

# NOTICE OF DECISION



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## Application for a Willamette River Greenway Permit, Design Review, and a Flood Hazard Permit

**Case File:** T2-2023-17263

**Applicant:** Tina Farrelly

**Proposal:** Request for a new dock for personal recreational use accessory to the existing single-family dwelling located on the subject property identified below. The proposal is subject to a Willamette River Greenway Permit, Design Review, and Flood Hazard permit due to the proposed location of the development.

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**Location:** 16028 NW Gillihan Road

**Property ID #** R325162

**Map, Tax lot:** 2N1W22D -01000

**Alt. Acct. #** R971220080

**Base Zone:** Multiple Use Agriculture – 20 (MUA-20)

**Overlays:** Willamette River Greenway (WRG), Flood Hazard (FH)

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**Decision:** **Approved with Conditions**

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is April 30, 2024 at 4:00 pm.**

**Opportunity to Review the Record:** The complete digital case file associated with this application is available by contacting Anna Shank-Root via email at [anna.shank-root5@multco.us](mailto:anna.shank-root5@multco.us). Paper copies of all documents are available at the rate of \$0.46/page.

**Opportunity to Appeal:** The appeal form is available at [www.multco.us/landuse/application-materials-and-forms](http://www.multco.us/landuse/application-materials-and-forms). Email the completed appeal form to [LUP-submittals@multco.us](mailto:LUP-submittals@multco.us). An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted

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**Issued by:** \_\_\_\_\_

Anna Shank-Root, Planner

**For:** Adam Barber,  
Interim Planning Director

**Date:** Tuesday, April 16, 2024

## Vicinity Map

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### Applicable Approval Criteria:

General Provisions: MCC 39.1250 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.3005 Lot of Record – Generally, MCC 39.3080 Lot of Record – Multiple Use Agriculture – 20 (MUA-20), MCC 39.6235 Stormwater Drainage Control, MCC 39.6850 Dark Sky Lighting Standards

Multiple Use Agriculture – 20 (MUA-20): MCC 39.4310(F) - Allowed Uses, MCC 39.4325(C), (G), (J) Dimensional Standards and Development Requirements

Willamette River Greenway (WRG) Permit: MCC 39.5910 Uses – Greenway Permit Required, MCC 39.5915 Definitions, MCC 39.5935 Greenway Design Plan, MCC 39.5940 Significant Wetlands

Design Review: MCC 39.8025 Design Review Plan Contents, MCC 39.8030 Final Design Review Plan, MCC 39.8040 Design Review Criteria, MCC 39.8045 Required Minimum Standards

Flood Hazard (FH) Permit: MCC 39.5025 Application Information Required, MCC 39.5030 Development Standards, MCC 39.5035 Floodway Requirements

Comprehensive Plan Policies: 5.2 General Natural Resources Policies, 5.6 Water Quality and Erosion Control Policies, 5.15 Rivers, Streams, and Wetlands, Willamette River Greenway Policies, 5.27 Fish and Wildlife Habitat Policies

Copies of the referenced Multnomah County Code sections can be obtained by visiting our website at <https://multco.us/landuse/zoning-codes/> under the link **Chapter 39 – Zoning Code** or by contacting our office at (503) 988-3043.

## Conditions of Approval

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

1. Permit Expiration – This land use permit shall **expire** as follows:
  - a. Within two (2) years of the date of the final decision when construction has not commenced. [MCC 39.1185(B)]
    - i. For the purposes of 1.a, commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For developments without a frame or foundation, commencement of construction shall mean actual construction of support structures.
    - ii. For purposes of 1.a, notification of commencement of construction shall be given to Multnomah County Land Use Planning Division a minimum of seven (7) days prior to the date of commencement. Notification shall be sent via email to [LUP-submittals@multco.us](mailto:LUP-submittals@multco.us) with the case no. T2-2023-17263 referenced in the subject line.
  - b. Within four (4) years of the date of commencement of construction when the structure has not been completed. [MCC 39.1185(B)]
    - i. For the purposes of 1.b, completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.
    - ii. For purposes of 1.b, the property owner shall provide building permit status in support of completion of exterior surfaces of the structure and demonstrate compliance with all conditions of approval. The written notification and documentation of compliance with the conditions shall be sent to [LUP-submittals@multco.us](mailto:LUP-submittals@multco.us) with the case no. T2-2023-17263 referenced in the subject line. [MCC 39.1185]

**Note:** The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 39.1195, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.

2. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein. [MCC 39.1170(B)]
3. Prior to submitting Building Plans for Zoning Review, the property owners or their representative shall:
  - a. Acknowledge in writing that they have read and understand the conditions of approval and intend to comply with them. A Letter of Acknowledgement has been provided to assist you. The signed document shall be sent to [LUP-submittals@multco.us](mailto:LUP-submittals@multco.us). [MCC 39.1170(A) & (B)]
4. When submitting Building Plans for Zoning Review, the property owner(s) or their representative shall:

- a. Submit a final design review plan, drawn to scale, for the proposed greenway development to demonstrate compliance with the land use approvals granted, all conditions of approval and required modifications. The final design review plan shall contain the following:
    - i. Site Development and Landscape Plans indicating the locations and specifications of the items described in MCC 39.8025, as appropriate; and
    - ii. Architectural drawings, indicating sections, and elevations.
  - b. Submit information to demonstrate that any proposed exterior lighting complies with the Dark Sky Lighting Standards of MCC 39.6850. If no exterior lighting is proposed, a statement that no exterior lighting is proposed shall be added to the site plan.
5. Prior to and during construction, the property owner(s) or their representative shall ensure compliance with the following standards:
- a. Temporary fills permitted during construction shall be removed and not be allowed in the floodway during the wet weather season. [MCC 39.5030]
  - b. Uncontained areas of hazardous materials as defined by the Oregon Department of Environmental Quality shall be prohibited in areas of special flood hazard. [MCC 39.5030]
  - c. All development shall be completed in compliance with the mitigation plan provided as Exhibits A.3 and A.9. [MCC 39.5935]
  - d. All excavation and placement of material for the landing shall occur without mechanized ground disturbance. [MCC 39.5935]
6. As an ongoing condition, the property owner(s) or their representative shall:
- a. Complete the mitigation plan detailed in Exhibits A.3 and A.9. If any additional mitigation requirements result as part of the Final Design Review, such requirements shall also be completed. All mitigation plantings shall be maintained for the life of the structure, unless such requirements are altered by Multnomah County Land Use Planning in a future land use decision. [MCC 39.5940]

**Note:** Land Use Planning must sign off on the building plans before you can go to the Building Department. When ready to submit Building Plans for Zoning Review, complete the following steps:

1. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, “Prior to submitting Building Plans for Zoning Review...” Be ready to demonstrate compliance with the conditions.
2. Visit <https://www.multco.us/landuse/submitting-building-plan> for instructions regarding the submission of your building plans for zoning review and review of conditions of approval. Please ensure that any items required under, “When submitting Building Plans for Zoning Review...” are ready for review. Land Use Planning collects additional fees at the time of zoning review.

Once you have obtained an approved zoning review, application for building permits may be made with the City of Portland.

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

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



## Findings of Fact

**FINDINGS:** Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

### 1.0 Project Description:

**Staff:** The applicant proposes a dock for personal recreational use, accessory to the existing single-family dwelling located on the property identified as 2N1W22D -01000 (“subject property”). The proposed development will include the removal of 24 piles, existing dock material to the northwest of the proposed dock, planting of native species as mitigation, and installation of a 64 square foot concrete landing.

### 2.0 Property Description & History:

**Staff:** The subject property is located in unincorporated west Multnomah County in the area known as the Sauvie Island/Multnomah Channel rural area. The property is zoned Multiple Use Agriculture – 20 (MUA-20) and is located outside of Metro’s Urban Growth Boundary (UGB). According to Count Assessment and Taxation information, the subject property is occupied by a single-family dwelling and an outbuilding.

### 3.0 Public Comment:

**Staff:** Staff mailed a notice of application and invitation to comment on the proposed application to the required parties pursuant to MCC 39.1105 (Exhibit C.4). Staff did not receive public comments during the 14-day comment period.

### 4.0 Code Compliance and Applications Criteria:

#### 4.1 MCC 39.1250 CODE COMPLIANCE AND APPLICATIONS.

**Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit or zoning review approval of development or any other approvals authorized by this code for any property that is not in full compliance with all applicable provisions of the Multnomah County Zoning 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:**

\* \* \*

**Staff:** This standard provides that the County shall not make a land use decision approving development for a property that is not in full compliance with County Code or previously issued County approvals, except in the following instances: approval will result in the property coming into full compliance, approval is necessary to protect public safety, or the approval is for work related to or within a valid easement.

This standard was originally codified in the Zoning Code chapter related to land use application procedures and, by its terms, expressly applies to the application review process. Although now codified in the enforcement Part of the Zoning Code as a result of the more recent code consolidation project, the language and intent were not changed during that project and remains applicable to the application review process and not to the post-permit-approval enforcement process.

Importantly, a finding of satisfaction of this standard does not mean that a property is in full compliance with the Zoning Code and all prior permit approvals (and, accordingly, does not preclude future enforcement actions relating to uses and structures existing at the time the finding is made). Instead, a finding of satisfaction of this standard simply means that there is not substantial evidence in the record affirmatively establishing one or more specific instances of noncompliance.

For purposes of the current application, there are no known open compliance cases associated with the subject property, and there is no evidence in the record of any specific instances of noncompliance on the subject property. *Criterion met.*

## **5.0 Lot of Record Criteria:**

### **5.1 MCC 39.3005 LOT OF RECORD - GENERALLY**

**(A) An area of land is a “Lot of Record” if it meets the standards in Subsection (B) of this Section and meets the standards set forth in this Part for the Zoning District in which the area of land is located.**

**(B) A Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, either satisfied all applicable zoning laws and satisfied all applicable land division laws, or complies with the criteria for the creation of new lots or parcels described in MCC 39.9700. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.**

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

**(2) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:**

\* \* \*

### **MCC 39.3080 LOT OF RECORD – MULTIPLE USE AGRICULTURE-20 (MUA20).**

**(A) In addition to the standards in MCC 39.3005, for the purposes of the MUA-20 district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:**

\* \* \*

**(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 39.4345, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.**

**(C) Except as otherwise provided by MCC 39.4330, 39.4335, and 39.5300 through 39.5350, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.**

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

\* \* \*

**Staff:** The subject property was determined to be a Lot of Record in land use case T2-2023-16995. Multnomah County Assessment and Taxation records show that no additional deeds have been recorded on the property and that the property has not changed configuration since the issuance of the decision for T2-2023-16995. Therefore, the subject property remains a single Lot of Record.

## **6.0 Multiple Use Agriculture – 20 (MUA-20) Criteria:**

### **6.1 MCC 39.4310 ALLOWED USES**

\* \* \*

**(F) Accessory Structures subject to the following:**

**(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this base zone and is a structure identified in the following list:**

\* \* \*

**(n) Similar structures.**

**Staff:** The applicant proposes a dock for personal recreational use accessory to the existing single-family dwelling. This dock is permissible under (n) Similar structures to (i) and (j) which allow for other types of personal recreational uses as accessory uses. *Criteria met.*

### **6.2 MCC 39.4325 Dimensional Requirements and Development Standards**

**(C) Minimum Yard Dimensions**

Front	Side	Street Side	Rear
30	10	30	30

**Maximum Structure Height – 35 feet**

**Staff:** The dock will be located within the Willamette River, which is within the jurisdiction of the Department of State Lands (“DSL”). The applicant has provided copies of the DSL permits (Exhibit A.13) allowing the construction of the dock. As such, yard requirements do not apply to this development. The structure will be less than 35 feet in height. *Criteria met.*

**(G) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the lot.**

**(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.**

**(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.**

**Staff:** According to the applicant’s site plan (Exhibit A.2), the subject property has a septic system located on the same Lot of Record on the Northwest site of the dwelling, on the other side of the structure from the proposed dock development. The dock development will have no impact on the septic system. The proposed dock will not result in an increase of more than 500 square feet of impervious surfaces and therefore a stormwater certificate is not required. *Criteria met.*

**(J) All exterior lighting shall comply with MCC 39.6850.**

#### **MCC 39.6850 Dark Sky Lighting Standards**

\* \* \*

**(C) The following standards apply to all new exterior lighting supporting a new, modified, altered, expanded, or replaced use approved through a development permit and to all existing exterior lighting on property that is the subject of a development permit approval for enlargement of a building by more than 400 square feet of ground coverage.**

**(1) The light source (bulbs, lamps, etc.) must be fully shielded with opaque materials and directed downwards. “Fully shielded” means no light is emitted above the horizontal plane located at the lowest point of the fixture’s shielding. Shielding must be permanently attached.**

**(2) The lighting must be contained within the boundaries of the Lot of Record on which it is located. To satisfy this standard, shielding in addition to the shielding required in paragraph (C)(1) of this section may be required.**

**Staff:** The proposed plans (Exhibit A.9) do not show any proposed exterior lighting for the dock. A condition of approval requires that any exterior lighting for the dock meet the above requirements. *As conditioned, these criteria are met.*

## **7.0 Willamette River Greenway (WRG) Type II Land Use Permit Criteria:**

### **7.1 MCC 39.5910 USES - GREENWAY PERMIT REQUIRED.**

**All uses allowed in the base zone are allowed in the WRG when found to satisfy the applicable approval criteria given in such zone and, except as provided in MCC 39.5920, subject to approval of a WRG permit pursuant to this Subpart.**

**Staff:** Section 6.0 above confirms that the dock is permissible as an allowed use in the given zone. Due to its location within the WRG overlay, the applicant has submitted a request for a WRG permit (Exhibit A.1) and all required information as Exhibits A.1-A.14, and the approval criteria are analyzed in sections 7.2 and 7.3 below. *Criterion met.*

### **7.2.1 MCC 39.5935 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.**

**Staff:** The proposed dock is a water dependent activity that must be located within the river. The applicant's plan set (Exhibit A.9) which includes a mitigation plan, indicates that the native plants surrounding the development will be retained and enhanced as outlined in the mitigation plan. Conditions of approval require compliance with (A) above. *As conditioned, this criterion is 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.**

**Staff:** The applicant indicates in their code narrative (Exhibit A.3) that this project is designed to retain public use of the space to the extent it is already occurring, by replacing a piling that is used for temporary mooring by the public, and constructing the gangway at a sufficient height so that the public will still be able to walk underneath it on the sandy beach. *Criterion 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 base zones may continue in urban uses.**

**Staff:** Due to the water dependent nature of the use, the development cannot be directed away from the river. *Criterion met.*

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

**Staff:** The subject property is zoned Multiple Use Agriculture – 20 (MUA-20), which allows for a mix of agricultural and residential uses. The dock is an allowed use accessory to the residential use on the subject property. *Criterion 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.**

**Staff:** According to the applicant's plan set (Exhibit A.9), no timber harvesting is associated with this proposal. *Criterion met.*

**(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.**

**Staff:** The proposed dock and piling replacement satisfies recreational needs for private and public use by providing a safer location for temporary mooring on the replacement piling, and continuing beach access for the public underneath the proposed dock gangway (Exhibit A.9). The proposed dock does not have any anticipated impacts to the carrying capacity of the land, and does not conflict with farm uses, as the property is zoned for Multiple Use Agriculture – 20 (MUA-20), and the dock is an allowed use in the zone. *Criterion met.*

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

**Staff:** The site is not identified as within any Significant Environmental Concern overlays by Multnomah County GIS resources. According to the proposed Mitigation Plan and Construction Note (Exhibit A.9), measures will be taken during construction to mitigate the impacts to fish. Additionally, remedial planting will occur after project completion to protect local habitat. Conditions of approval require compliance with (G) above. *As conditioned, this criterion is met.*

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

**Staff:** This site is not within the Significant Environmental Concern for Scenic Views overlay, which identifies locations that are visible from significant view points and vistas. *Criterion met.*

**(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.**

**Staff:** No negative public safety impacts from the proposed development were identified through permit reviews by State and Federal agencies for impacts to floodwaters, the levee, impacts to the boating public, and construction impacts (Exhibit A.13). *Criterion 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.**

**Staff:** The applicant has provided a mitigation plan (Exhibit A.9) that indicates, the quantity, size, and spacing of the natural and local vegetation that will be used for the enhancement portion of the proposed development. Conditions of approval require compliance with (J) above. *As conditioned, this criterion is met.*

**(K) Extraction of known aggregate deposits may be permitted, pursuant to the provisions of MCC 39.7300 through 39.7330...**

**Staff:** The proposed plans (Exhibit A.9) do not propose any extraction of known aggregate deposits as part of this project. *Criterion met.*

**(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.**

**Staff:** The proposed development is located within the 100-year regulatory floodway. As a result, the applicant has submitted an Engineered No-Rise Analysis (Exhibit A.11), which certifies that the proposed development will not result in increases to the existing surface management levels. *Criterion met.*

**(M) Significant wetland areas shall be protected as provided in MCC 39.5940.**

**Staff:** The project is evaluated for compliance with MCC 39.5940 in section 7.3 below. *Criterion met.*

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

**Staff:** No areas of historical or archeological significance are known on the site. The proposal includes the removal of 16 piles from the river and remnants of a nearby dock. Grating will be utilized for all overwater structures, and riparian plantings will be utilized to protect, remediate and enhance the areas of ecological and scientific significance. *Criterion met.*

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

**Staff:** The applicant's plans propose hand excavation and placement for the landing, and as such, this work is exempt from an Erosion and Sediment Control Permit. Existing rip-rap on the slopes adjacent to the river banks mitigate erosion control concerns. The planting of additional native plants, that are compatible with the character of the Greenway, along that area are anticipated to further mitigate potential erosion concerns. Non-mechanized excavation and placement of material for the landing is a condition of approval. *As conditioned, this criterion is met.*

**(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.**

**Staff:** There are no anticipated impacts to water or land resources as a result of the proposed development (Exhibit A.13). The implementation of several mitigation measures will offset increased recreational water use (Exhibit A.9). *Criterion 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 base zones, 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.**

**Staff:** (Q) above excepts water dependent uses from this standard. As a dock is a water dependent use, a 150 ft. setback line is not required. *Criterion met.*



**(R) Any development, change of use or intensification of use of land classified WRG, shall be subject to design review, pursuant to MCC 39.8000 through 39.8050, to the extent that such design review is consistent with the elements of the Greenway Design Plan.**

**Staff:** The Design Review criteria of MCC 39.8000-39.8050 is evaluated in Section 8.0 below.  
*Criterion met.*

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

**Staff:** The applicable policies of the Comprehensive Plan are bolded and italicized below, followed by staff comments.

**5.2 *Protect natural areas from incompatible development and specifically limit those uses which would significantly damage the natural area values of the site.***

**Staff:** The proposed site is already developed with a single-family dwelling, outbuilding and patio. The proposed dock is accessory to the existing residential development and is compatible with uses on surrounding properties.

**5.6 *Protect vegetated riparian corridors in order to maintain their water quality functions including the following:***

- 1. *Providing shade to maintain or reduce stream temperatures to meet state water quality standards;***
- 2. *Supporting wildlife in the stream corridors;***
- 3. *Minimizing erosion, nutrient, and pollutant loading into water;***
- 4. *Maintaining natural hydrology; and***
- 5. *Stabilizing slopes to prevent landslides that contribute to sedimentation of water.***

**Staff:** No vegetation removal is associated with the proposed dock. The applicant will plant native species within the riparian corridor to enhance water quality function and provide shade to reduce stream temperatures. Proposed ground disturbance is limited to a 64 square foot, at-grade concrete platform, and no erosion is anticipated. A Stream Functional Assessment that analyzes the impacts to natural hydrology, concluded that removal of aging pilings at a 3:1 ratio with the ones that will be installed for the dock will result in improvements and restoration to the natural hydrology. Planting of native species in sloped areas on the back of the river will contribute to slope stability.

**5.15 *Protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River.***

**Staff:** The code criteria established for WRG permits that are evaluated here in section 7.0 of this report ensure that 5.15 is satisfied.

**5.27 *Protect significant native fish and wildlife habitat and wildlife corridors and specifically limit conflicting uses within these habitats and sensitive big game winter habitat areas.***

**Staff:** In the provided mitigation plan (Exhibits A.3 and A.9), which is prepared by Natural Resource Scientists, indicate that the grating that is proposed as the dock material is the industry standard for minimizing impacts to fish habitat. Additionally, there are no known wildlife habitats or sensitive big game winter habitat areas within the proposed development site. *Criterion met.*

### 7.3 MCC 39.5940 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 Plan. Any proposed activity or use requiring an WRG permit which would impact those wetlands shall be subject to the following:

(A) In addition to other WRG Permit submittal requirements, the application shall also include:

- (1) A site plan drawn to scale showing the wetland boundary as determined by a documented field survey, the location of all existing and proposed structures, roads, watercourses, drainageways, stormwater facilities, utility installations, and topography of the site at a contour interval of no greater than five feet;
- (2) A description and map of the wetland area that will be affected by the proposed activity. This documentation must also include a map of the entire wetland, an assessment of the wetland's functional characteristics and water sources, and a description of the vegetation types and fish and wildlife habitat;
- (3) A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, grading, dredging, and vegetation removal, including the amounts and methods;
- (4) A study of any flood hazard, erosion hazard, or other natural hazards in the proposed development area and any proposed protective measures to reduce such hazards;
- (5) Detailed Mitigation Plans as described in subsection (D), if required;
- (6) Description of how the proposal meets the approval criteria listed in subsection (B) below.

**Staff:** The proposed development requires a WRG permit and is therefore subject to (A)(1)-(6) above. The applicant has provided the required materials as Exhibits A.1-A.14. *Criteria met.*

(B) In addition to the criteria listed in MCC 39.5935 the applicant shall demonstrate that the proposal:

- (1) Is water-dependent or requires access to the wetland as a central element of its basic design function, or is not water dependent but has no practicable alternative as described in subsection (C) below;

**Staff:** The proposed dock is a water dependent use. *Criterion met.*

- (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;

**Staff:** The applicant submitted a mitigation plan (Exhibits A.3 – A.9), and an engineered no-rise analysis (Exhibit A.11), which indicate that the impacts to wetlands, vegetation, fish and wildlife, shoreline anchoring, flood storage, hydrological conditions and visual amenities will be limited. In some cases, the analysis finds that the proposed development enhances the aforementioned characteristics. The applicant proposes removing degrading dock and piling structures from the river, planting several native plants species along the shoreline, and using materials that minimize impacts to fish and wildlife.

According to the site-specific information in the adopted Wetlands Inventory and the West County ESEE analysis (Exhibit B.3), the site contains areas of Inventoried Riparian Wildlife Habitat. These maps indicate that areas within this designation are required to be analyzed by staff through review uses to analyze development impacts. In this decision, staff provides analysis of potential impacts to Riparian Wildlife Habitat. The proposed mitigation plan (Exhibits A.3 – A.9) outlines planting strategies to mitigate any potential impacts to Riparian Habitat. Implementation of the Mitigation Report as described is a condition of approval. *As conditioned, this criterion is met.*

**(3) Will not cause significant degradation of groundwater or surfacewater quality;**

**Staff:** The application includes a Stream Functional assessment which indicates that only minimal impacts are anticipated as a result of this development. Additionally, the new dock development will be located in a deep-water area, minimizing its impacts on surface water. The removal of shallow-water pilings at a 3:1 ratio, should further offset any of the minimal impacts to surface water that are anticipated. *Criterion met.*

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

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

**Staff:** No upland activities are included in the proposed development. No loss of existing wetland areas is anticipated as a result of the proposed development (Exhibit A.2). *Criterion met.*

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

**(1) A site plan and written documentation which contains the applicable information for the replacement wetland as required by MCC 39.5935 and subsection (A) of this section;**

**(2) A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;**

**(3) A Mitigation Plan which demonstrates retention of the resource values addressed in subsection (B) (2) above;**

**(4) Documentation that replacement wetlands were considered and rejected according to the following order of locational preferences:**

- (a) **On the site of the impacted wetland, with the same kind of resource;**
- (b) **Off-site, with the same kind of resource;**
- (c) **On-site, with a different kind of resource;**
- (d) **Off-site, with a different kind of resource.**

**Staff:** The applicant submitted a mitigation site plan and written documentation (Exhibits A.3 and A.9) which indicate the mitigation measures that will be taken to offset any harmful impacts of the proposed development. Two (2) planting areas have been specified to be vegetated with native species to offset the 64 square foot concrete landing that will be installed at the top of the gangway. Within the water, 24 old pilings will be removed from the river and replaced with eight (8) new pilings for the proposed dock, resulting in a net decrease of 16 pilings which is expected to decrease hydrological impacts. The applicant has provided permit documentation of coordination with State and Federal agencies for this project as Exhibit A.13. This project will not result in a loss of wetlands and therefore no replacement wetland areas are required. Completing the mitigation plan is a condition of approval. *As conditioned, these criteria are met.*

## **8.0 Design Review (DR) Type II Land Use Permit Criteria:**

### **8.1 MCC 39.8020 APPLICATION OF REGULATIONS.**

**(A) Except those exempted by MCC 39.8015, the provisions of MCC 39.8000 through 39.8050 shall apply to all conditional and community service uses, and to specified uses, in any base zone.**

**Staff:** Per MCC 39.5935(R) this use is specified as subject to design review, and does not meet any of the exemption in MCC 39.8015. The applicable criteria are applied below. *Criterion met.*

**(B) Uses subject to Design Review that require the creation of fewer than four new parking spaces pursuant to MCC 39.6590 shall only be subject to the following Design Review approval criteria: MCC 39.8040(A)(1)(a) and (1)(c), and (4) and (7), except when located in the RC, BRC, OR, OCI, PH-RC or SRC zone base zones.**

**Staff:** The proposed dock is an accessory use to an existing single-family dwelling. Per MCC 39.6590, a single-family dwelling must provide two off-street parking spaces. The proposed dock will not increase the number of dwelling units on the property, and is indicated for personal use and therefore should not cause an increase in trips to the subject property. No additional parking spaces are required. As such, this project is subject only to MCC 39.8040(A)(1)(a) and (1)(c), (4) and (7), as it is located in the MUA-20 base zone. *Criterion met.*

### **8.2 MCC 39.8025 DESIGN REVIEW PLAN CONTENTS.**

**(A) The design review application shall be filed on forms provided by the Planning Director and shall be accompanied by a site plan, floor plan, architectural elevations and landscape plan, as appropriate, showing the proposed development. (B) Plans shall include the following, drawn to scale:**

- (1) Access to site from adjacent rights-of-way, streets, and arterials;**

\* \* \*

**(14) The size, species, and approximate locations of plant materials to be retained or placed on the site; and**

**(15) Proposed ground-disturbance, grading, filling and site contouring.**

**Staff:** The applicant included all of the required items for the Design Review Plan as part of their site plan (Exhibit A.2), code narrative (Exhibit A.3), and plan set (Exhibit A.9 and A.7). Many of the items indicated in the plan contents do not apply to this development as they are not required for the limited designed review authorized by MCC 39.8020(B) as noted above. *Criteria met.*

### **8.3 MCC 39.8030 FINAL DESIGN REVIEW PLAN.**

**Prior to land use approval for building permit review or commencement of physical development where no additional permits are necessary, the applicant shall revise the plans to show compliance with the land use approvals granted, all conditions of approval and required modifications. Final design review plan shall contain the following, drawn to scale:**

\* \* \*

**Staff:** Submittal of the final design review plan at the time of Zoning Plan Review is required as a condition of approval. *As conditioned, this criterion is met.*

### **8.4 MCC 39.8040 DESIGN REVIEW CRITERIA.**

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

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

**(a) The elements of the design review plan shall relate harmoniously to the natural environment and existing buildings and structures having a visual relationship with the site.**

**Staff:** The proposed dock is designed in natural grey earth tones (Exhibits A.3, A.5, and A.7) in order to relate harmoniously to the natural environment. Additionally, the applicant has provided site pictures (Exhibit A.7) that show that the existing area where the dock will be sited contains dark grey sand and dark grey and brown riprap, and the existing dwelling is painted a deep grey, all of which the design of the dock will have a cohesive visual relationship with. *Criterion met.*

**(c) Each element of the design review plan shall effectively, efficiently, and attractively serve its function. The elements shall be on a human scale, inter related, and shall provide spatial variety and order.**

**Staff:** According to reviews conducted by contracted engineers (Exhibits A.7, A. 11 - A.12, and A.14), the dock is designed effectively and efficiently for flood safety, water access, and minimal ecological impact on the surrounding area. The applicant indicates that the natural grey earth tones of the proposed dock (Exhibits A.3, A.5, and A.7) blend well with the surrounding elements of the property, which minimizes visual impacts on the surrounding area. The dock is designed for personal use accessory to the residence, as are dwelling, outbuilding and patio elements existing on the site. *Criterion met.*

**(4) Preservation of Natural Landscape - The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve their functions. Preserved trees and shrubs shall be protected during construction.**

**Staff:** The applicant does not propose any grading in association with the proposed dock, piling removal and concrete landing. The concrete landing will be installed at grade, by hand, with equal excavation at the same site to ensure a balanced cut and fill (Exhibit A.3). Planting of native species along the bank of the river is proposed to enhance the natural landscape. No trees and shrubs will be removed to accommodate the development. *Criterion met.*

**(7) Buffering and Screening - Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking, and similar accessory areas and structures shall be designed, located, buffered or screened to minimize adverse impacts on the site and neighboring properties.**

**Staff:** No storage, equipment, loading or parking activities are proposed or anticipated with the development of the dock. *Criterion met.*

## **8.5 MCC 39.8045 Required Minimum Standards**

\* \* \*

**(C) Required Landscape Areas** The following landscape requirements are established for developments subject to design review plan approval:

\* \* \*

**Staff:** As noted above, the project qualifies for a “Limited Design Review” under MCC 39.8020 (B). Therefore, the project does not need to address the landscape requirements of MCC 39.8045. *These criteria are not applicable.*

## **9.0 Flood Hazard (FH) Type I Land Use Permit Criteria:**

### **9.1 MCC 39.5025 APPLICATION INFORMATION REQUIRED.**

**An application for development subject to a Floodplain Development Permit shall include the following:**

**(A) A map showing the property line locations, the surveyed boundaries of the Areas of Special Flood Hazard on the parcel, roads, and driveways, existing structures, watercourses and the location of the proposed development(s), topographic elevations for the proposed development and areas of grading or filling required for the project. The FIRM map and panel number shall also be provided on the map.**

\* \* \*

**(E) Evidence that the applicant has obtained, when necessary, prior approval from those Federal, State and/or local governmental agencies with jurisdiction over the proposed development.**

**Staff:** The applicant has submitted the required information in (A)-(E) above as Exhibits A.1-A.15. *Criteria met.*

## **9.2 MCC 39.5030 DEVELOPMENT STANDARDS.**

**The following development standards shall apply within all portions of unincorporated Multnomah County to all new construction, substantial improvement or other development in areas of special flood hazard, as defined in MCC 39.5005:**

**(A) This section applies to all development within areas of special flood hazard in unincorporated Multnomah County as defined in MCC 39.5005.**

**(1) Development, excavation and fill shall be performed in a manner that maintains or increases flood storage and conveyance capacity and does not increase the design flood elevation.**

**Staff:** The applicant has submitted an engineered no-rise analysis (Exhibit A.11) that certifies that the proposed development will not result in decreased flood storage and will not increase the flood elevation. *Criteria met.*

**(2) All fill placed at or below the design flood elevation in areas of special flood hazard shall be balanced with at least an equal amount of soil material removal.**

**Staff:** The applicants proposed plans indicate that the fill for this project will be balanced with an equal amount of soil material removal at the site of the fill placement (Exhibit A.9 and A.7). *Criterion met.*

**(3) Excavation shall not be counted as compensating for fill if such areas will be filled with water in non-storm winter conditions.**

**Staff:** The excavation of the material to compensate for the fill proposed to be placed for the concrete landing will be placed at the location of the resulting landing, which will remain at the current grade (Exhibit A.3). As the resulting grade will not change, and as this location is outside the ordinary high-water mark, this criterion is met. *Criterion met.*

**(4) Temporary fills permitted during construction shall be removed and not be allowed in the floodway during the wet weather season.**

**(5) Uncontained areas of hazardous materials as defined by the Oregon Department of Environmental Quality shall be prohibited in areas of special flood hazard.**

**Staff:** The above requirements are included as conditions of approval. *As conditioned, these criteria are met.*

**(B) This section applies to all structures within areas of special flood hazard in unincorporated Multnomah County as defined in MCC 39.5005.**

**(1) All new construction and substantial improvement shall:**

**(a) Comply with Oregon State Building Codes.**



**Staff:** Multnomah County Land Use Planning contracts the City of Portland Bureau of Development Services to review all projects in unincorporated West Multnomah County for compliance with Oregon State Building Codes. The applicants are required to obtain a building permit for the proposed dock where the project will be reviewed for compliance with Oregon State Building Codes. *Criterion met.*

**(b) Have the electrical, heating, ventilation, duct systems, plumbing, and air conditioning equipment and other service facilities located a minimum of one foot above the base flood elevation to prevent water from entering or accumulating within the components during conditions of flooding.**

**Staff:** The proposal is for a dock structure, and none of the facilities listed above are proposed with this development. *Criterion met.*

**(c) Use materials and utility equipment resistant to flood damage.**

**Staff:** The applicant has provided an engineered floodproofing certificate (Exhibit A.12) that confirms that the proposed materials are resistant to flood damage. *Criterion met.*

**(d) Use methods and practices that minimize flood damage.**

**Staff:** The applicant has provided an engineered no-rise analysis (Exhibit A.11) and an engineered floodproofing certificate (Exhibit A.12) that certify that the proposed development uses industry standard methods and practices that will minimize flood damage. *Criterion met.*

### **9.3 MCC 39.5035 FLOODWAY REQUIREMENTS**

**In areas identified as a floodway on a Flood Insurance Rate Map (FIRM), the following restrictions, in addition to the requirements of MCC 39.5030, shall apply:**

**(A) No development shall be permitted that would result in any measurable increase in base flood levels.**

**(1) Encroachment into the floodway, including fill, new construction, substantial improvements and other development, is prohibited, unless a detailed step backwater analysis and conveyance compensation calculations, certified by a State of Oregon registered professional engineer, are provided which demonstrates that the proposed encroachment will cause no measurable increase in flood levels (water surface elevations) during a base flood discharge.**

**(2) If subsection (1) above is satisfied, all new construction and substantial improvements shall comply with MCC 39.5030.**

**Staff:** The proposed dock involves encroachment in the floodway (Exhibit A.2). The applicant has submitted a no-rise analysis (Exhibit A.11) certified by a State of Oregon registered professional engineer, demonstrating that the proposed encroachment will cause no measurable increase in flood levels during a base flood discharge. *Criteria met.*

**(B) In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the FIRM, unless:**

**(1) It is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community as identified in the Flood Insurance Study (Multnomah County, Oregon and Incorporated Areas), and**

**(2) The applicable requirements of MCC 39.5030 are met.**

\* \* \*

**Staff:** The proposed development is located in an area where the regulatory floodway has been designated. (B) does not apply to the proposed development.

## **10.0 Conclusion**

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Willamette River Greenway, Design Review, and Flood Hazard permits to establish a new dock for personal recreational use in the Multiple Use Agriculture - 20 zone. This approval is subject to the conditions of approval established in this report.

## **11.0 Exhibits**

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibits with an ‘\*’ have been reduced in size and included with the mailed decision. All exhibits are available for review by contacting Anna Shank-Root via email at [anna.shank-root5@multco.us](mailto:anna.shank-root5@multco.us).

<b>Exhibit #</b>	<b># of Pages</b>	<b>Description of Exhibit</b>	<b>Date Received / Submitted</b>
A.1	1	Application Form	09.07.2023
A.2	1	Site Plan	09.07.2023
A.3	29	Code Narrative	09.07.2023
A.4	9	Initial Plan Set	09.07.2023
A.5	9	Site Photographs	09.07.2023
A.6	5	Fire Service Agency Review Form	09.07.2023
A.7	3	Dock Specification Sheets	09.07.2023
A.8	3	Additional Code Narrative Information	11.10.2023
A.9*	7	Revised Plan Set	11.10.2023

A.10	7	T2-2023-16995 Lot of Record Notice of Decision	11.10.2023
A.11	5	Engineered No-Rise Analysis	11.10.2023
A.12	3	Engineered Floodproofing Certificate	11.10.2023
A.13	30	State and Federal Permits	11.10.2023
A.14	3	Dock Design Changes and Engineering Impact Statement	12.14.2023
<b>‘B’</b>	<b>#</b>	<b>Staff Exhibits</b>	<b>Date</b>
B.1	2	Assessment and Taxation Property Information for 2N1W22D -01000 (Property ID # R325162 Alt. Acct. # R971220080)	09.07.2023
B.2	1	Current Tax Map for 2N1W22D	04.05.2024
B.3	90	ESEE Analysis – West County	04.10.2024
<b>‘C’</b>	<b>#</b>	<b>Administration &amp; Procedures</b>	<b>Date</b>
C.1	3	Incomplete letter	10.06.2023
C.2	1	Applicant’s acceptance of 180-day clock	11.5.2023
C.3	1	Complete letter (day 1)	11.29.2023
C.4	2	Opportunity to Comment	01.17.2024
C.5	21	Decision	04.16.2024

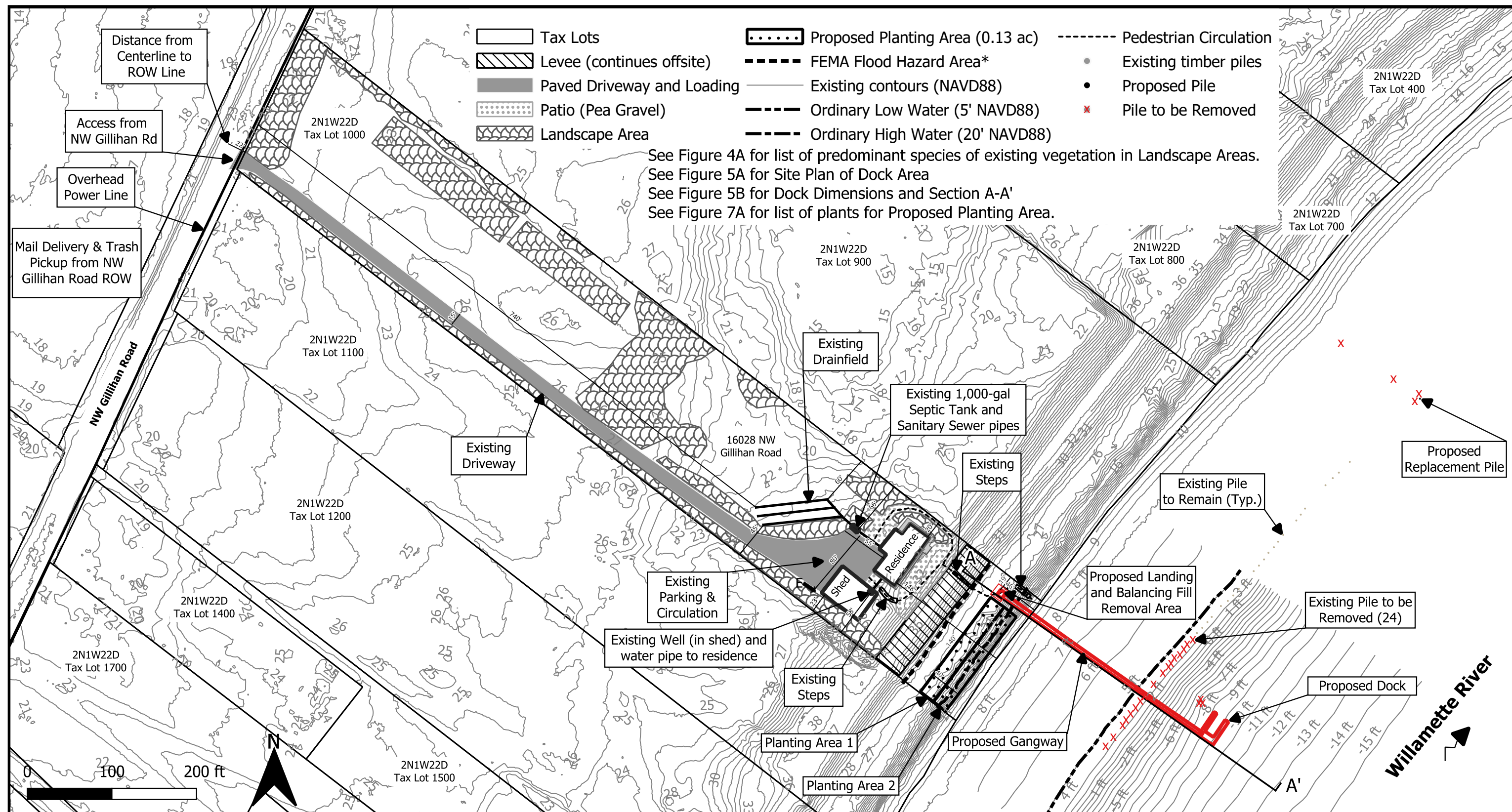
# Attachment 1

## Revised Plans









#7253  
11/10/2023



Pacific Habitat Services, Inc.  
9450 SW Commerce Circle, Suite 180  
Wilsonville, OR 97070

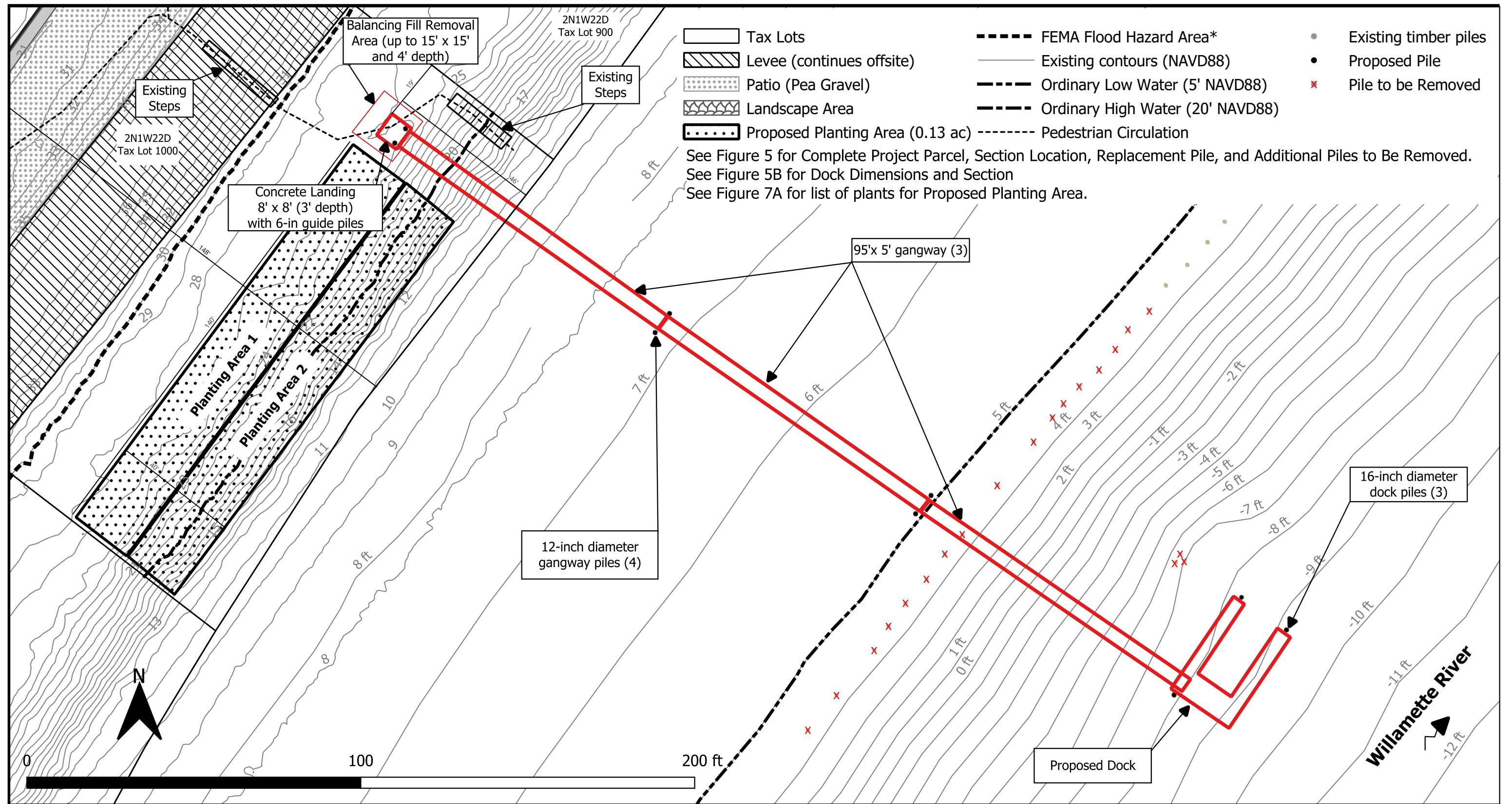
Land contours from www.NOAA.gov (2010).  
Bathymetry of the Willamette River from Statewide  
Land Surveying, Inc. Tax Lots and 100-year  
floodplain downloaded from RLIS (Metro 2020).  
Vertical Datum is NAVD88.

\*FEMA Flood Hazard Area line is at approximately 30 feet  
elevation (NAVD88) and depicts the Regulatory Floodway  
and the Base Flood Elevation (See FIRM Map  
#41051C0045H, Panel 45 of 550).

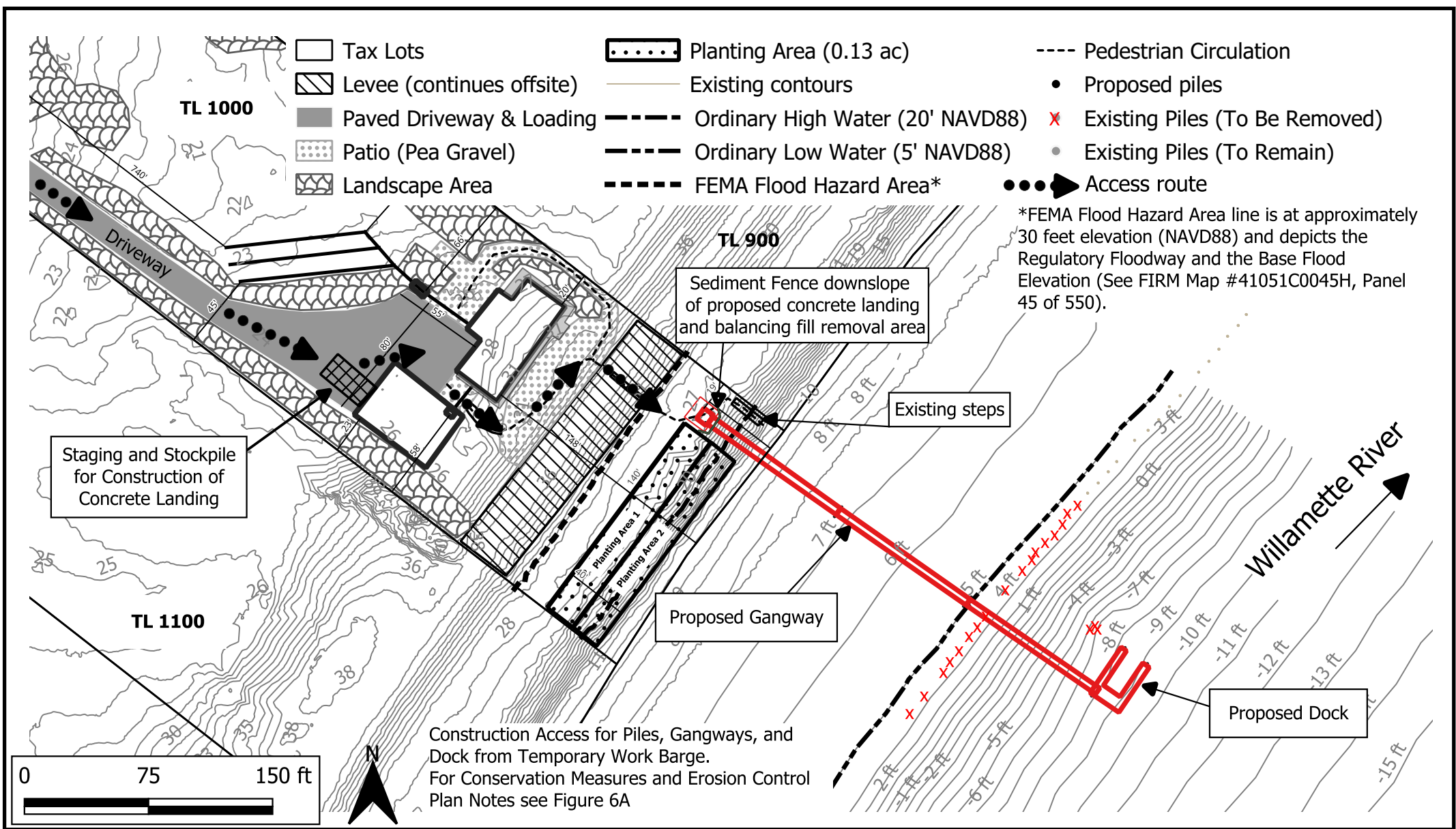
Paine Residential Dock Project - Site Plan Overview  
Multnomah County, Oregon

FIGURE  
5









#7253

11/10/2023



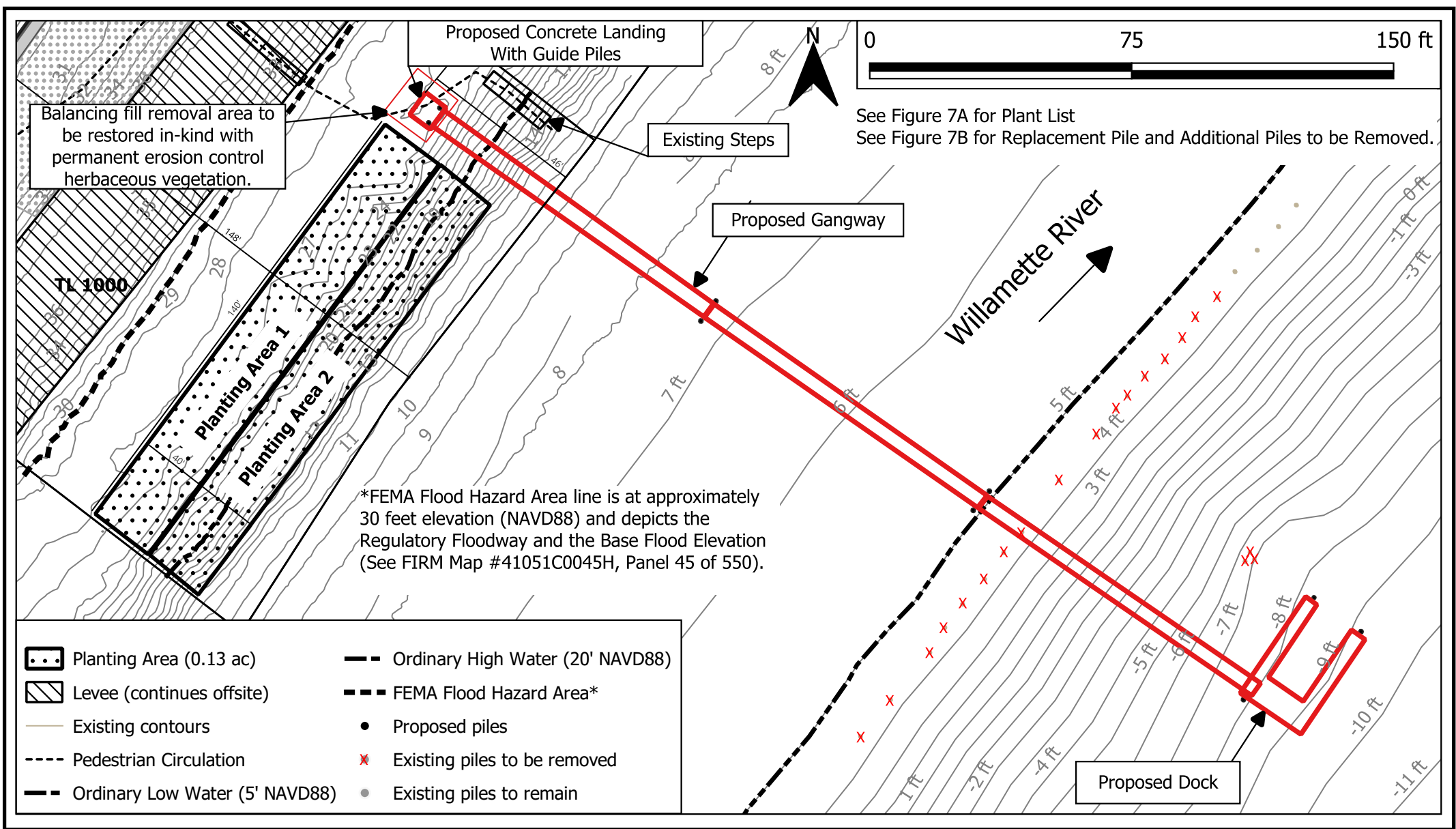
Pacific Habitat Services, Inc.  
9450 SW Commerce Circle, Suite 180  
Wilsonville, OR 97070

Land contours from www.NOAA.gov (2010). Bathymetry of the Willamette River from Statewide Land Surveying, Inc. Tax Lots and 100-year floodplain downloaded from RLIS (Metro 2020). Vertical Datum is NAVD88. Dock, Piles and Gangway Plans Provided by Kens Flotation Services, Inc

Paine Residential Dock Project Construction Management Plan  
Multnomah County, Oregon

FIGURE

6



#7253  
11/10/2023

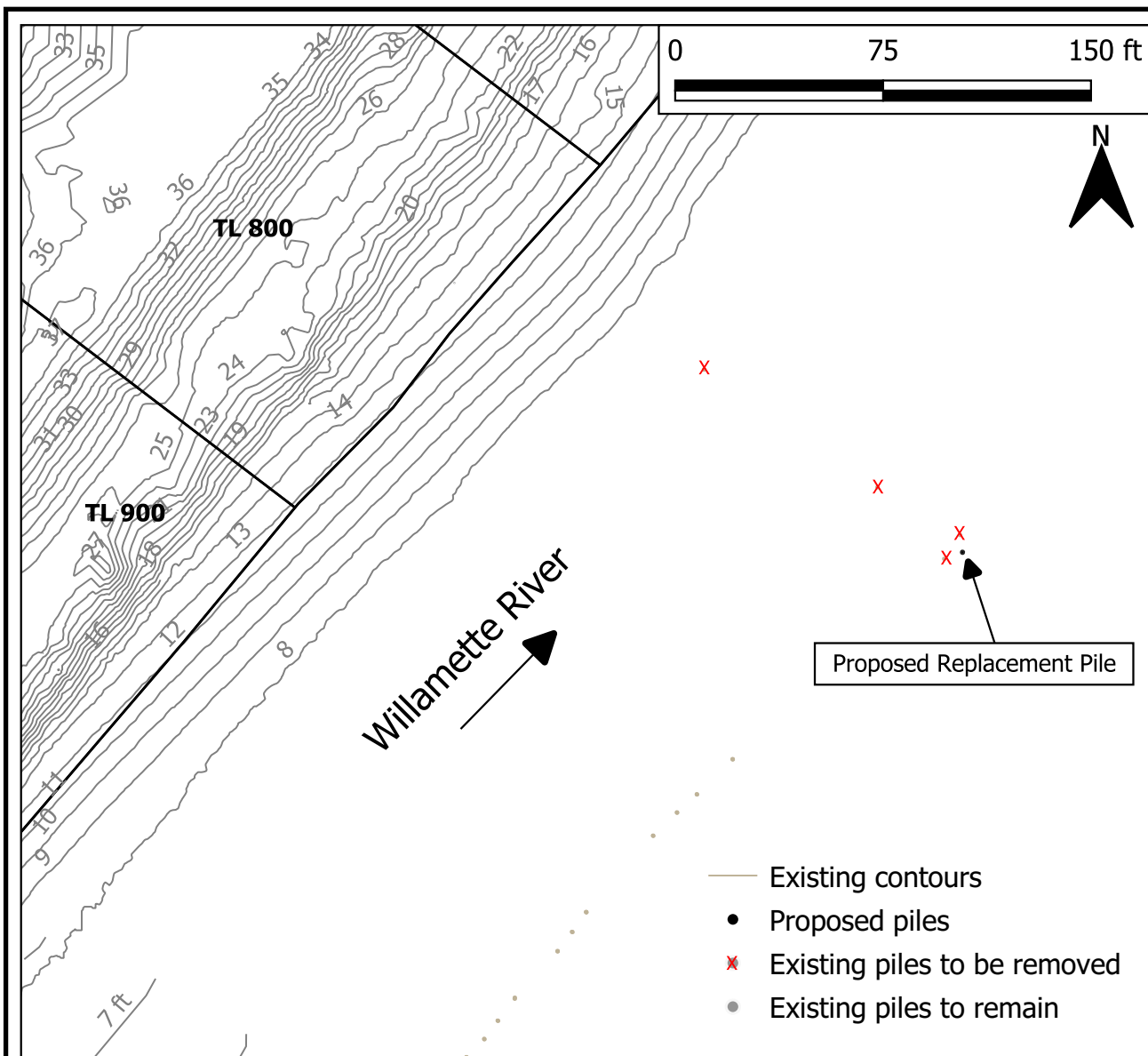


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Wilsonville, OR 97070

Land contours from www.NOAA.gov (2010). Bathymetry of the Willamette River from Statewide Land Surveying, Inc. Tax Lots and 100-year floodplain downloaded from RLIS (Metro 2020). Vertical Datum is NAVD88. Dock, Piles and Gangway Plans Provided by Kens Flotation Services, Inc

Paine Residential Dock Project Mitigation Plan  
Multnomah County, Oregon

FIGURE  
7



FEMA Flood Hazard Area includes areas below approximately 30 feet elevation (NAVD88) and includes the Regulatory Floodway and the Base Flood Elevation (See FIRM Map #41051C0045H, Panel 45 of 550).

See Figure 7 for Proposed dock, Riparian Plantings, and twenty (20) piles to be removed.  
See Figure 7A for Plant List.

#7253

11/10/2023



Pacific Habitat Services, Inc.  
9450 SW Commerce Circle, Suite 180  
Wilsonville, OR 97070

Land contours from [www.NOAA.gov](http://www.NOAA.gov) (2010). Bathymetry of the Willamette River from Statewide Land Surveying, Inc. Tax Lots and 100-year floodplain downloaded from RLIS (Metro 2020). Vertical Datum is NAVD88. Dock, Piles and Gangway Plans Provided by Kens Flotation Services, Inc

Paine Residential Dock Project Mitigation Plan  
Multnomah County, Oregon

FIGURE  
7B