate large covered areas from near shore pod design toward center of river
- + Add grating to existing docks in existing marina where feasible
- + Add grating to proposed docks – 30% open area in main walkways
- + Replant native species within 6,500 sf of off channel shoreline
- + Remove invasive species along 3000 lf of shoreline adjacent to project.

**Project Drawings:**

How many project drawing sheets are included with this application? (must be on separate 8½ X 11 sheets) 11 \_\_\_\_\_

Note: A complete application must include a location map, site plan and cross-section drawings:

**Location map** (must be legible with street names)

**Site plan** (include project footprint, proposed contours, ordinary high water or wetland boundary, proposed impacts, staging areas, temporary impacts, location of cross section(s), as applicable)

**Cross section(s)** (include existing and proposed elevations, ordinary high water or wetland boundary)

Will any construction debris, runoff, etc., enter a wetland or waterway?  Yes  No

If yes, describe the type of discharge and show the discharge location on the site plan.

Estimated Start Date September 2011

Estimate Completion Date September 2015

Work will occur during the recommended in-water work period. Work may be phased over time due to budget.

## APPENDIX B

### ROCKY POINTE MARINA LANDSCAPE PLAN

#### CONCEPT

These areas are the developed spaces around the upper marina parking area and bank side below the railroad tracks, as well as the following described separate native ecosystems.

1. The dry bank area of the proposed marina site will have a list of drought tolerant plant material, including native material and low maintenance plants for easy care and naturalizing with out being invasive.
2. The natural area along the river side of the marina that extends from the upper marina through the middle and lower marina. These areas are now covered in Populus fremontii and Fraxinus americana. The addition of evergreen natives and under story native materials for seasonal enjoyment and beauty will be our goal for these areas. A walking path through all three marinas will also have plant labels with the common names and the botanical names for interpretation.
3. The final eco system is wet lands and man made lake area that will be kept totally native with invasive and obnoxious weeds being removed to protect our space. The addition of wet lands plants and shrubs will be listed for wildlife attraction and maintenance for this area. A future trail for this area will also be described.

#### DEVELOPED AREA

##### PLANT LIST

Ceanothus thrysiflorus (wild lilac) Blue blossom, compact plant ideal for gardens close to buildings with western exposure. Size 6 tall'-5'wide, minimal care. Native to rocky slopes, evergreen and blooming in spring.

Garrya elliptica (silk tassel) evergreen shrub 4 to 8', flower tassels in Decmber/February. Pale green in color (male plant) the female plant has purplish fruit that shows in June-September. Use as screen or informal hedge.

Chamaecyparis nootkatensis 'Glauca' (Alaska blue cedar) more than 15' tall blue green in color, fine textured foliage, sweeping branches, upright pyramidal form.

Cedrus atlantica 'Glauca Pendula' (Atlas cedar) weeping blue cedar will have a spreading habit with a steel blue color. This tree will be staked to create the shape we want on the rocky hill



#4 Public Comment

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 1-28-10

SUBJECT: Rocky Pointe Marina T4-08-001

AGENDA NUMBER OR TOPIC: R-6

FOR: \_\_\_\_\_ AGAINST: X THE ABOVE AGENDA ITEM

NAME: Ryan Seeliger

ADDRESS: 23570 NW St. Helens Rd

CITY/STATE/ZIP: Portland, OR

PHONE: DAYS: 503-578-7520 EVES: 503-543-8608

EMAIL: seeliger@mac.com FAX: 503-578-7520

WRITTEN TESTIMONY:

Member of Happy Rock Home Owners' Association  
showing video of approx 7mins in length.

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#5 DONATED

time to me

See page

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: THURS, JAN. 29, 2010

SUBJECT: ROCKY POINT MARINA EXPANSION

AGENDA NUMBER OR TOPIC: R-6

FOR: \_\_\_\_\_ AGAINST: X THE ABOVE AGENDA ITEM

NAME: CARL ENGELGAU ENGELGAU

ADDRESS: 23566 N.W. ST. HENRY RD.

CITY/STATE/ZIP: PORTLAND, OR, 97231

PHONE: DAYS: 503-543-3755 EVES: \_\_\_\_\_

EMAIL: CWB@CONSTRUCTION@YALDOO.COM FAX: \_\_\_\_\_

WRITTEN TESTIMONY: VIDEO

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
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**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

**VALENCIA Joanna F**

---

**From:** PLUMMER George A  
**Sent:** Wednesday, January 27, 2010 1:11 PM  
**To:** 'cweconstruction@yahoo.com'  
**Cc:** VALENCIA Joanna F  
**Subject:** RE: Rocky Pointe Expansion

Carl,

Thanks for your comment. I have forwarded your email to Joanna Valencia the planner handling this case.

George Plummer

-----Original Message-----

**From:** CWE CONSTRUCTION [mailto:cweconstruction@yahoo.com]  
**Sent:** Tuesday, January 26, 2010 2:21 PM  
**To:** PLUMMER George A  
**Cc:** Kim Atwill; John Atwill; Wayne and Lee Derrick; Steve Dysart; Cindy Engelgau; Sandy Farewell; Mike and Jan Frice and Rojeskie; Letha Hale; John and Denise Hartman; David Jacob-Daub; Frank Maduzia Jr.; Ron Neering; Ryan Seeliger; Justin Seeliger; Greg and Marilyn VanSickle; bettsstover@oregonrealty.com; kramaniac@hotmail.com; Joe and Myrna  
**Subject:** Rocky Pointe Expansion

Sir,

My name is Carl Engelgau. I've been a resident at Happy Rock Moorage for almost fifteen years. As a registered GC I've worked on the river for almost two decades and witnessed first-hand Rocky Pointe's ambitions to annex our moorage.

They've tried to intimidate us, block us, tattle on us, squeeze us, threaten us, and litigate us ever since they acquired that little strip of land between our moorages. They know and we know that strip is useless without either of two things happening:

- 1) Acquire Happy Rock Moorage and its parking area.
- 2) Fill in a large area of the channel along that little strip to widen the road.

Please be aware that Happy Rock Home Owners' Association, an Oregon non-profit corporation, is exercising its right to purchase Happy Rock Moorage from its current owner, Ginger Curtis. In so doing, we are eliminating the likelihood of any part of our moorage becoming part of Rocky Pointe's overall plan for development. I'm sure this is not in agreement with what you may have been told by Rocky Pointe's representatives, but be assured that we are fighting for our lives here and we intend to prevail.

Collectively, our residents are concerned about several issues we don't see clearly addressed in Rocky Pointe's proposed development. These are as follows:

- 1) We are opposed to massive filling-in of our river, especially at that location, which is a traditional fishing spot and wildlife habitat.
- 2) Has anyone taken into account what effect the congestion of several hundred dump truck loads would cause to our only egress?
- 3) Has Portland Western R.R. been notified and signed off on the project? You should know there are significant discrepancies in the proposed overlay map that indicate encroachment on R.R. property, either by design, or to conceal the true extent of planned encroachment into the channel with fill.

4) We see no provision for a hammerhead turnaround for fire and emergency vehicles. Does this mean you advocate people using our parking area for a turnaround? What about other vehicles?

5) If there's going to be a ramp midway between our moorages, how is traffic to that ramp going to be handled without encroaching on our privacy and security? What about foot traffic?

6) Lastly, and most significantly, Rocky Pointe is apparently rescinding their offer of 150' egress between our moorages. Perhaps they felt magnanimous when they thought the point would be moot after they buy us out. Since that's not likely to happen we need this matter addressed fully before any decision by the counsel can be made.

Please let me know who is in charge of Rocky Pointe's planning review so we can contact him or her with our concerns. Thank you very much for your prompt attention to this matter.

Sincerely,  
Carl Engelgau

DID NOT WISH  
TO SPEAK

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: Jan 28-10

SUBJECT: Rocky Pointe Marina

AGENDA NUMBER OR TOPIC: 2-6

FOR: \_\_\_\_\_ AGAINST:  THE ABOVE AGENDA ITEM

NAME: Melvin K. FRICE

ADDRESS: P.O. Box 326

CITY/STATE/ZIP: Scappoose, OR 97056

PHONE: DAYS: 503-543-2587 EVES: 503-543-27374

EMAIL: m7mikef@mac.com FAX: —

WRITTEN TESTIMONY: Video

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
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**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

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2. Written testimony will be entered into the official record.



#6

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: JANUARY 28, 2010

SUBJECT: T4-08-001

AGENDA NUMBER OR TOPIC: R-6 & R7

FOR:  AGAINST:  THE ABOVE AGENDA ITEM

NAME: JAMC GAULLEY

ADDRESS: 1555 N. JANTZEN AV

CITY/STATE/ZIP: PORTLAND OR 97217

PHONE: DAYS: (503) 755-9526 EVES: SAME

EMAIL: MARINEENV@COMCAST.NET FAX: \_\_\_\_\_

WRITTEN TESTIMONY: ATTACHED

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

**Jay McCaulley**  
1555 N Jantzen Avenue  
Portland, OR 97217  
(503) 735-9526  
fax (503) 735-9844

**TESTIMONEY IN FAVOR OF T4-08-001  
GOAL EXCEPTIONS**

**January 28, 2010**

I too was involved in the rule promulgation regarding the Sauvie Island/Multnomah Rural Area Plan in the late 1990's. Those who testified last week in opposition to this proposal failed to mention that the plan was passed in favor of designating this reach of the channel for floating homes, despite their participation and objections. At the same time it was designated as a Special Plan Area (SPA) to accommodate reasonable expansion of the floating home community. Unfortunately, although the ordinance passed, rules were never even proposed for implementation.

In addition to granting these goal exceptions, the Commission should direct staff to finish the work started back then to implement the SPA ordinance.

Another objection was in regard to committing "public waterways" to this type of use.

For clarity, the State, through the State Land Board and the Department of State Lands is in the business of leasing state owned waterways for such purposes. Revenue generated through this program is dedicated to the Common School Trust Fund. In addition to scrutiny at the local level, the DSL and Corps of Engineers must reconcile all ESA and environmental concerns, as well as the public trust values through extensive review by the natural resource agencies and public comment prior to state and federal authorizations. I submit they have the expertise in regard to these issues, and they will address them at the appropriate time in this process.

There are approximately 150 floating homes in the community between the Happy Rock Moorage and the County line. This is the only area designated by the County for floating homes. This reach is within 1.5 miles of the UGB in Scappoose. While it is not within the tri-county planning area, it is certainly within the sphere of influence of that UGB. State planning rules require studying all areas within 3 miles of a UGB when considering expansion of the UGB; this was not considered. While designated for agriculture, this area is not used for agriculture and has not been used for agriculture for several decades. An opportunity was lost when this area was overlooked for inclusion in the expansion of the UGB, recognizing the committed uses in this area. At the very least it should have been considered for an Urban Reserve designation.

Additionally, with expansion of the I-5 Bridge there will be a public need for relocation of the floating homes that will be displaced; good planning by Multnomah County will make this area a logical place to accommodate this need.

The commission should approve these goal exceptions and finally recognize the committed uses in this area as designated by the Sauvie Island Plan.

#7

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: JAN 28, 2010

SUBJECT: \_\_\_\_\_

AGENDA NUMBER OR TOPIC: Rocky Point TA-03-001

FOR: \_\_\_\_\_ AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: WEST MULTNOMAH SWCD Brian Lightcap

ADDRESS: 2701 NW Vaughn

CITY/STATE/ZIP: Portland, OR

PHONE: \_\_\_\_\_ DAYS: \_\_\_\_\_ EVES: \_\_\_\_\_

EMAIL: \_\_\_\_\_ FAX: \_\_\_\_\_

WRITTEN TESTIMONY: Additional comts to those  
provided 21 Jan 10

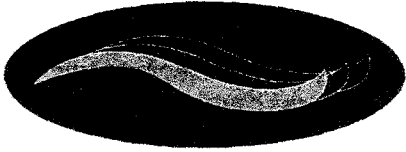
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# WEST MULTNOMAH



SOIL & WATER CONSERVATION DISTRICT

January 28, 2010

TO: Multnomah County Commissioners  
RE: T4-08-001

Our board has voted unanimously that I represent the board's concerns regarding this expansion of facilities. The following are just a few of the matters of concern. **Note that our District Manager, myself and another board member visited the site with the applicants.**

- We note that in 1993 the County rejected an expansion to 50 houseboats, allowing only 40. The public deserves in plain language, how the staff can now reconcile an additional 23 (applicant proposed 36).
- Page 11. The project continues to move forward with apparent integrity even with its tainted history of code violations and according to conversations with DSL, fill violations. **New owners have done their best to address these matters.**
- We note that agencies with more comprehensive decision roles such as the County, DSL and the USACE are working on this project, but other agencies DEQ, WRD are also work on separate decisions, well in advance of the County.
- Page 15. We are confused by the statements regarding the present use versus actual capacity of the of the waste treatment system. Was the applicant saying that no disturbance of vegetation or wetlands will be required with the 36 floating home expansion in association with waste treatment? **No issue here.**
- Page 16. Non native species such as laurel and other plants are out of place in this wetland/floodplain area. The species of laurel, though non-native is not the one that is spreading throughout the West Hills. **We suggested that evergreen huckleberry and tall Oregon grape be added over time.**
- Page 17. "Special area" designation of this or any other expansion because it is irrevocably committed to urban justification, is not a solution for floating homes built on and over public waters. Moorage development along the channel in both Columbia and Multnomah County has always been a concern. Does a special area designation help protect the Greenway's integrity? **Staff recommendations in this area address this comment.**
- Page 19. The wetland impact areas are of great concern to the board. With all the impacts of miles of moorages, especially in Columbia County and as well as the Sauvie Island dike extending for 20 plus miles along the other side of the channel, the presence of all wetlands is very important. We will discuss ways to stress this point as we comment to the USACE and DSL. **Discussion in the staff report regarding wetland losses and available mitigation were misleading, especially with the unaddressed parking concerns. We understand this is a technical code matter; however, compliance with code could require expansion of parking into wetlands, increase impervious surfaces, and have esthetic impacts.**
- The USACE has to evaluate 26 public interest factors in its ultimate decision, including cumulative impacts. Un-enforced or unseen wetland fill violations are part of cumulative impacts, thus, diminishing the amount of wetlands that the applicant is divulging. Wetland degradation is also a cumulative impact. **Our concerns about cumulative impacts remain.**
- Page 41. Does the Commission believe that it is possible for the County to properly evaluate this matter because the Channel spans two counties. We would like to hear the Commission's view on which state, county or Federal agency can do a cumulative impact assessment. There are losses to shoreline vegetation quality, floodplain capacity, water quality, certainly esthetics (see page 49). That photo is just a small hint of cumulative impacts. Until this matter is dealt with, the notion of seriously deliberating beyond the very generous 1993 decision to allow 40 floating house is a moot point. We note that an aggressive landscaping plan may do more harm than good. **There is a good presence of native plants there now. Some in plantings of certain species like Oregon white oak, white ash, black hawthorn and cascara buckthorae would promote selective management of blackberries.**
- Page 42. Unresolved parking issues were seen by staff; thus we don't know what the wetland and water quality impacts will be. Some idea of what the future will be on this matter would be to see the current parking constraints. Has there been wetland degradation or losses in attempt to address seasonal parking issues? **Our comment above on wetland applies here.**

2701 NW VAUGHN STREET, SUITE 450 ♦ PORTLAND, OR 97210

P: 503.238.4775 ♦ F: 503.326.3942


[WWW.WMSWCD.ORG](http://WWW.WMSWCD.ORG)

- Page 52. How important is it to point out that agencies such as the USACE, DSL, State Parks, Metro, ODFW and several others didn't comment.

It is very discouraging when private parties tread on the public trust by not adhering to earlier County and state decisions, especially when public land and waters are involved. The landowner, County, the public, and many agencies worked very hard in 1993 to make the decision with all the complex factors to allow 40 floating houses. What is different about the history between that 1993 decision and what the County is embarking on now. The channel is a rather narrow waterway with waterway commerce, some moorages and a very significant number of fisheries. **Note that the channel is a little wider at Rocky Point.**

The West Multnomah SWCD and all its partners are working very hard for the last ten years for the restoration of Sturgeon Lake (connected to Multnomah Channel) and restoring juvenile salmonid rearing areas. We have been very successful at overcoming numerous environmental hurdles, gaining the attention and financial support of natural resource agencies and organizations. Water quality and habitat along the channel is an important factor for our projects success. We will always be concerned about developments along the channel. The above comments highlight our concerns and we ask that you provide the board an additional opportunity to comment in the areas mentioned above. There are other comments and information that the board may wish to provide after more discussion at our board meeting.

Sincerely,



Brian Lightcap  
Chair WMSWCD



#8

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: 1/25/10

SUBJECT:

Rocky Pointe Local Exemptions

AGENDA NUMBER OR TOPIC:

FOR: \_\_\_\_\_ AGAINST:  THE ABOVE AGENDA ITEM

NAME:

Chris Foster

ADDRESS:

1540 NW McNamara Rd

CITY/STATE/ZIP:

Portland OR

PHONE:

DAYS: 503.621.3564

EVENINGS:

EMAIL:

foster@europa.com

FAX:

WRITTEN TESTIMONY:

ljos

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January 28, 2010

Christopher H. Foster  
15400 NW McNamee Rd.  
Portland OR. 97231

Re: Rocky Point Goal Exceptions, Case File T-4-08-001

Dear Commissioners,

The state land use goals are the fundamental principles in our planning system. As general rule, goal exceptions are reserved for circumstance where there are no possible alternatives.

### **Goal 11 Exception**

The Applicant misconstrues or falls short of the exceptions requirement with regard to Goal 11 under the applicable OARs. James vs. Josephine County LUBA No. 98-135 (1999) sets out what it takes to meet the standards of OARs 660-004-0025 (1) and 660-004-0028 (1). Simply stated, the real test is whether uses that would be allowed by Goal 11 are “no longer available” or are “impracticable” due to the subject either being “physically developed” or “irrevocably committed”.

#### **660-004-0025**

##### **Exception Requirements for Land Physically Developed to Other Uses**

*(1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.*

The physically developed claim for the existing marina in-water area fails to sufficiently examine uses that do not require or would otherwise be allowed without the Goal 11 exception. Most notably are boat slips where 150 presently exist as the predominate use. The applicant seeks the exception because they would prefer to add floating homes over other allowed uses that do not require the exception. Further, with the applicant as evidenced by the plans submitted, intends to partially dismantle and reconfigure the over water existing sewer system, the claim that is physically developed is apparently only temporal or the area is in some sense, available. Adding to this is the fact that these structures float on waterway not owned by Applicant, under the terms of a Dept. of State Lands lease. On land, there are most certainly some areas (for example, the sewage lagoon) that are no longer available for compliance with Goal 11. However, the examination of what still is available within the broader proposed exception area is insufficient.

#### **660-004-0028**

##### **Exception Requirements for Land Irrevocably Committed to Other Uses**

*(1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable*

The Applicant seeks an irrevocably committed exception on the vacant waterway expansion area that is in public ownership. The Applicant has not demonstrated that that allowed uses are “impracticable” or that the area is “irrevocably committed” to floating homes. To the contrary, many uses that do not require a Goal 11 exception might easily be established including, but not limited to docks and boat slips which could include rural non-residential sewer or water services. Again, the applicant seeks the Goal 11 exception because of a preference for floating homes over allowed uses and misses the most relevant factor in the analysis. The test is especially challenging in the public waterway where they do not own the proposed development area and the lease is by law revocable.

### **Goal 14 Exception**

Unlike a Goal 11 exception where OAR 660-004-0025 and 660-004-0028 rule, Goal 14 directs us to the alternative standard of OAR 660-014-0030. The test remains to be one of determining if certain lands are “irrevocably committed”.

#### **660-014-0030**

##### **Rural Lands Irrevocably Committed to Urban Levels of Development**

*(1) A conclusion, supported by reasons and facts, that rural land is irrevocably committed to urban levels of development can satisfy the Goal 2 exceptions standard (erg., that it is not appropriate to apply Goals 14's requirement prohibiting the establishment of urban uses on rural lands). If a conclusion that land is irrevocably committed to urban levels of development is supported, the four factors in Goal 2 and OAR 660-004-0020(2) need not be addressed.*

*(2) A decision that land has been built upon at urban densities or irrevocably committed to an urban level of development depends on the situation at the specific site. The exact nature and extent of the areas found to be irrevocably committed to urban levels of development shall be clearly set forth in the justification for the exception. The area proposed as land that is built upon at urban densities or irrevocably committed to an urban level of development must be shown on a map or otherwise described and keyed to the appropriate findings of fact.*

*(3) A decision that land is committed to urban levels of development shall be based on findings of fact, supported by substantial evidence in the record of the local proceeding, that address the following:*

*(a) Size and extent of commercial and industrial uses;*

*(b) Location, number and density of residential dwellings;*

*(c) Location of urban levels of facilities and services; including at least public water and sewer facilities; and*

*(d) Parcel sizes and ownership patterns.*

*(4) A conclusion that rural land is irrevocably committed to urban development shall be based on all of the factors listed in section (3) of this rule. The conclusion shall be supported by a statement of reasons explaining why the facts found support the conclusion that the land in question is committed to urban uses and urban level development rather than a rural level of development.*

*(5) More detailed findings and reasons must be provided to demonstrate that land is committed to urban development than would be required if the land is currently built upon at urban densities*

The Applicant seeks to establish that the vacant in-water expansion area is irrevocably committed to floating homes at urban densities. Recently, the Applicant acquired the adjoining shoreside parcel to the south of the existing development and consolidated holdings into a single parcel. The vacant water area expansion fronts the newly acquired land area. Most relevant to the factors above is the fact that nowhere is there an examination of rural uses that would be allowed without the Goal 14 exception. The predominate use of the existing facility is boat slips (they outnumber house by over 3 to 1) and a goal exception would not be required to expand this use. The floating homes are only a preference. Again, it hard to imagine the vacant expansion area being “irrevocably committed” to floating homes at

January 28<sup>th</sup>, 2010

Foster

urban densities without a full examination of the lawful alternatives or rural uses. Remember too, this is public waterway, not owned by the Applicant and the terms of the lease are revocable. It's located in a rural area predominated by resource land with minimal services on shore other than the private communal sewer and water. The commercial services that do exist are rural in nature and largely present to serve recreational boating & fishing. The bottom line test at (4) is whether or not the area proposed for the Goal 14 exception (the in-water expansion area) "*is committed to urban uses and urban development rather than a rural level of development*". Nothing in the record commits the vacant expansion area to the specific use of floating homes or eliminates the possibility of uses that comply with Goal 14. Our code provides for a number of uses that do comply and that are both prevalent and compatible in the surroundings. Any of the points in the Goal 11 discussion are relevant too. In sum, the Applicant misconstrues the test or has not carried the burden of proof.

122  
ULTNOMAH COUNTY  
nd Use Planning Division  
00 SE 190th Ave.  
rland, OR 97233

DEPT OF

FEB 10 2010

LAND CONSERVATION  
AND DEVELOPMENT

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