

# Appendix 4: Marinas & Floating Homes Background Report

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

Subcommittee Agenda

Tuesday, December 17, 2013

3:00 – 5:00 p.m.

Multnomah Building – 501 SE Hawthorne Blvd., Portland 97214

1<sup>st</sup> Floor Board Room (Room 112)

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3:00-3:10 p.m.

**Introduction**

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

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3:10-3:20 p.m.

**Relationship of the subcommittee to the Full CAC and other decision makers**

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3:20-3:30 p.m.

**The Subcommittee's Charge**

- Problem-solving technical committee
- Identify issues and suggest policy solutions to these issues
- Identify points where consensus is not reached and why
- Assist in presentation of subcommittee recommendations to the full CAC

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3:30-3:50 p.m.

**Existing Facilities & Master Plans Public**

- Overview of existing plans and policies.
  - Relationship to applicable State regulations
- 

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3:50-4:50 p.m.	<b>Key Issues</b> <ul style="list-style-type: none"> <li>Discuss and reach consensus on the Key Issues to be addressed (Section 1 of the draft outline)</li> </ul>
4:50-5:00 p.m.	<b>Adjourn</b> <ul style="list-style-type: none"> <li>Next Meeting</li> </ul>

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## MEETING SUMMARY: Marinas and Moorages Subcommittee Meeting #1:

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

**Date:** 12/17/2013

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

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

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

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

### Introduction:

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

The following issues, topics, and concerns were raised:

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

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

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

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

## Introduction

As described on the Multnomah County website:

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

*Appendix 4 – Marinas and Floating Homes Background Report* is the fourth of a series of topic-specific background documents that are intended to serve as the factual and analytical basis for the 2013-2014 update of the *Sauvie Island – Multnomah Channel Rural Area Plan and Transportation System Plan* (SIMC Plan).

Appendix 4 addresses land use and water issues in the **Multnomah Channel Area** of the SIMC Plan. As shown on Map 1, the Multnomah Channel Area includes land and water areas between US Highway 30 and the channel, the channel itself, the Willamette River Greenway, and adjacent water-dependent and water-related uses (marinas, boat ramps and related parking areas).

Map 1. Multnomah Channel Area

**[INSERT MAP 1 HERE showing all land and water between**

**US 30 and the Willamette River Greenway Boundary on the east side of Multnomah Channel]**

## Historical Context

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

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

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

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

## Acknowledgments

Appendix 4 resulted in large part from the work and recommendations of the SIMC Community Advisory Committee (CAC), the SIMC Technical Advisory Committee (TAC) and most particularly the Marinas and Floating Homes Subcommittee, comprised of select CAC and TAC members who expressed an interest in and knowledge of the complex issues addressed in this report. Subcommittee members who actively participated in the preparation of this appendix include the following:

### CAC Subcommittee Members

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

### TAC Subcommittee Members

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

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



- Anne Squier, Floating Home Resident

The process leading up to these recommendations is documented in Appendix 2: Community Involvement Plan and in Section 6 of this report.

## Relation of Appendix 4 to the SIMC Plan

The SIMC Plan itself will include a vision statement, plan policies and implementation strategies, plan and zoning maps, and land use regulations for the entire SIMC planning area. The SIMC Plan will also include basic explanatory text and tables, as well as composite inventory maps – but the detailed substantive and procedural information leading up to the adoption of the SIMC Plan is found in the series of appendices listed below. To become effective, the SIMC Plan must be “acknowledged” as complying with all fifteen applicable statewide planning goals; findings documenting compliance with these goals is found in Appendix 9.

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

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

- Appendix 1: *SIMC Scoping Report* (CH2M Hill)
- Appendix 2: *Community Involvement Plan, Process and Results* (Zenn Associates)
- Appendix 3: *Agriculture and Agri-Tourism Background Report*
- **Appendix 4: *Multnomah Channel Marinas and Floating Homes Background Report***
- Appendix 5: *Natural and Cultural Resources Background Report*
- Appendix 6: *Parks and Public Facilities Background Report*
- Appendix 7: *Transportation System Plan Background Report*
- Appendix 8: *Consistency with Applicable Statewide Planning Goals*
- Appendix 9: *Consistency with State and Federal Agency Plans*

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

with the intent of fully integrating the series of topical issues and policies into a cohesive and internally consistent rural area planning document.

## Maps & Figures

Appendix 4 includes the following maps and figures for land and water areas within the Multnomah Channel Area. Portions of the maps and figures listed below will be incorporated into the SIMC Plan for the entire planning area, which includes all of Sauvie Island, Multnomah Channel and land between the Channel and US Highway 30.

1. Vicinity Map of Multnomah Channel Area showing:
  - a. Marinas
  - b. Vacant Parcels
  - c. Wapato Park and Burlington Bottom
  - d. Dikes and General Topography
  - e. The Bridge, Roads and Parking Areas
2. Sauvie Island Marinas & Floating Home Moorages (names of facilities shown on map –use Oregon State Marine Board as resource)
3. Aerial Photo Showing Marinas and Floating Home Moorages
4. Map Showing Land Use Approvals
  - a. Goal 14 Exception Areas
  - b. Specific Area Plans
  - c. Conditional Use / Community Service Use Permits
  - d. Marinas with Policy 10 Approval
  - e. DSL Leases and Permits
5. Zoning Map Showing of Multnomah Channel Area:
  - a. Base Zones
  - b. Willamette River Greenway
  - c. Policy 26 Moorage Boundaries
  - d. Floodplain and Floodway
6. Map Showing Multnomah Channel Land Ownership and Conservation Easements
  - a. Private Ownership
  - b. Conservation Easements
  - c. Public Ownership (Metro, ODFW, Multnomah County, Other)
7. Multnomah Channel Public and Private Facilities
  - a. On-Site Sewage Disposal (community drain fields)
  - b. Water (wells or Burlington Water District)
  - c. Fire Protection
  - d. Railroad Crossings
8. Other? Note: some maps may be combined.



## Section 1: Key Marina and Floating Home Issues

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

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

## Related Issues

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

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

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

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

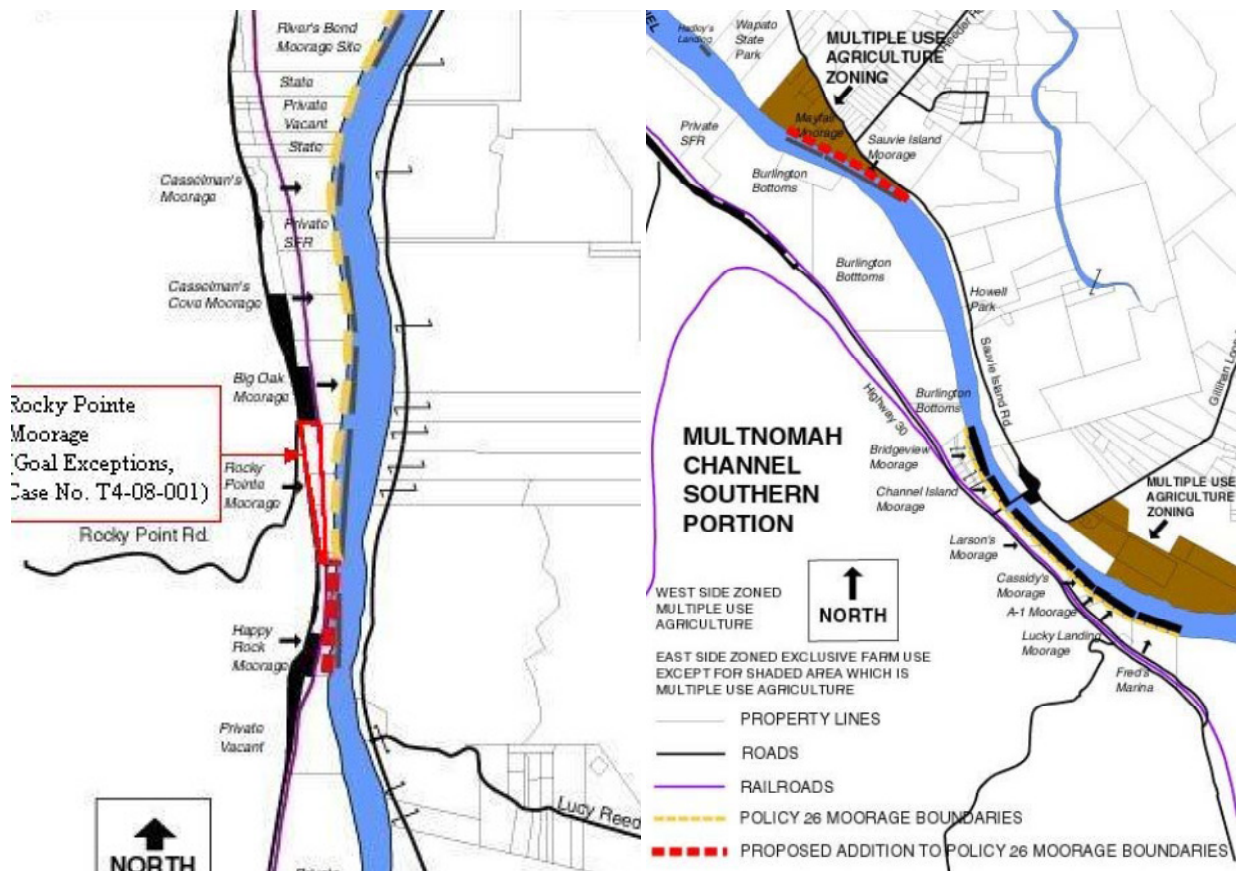
## Section 2: Inventory & Analysis

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

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

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

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



Source: SIMC Plan 1997

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

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

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

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

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

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

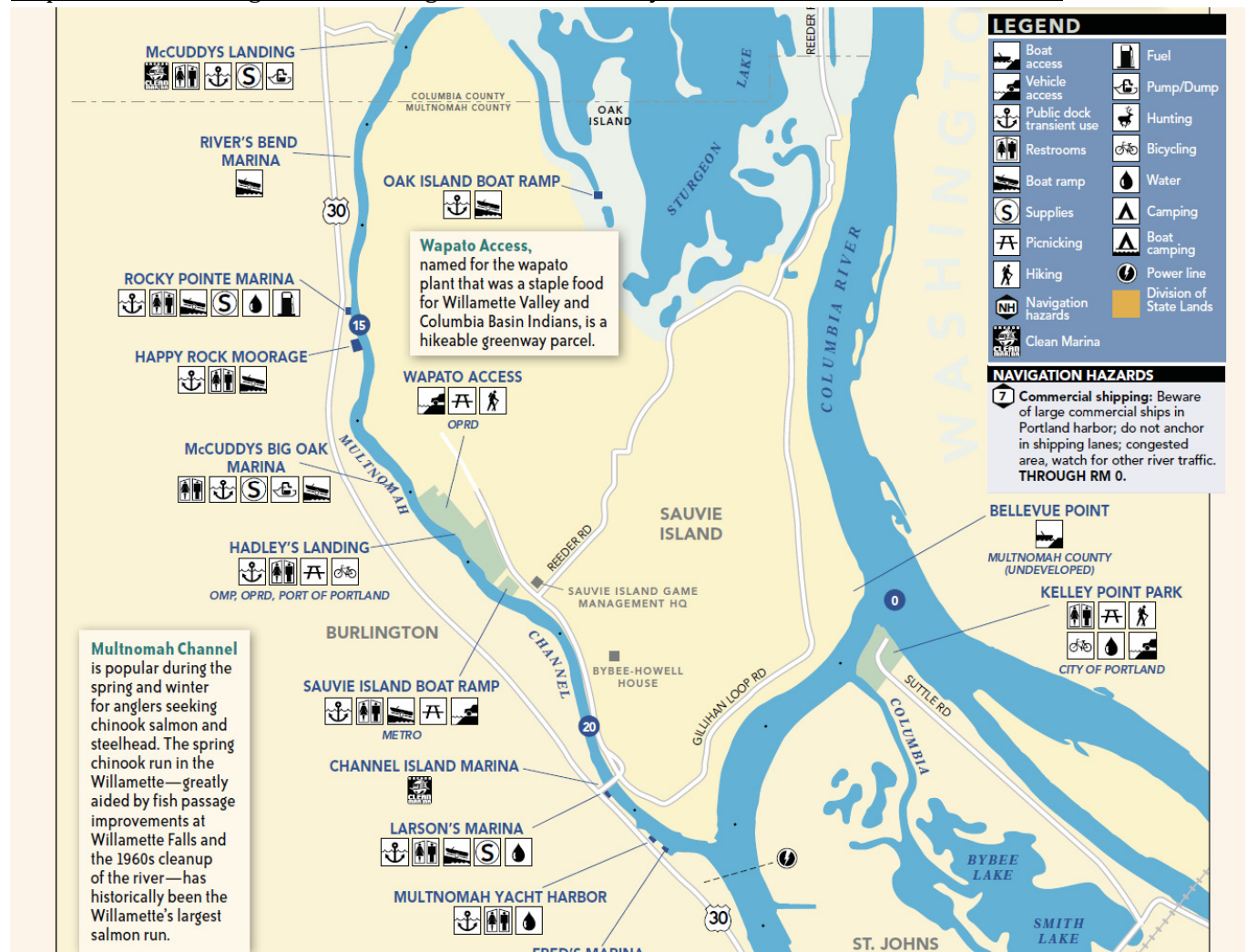
Page 3 of the *Oregon Marine Guide* describes the methods used to obtain inventory information, its purpose and its limitations.

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

The following marina information is gleaned from this 2005 publication. The *Oregon Marine Guide* divides the state in to discrete sections. Of particular interest to the SIMC Planning Process are Section

6 (Rainier – Scappoose) and Section 7 (Portland).<sup>3</sup> The complete guide may be viewed by clicking on this link: <http://www.oregon.gov/OSMB/library/docs/oregonmarinaguide.pdf>

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



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

- Rivers Bend Marina
- Rocky Pointe
- Happy Rock Moorage
- Big Oak Marina

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



- Hadley's Landing
- Channel Island Marina
- Larson's Moorage/Marina
- Marina Way Moorage
- Multnomah Yacht Harbor (Lucking Landing)
- Fred's Marina

### Moorage Terms

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

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

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

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

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

The column labeled “1997 Inventory” lists the number of floating home moorage spaces identified when the 1997 SIMC Plan was prepared. County planning staff is revising the numbers in this column based on the number of *permitted* floating home spaces – according to their records. The columns labeled Floating Homes Preliminary and Boat Houses Preliminary are based on County planning staff’s most recent analysis – which is subject to change based on more detailed information.

**Table 1: Multnomah Channel Marinas and Floating Home Moorages**

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

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

## Summary of Permitting Issues for Multnomah Channel Marinas

**NOTE: WHEN COUNTY STAFF HAVE COMPLETED THEIR INITIAL PERMIT REVIEW, THE HEADINGS BELOW WILL INCLUDE A IDENTIFY RELEVANT LAND USE REVIEW NUMBERS AND DESCRIBE RESEARCH RESULTS AND LAND USE DECISIONS.**

### *Fred's Marina*

### *Lucky Landing Moorage (Multnomah Yacht Harbor)*

### *A-1 Moorage (Gulbertson)*

### *Larson's Moorage / Marina*

Larson's Marina recently approved for 46 floating home spaces through the Policy 10 reconciliation process.

### *Enyart's Marina*

### *Marina Way Moorage (Previously Cassidy's Moorage)*

### *Channel Island Moorage*

### *Bridgeview Moorage*

### *Mayfair Moorage*

### *Weilert Marina*

### *Happy Rock Moorage*

### *Rocky Pointe Marina*



Rocky Point Marina was approved for 47 floating home moorages in 2010 by taking a Goal 14 Exception (which allows densities of greater than one unit per acre outside of an urban growth boundary) and receiving conditional use / community service use and Willamette River Greenway approval.

Photo courtesy of Oregon State Marine Board



*Big Oak Moorage*

*Casselman's Cove Moorage*

*Casselman's Wharf Moorage*

*River Bend Moorage*

## Public Marinas and Boat Launches

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

Map 2. Public Boating Facilities



Source: Oregon State Marina Board and Oregon State Parks

## Section 3: Statewide Regulatory Framework

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

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

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

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

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

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

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

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

### Goal 7 (Natural Hazards)

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

### Goal 11 (Public Facilities)

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

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

## Goal 14 (Urbanization)

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

Goal 14 is silent with respect to the densities that may occur over waters of the state – which are regulated primarily by the Oregon Department of State Lands. However, OAR Chapter 660, Division 004 *Interpretation of Goal 2 Exception Process* has been interpreted by DLCD and Multnomah County to apply to floating home moorages that exceed one floating home per two acres. (See OAR 660-004-0040 *Application of Goal 14 to Rural Residential Areas*<sup>4</sup> and Multnomah Case No. C47-93.)

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

The Urban and Rural Reserve Rule applies only to the Portland region and to its three counties (Washington, Multnomah and Clackamas). The rule sets forth standards for determining the location of urban and rural reserves, and for planning within Multnomah County, in coordination with Metro, applied these standards when it designated the SIMC planning area as “Rural Reserve.” Please see discussion under *Appendix 3: Agriculture and Agri-Tourism Background Report*.

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

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

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

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

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

## Goal 15 (Willamette River Greenway)

Review in Progress

## Section 4: Relevant County and Agency Plans

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

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

#### Policy 2 Conditions of Approval

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

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

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

##### *Introduction*

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

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

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

##### *Policy 6A*

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

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

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

**Comment:** The entire Sauvie Island/Multnomah Channel plan area is within a Rural Reserve designation. Policy 6A prohibits zone amendments, and possibly Goal 11 and 14 exceptions, which would allow new uses, decreased lot sizes, or overall densities in excess of one unit per two acres. Currently the MUA-20 zone provides for the establishment of marinas and moorages as a Community Service use; however, County staff is unclear whether this is still possible within a Rural Reserve designation. Please see discussion of Policy 6A in *Appendix 3: Agriculture and Agri-Tourism Background Report*.

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

*Multnomah County, recognizing that the health, safety, welfare, and quality of life of its citizens may be adversely affected by air, water and noise pollution, supports efforts to improve air and water quality and to reduce noise levels. Therefore, if a land use proposal is a noise sensitive use and is located in a noise impacted area, or if the proposed use is a noise generator, the following shall be incorporated into the site plan: (1) Building placement on the site in an area having minimal noise level disruptions; and (2) Insulation or other construction techniques to lower interior noise levels in noise-impacted areas.*

#### **Strategies**

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

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

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

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

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

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

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

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

- A. *The applicable policies in this plan, including Policies 2 (Off-Site Effects), 13 (Air, Water, Noise), 15 Significant Environmental Concern), 16 (Natural Resource), 21 (Housing Choice), 24 (Housing Location), 32 Capital Improvements), 34 (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; 7. The upland area adjacent to the moorage is not zoned for exclusive agricultural use; and 8. The procedures for which Multnomah County will determine the status of existing moorage/marina uses in the Multnomah Channel as given in Policy 10 of the "Sauvie Island/Multnomah Channel Rural Area Plan," adopted October 30, 1997, by Ordinance No. 887.*

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

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

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

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

### ***Strategies***

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

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

**Comment:** The current area included in Policy 26 of the Multnomah County Comprehensive Plan includes all of the existing moorages except for the Happy Rock site, the Mayfair Moorage, and the Sauvie Island Moorage. It should be noted that Policy 26 currently speaks to floating home (houseboat)



moorages, not marinas which also serve transient boaters. Policy 26 is clarified and implemented in part by SIMC Plan Policy 10.

## **Relevant SIMC Plans policies regarding Marinas and Floating Homes**

### **POLICY 5: Metro Coordination**

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

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

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

### **POLICY 6: Channel Safety Education**

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

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

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

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

### **POLICY 7: Boating Licensing**

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

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

### **POLICY 8: Law and Zoning Enforcement**

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

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

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

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

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

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

#### **Strategy:**

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

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

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

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

- 1. That moorages and marinas will only be permitted within the boundaries identified by Policy 26.*
- 2. That the area occupied by Happy Rock Moorage, Sauvie Island Moorage, Parker Moorage, and Mayfair Moorage be included within the area where houseboats are currently permitted under Policy 26.*
- 3. That the moorages within policy 26 and the existing Happy Rock, Sauvie Island, Parker and Mayfair moorages sites are to be treated as permitted (permitting continuation of the use and level of intensity in existence as of the Multnomah County Moorage Report Listing of Floathouses 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 Floathouses and Watercraft as of July 1, 1997 and reconciled through supplemental information provided by the moorage owner); and*
- 2. Receive proof that the non-County permits have been obtained. Once a conclusion has been reached on the number of units/structures through reconciliation process between the Transportation and Land Use Planning Division and the moorage owner, the moorage owner may then apply for a Willamette River Greenway Permit. If these three things are done and verified by the County, and the Willamette River Greenway permit is approved by Multnomah County, then the permitted use would be accepted.*

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

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

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

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

***Strategy:***

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

**Comment:** Policy 10 of the existing RAP was followed by an inventory of existing marinas in 1997. Many marinas and floating home moorages were verified at that time and several have been verified in the 16 years since. However there are several marinas that still have not received Policy 10 verification/reconciliation.

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

**POLICY 11: Maintenance of Marina Inventory**

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

***Strategy:***

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

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

**POLICY 12: Consistency of Definitions**

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

***Strategy:***

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

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

determination based on different information, as does the State of Oregon. The difference becomes a problem when the County Staff uses the Assessor's information to determine the number of dwellings existing within a moorage/marina and consistency becomes an issue of real importance to the moorage owners.

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

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

#### **Strategy**

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

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

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

*The overall density for each existing moorage/marina that chooses to go through the special planning area process shall not exceed the existing levels as measured by factors such as area and length of docks and number of slips (existing in the Multnomah County Moorage Report Listing of 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: Multnomah Channel Special Area Plan Approval Criteria**

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

### **Water Environmental**

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

### **Land Environmental**

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

### **Aesthetic**

- *Vegetation on Land - Development which minimizes the loss of land vegetation.*
- *Visibility of Shore - Development which minimizes changes to natural shoreline features.*  
*Massing and Scale - Development which has a human scale or architectural quality to it.*  
*Diversity/Rural character - Development which maintains the existing diversity and rural character of Multnomah Channel.*

- *Lighting - Development which minimizes night lighting of uses.*
- *Vegetation/landscape on Water - Development which minimizes its visibility from the Multnomah Channel waterway.*

### **Safety**

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

### **Recreation**

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

### **Cumulative Impacts**

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

### **Strategy:**

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



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

#### **POLICY 16: Implementing Code Text**

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

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

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

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

#### **POLICY 17: Responsible Recreational Uses**

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

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

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

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

#### **POLICY 29: Sewage Collection and Disposal**

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

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

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

#### **POLICY 30: Removal of Illegal Floating Structures**

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



**Strategy:**

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

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

**POLICY 31: Fill from Dredging Activities**

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

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

**Strategy:**

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

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

**DEFINITIONS (MCC 34.0005)**

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

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

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

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

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

***Habitable dwelling*** – An existing dwelling that: (a) Has intact exterior walls and roof structure; (b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system; (c) Has interior wiring for interior lights; (d) Has a heating system; and (e) Was lawfully established.

***Lawfully established dwelling*** – A dwelling that was constructed in compliance with the laws in effect at the time of establishment. The laws in effect shall include zoning, land division and

*building code requirements. Compliance with Building Code requirements shall mean that all permits necessary to qualify the structure as a dwelling unit were obtained and all qualify-ing permitted work completed.*

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

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

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

The following definitions are found in MCC 34.6750.

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

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

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

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

Land uses and review procedures in the Exclusive Farm Use (EFU) zone are discussed in greater detail in Appendix 3: *Agriculture and Agri-Tourism Background Report*. All existing marinas are located in the MUA-20 zone. Marinas and floating home moorages are not permitted in the EFU zone.

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

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

#### **§ 34.2830 CONDITIONAL USES**

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

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

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

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

**Comment:** Floating homes and their moorages are allowed as conditional uses / community service uses in the MUA-20 zone. A change in zoning is not required to allow redevelopment of existing marinas. However, a Goal 14 exception (to the requirement that residential densities not exceed one unit per two

acres) may be required, and such an exception may not be permitted by Rural Reserve Policy 6A and OAR 660-027. See further discussion in Section 7 of this report.

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

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

The Significant Environmental Concern (SEC) overlay zone does not apply along the Multnomah Channel because the channel is considered to be part of the Willamette River and is covered by Willamette River Greenway (WRG) standards. Wetlands within the WRG boundary, in particular, are protected by MCC 34.6855 Significant Wetlands. Other portions of Sauvie Island are covered by the SEC overlay zone; see discussion in *Appendix 5: Natural and Cultural Resources Background Report*.

#### **§ 34.4500- PURPOSES**

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

#### **§ 34.4505 AREA AFFECTED**

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

#### **SPECIAL PLAN AREA SPA (MCC 34.5000)**

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

### **§ 34.5000- PURPOSES**

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

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

*(A) An amendment establishing an SPA 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 sub-district; (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. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)*

**Comment:** Based on limited research to date, no SPA subdistrict has been established in the SIMC planning area and there has been only one application (Rocky Pointe Marina) to establish such a subdistrict. Moreover, it would be difficult to establish such a subdistrict in the SIMC planning area, given its Rural Reserve designation. For these reasons, the project team suggests that the Subcommittee consider whether to remove MCC 34.5000-5010 and rely instead on the CU/CS review processes to address potential impacts from redevelopment of existing marinas and floating home moorages.

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

The WRG overlay provides a powerful tool to ensure that intensification of existing marina and floating home moorages address environmental impacts and fully comply with applicable comprehensive plan policies. Traditionally, the County has interpreted marinas and floating home moorages to be “water-

dependent uses”; otherwise, parking and related structures would not be allowable within 150 feet of the ordinary low water line per MCC 34.5885(Q). Redevelopment of an existing, permitted marina or floating home moorage would be considered an “intensification” of an existing community service use and therefore would be subject review by the Hearings Officer.

#### **§ 34.5800- PURPOSES**

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

#### **§ 34.5805 AREA AFFECTED**

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

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

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

#### **§ 34.5815 DEFINITIONS**

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

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

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

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

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

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

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

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

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

*The elements of the Greenway Design Plan are:*

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

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

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

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

*(E) The harvesting of timber, beyond the vegetative fringes, shall be conducted in a manner which shall insure that the natural scenic qualities of the Greenway will be maintained to the*



*greatest extent practicable or will be restored within a brief period of time on those lands inside the Urban Growth Boundary.*

*(F) Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflicts with farm uses. (G) Significant fish and wildlife habitats shall be protected.*

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

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

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

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

*(L) Areas of annual flooding, flood plains, water areas and wetlands shall be preserved in their natural state to the maximum possible extent to protect the water retention, overflow and natural functions.*

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

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

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

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

*(Q) A building setback line of 150 feet from the ordinary low waterline of the Willamette River shall be provided in all rural and natural re-source districts, except for non-dwellings provided in conjunction with farm use and except for buildings and structures in conjunction with a water-related or a water dependent use.*

*(R) Any development, change of use or intensification of use of land classified WRG, shall be subject to design review, pursuant to MCC 34.7000 through 34.7070, to the extent that such design review is consistent with the elements of the Greenway Design Plan.*

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



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

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

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

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

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

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

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

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

#### **§ 34.6755 DENSITY**

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

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

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

#### **§ 34.6760 PARKING**

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

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

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

#### **§ 34.6765 OTHER REQUIREMENTS**

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

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

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

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

##### **§ 34.6000- PURPOSE**

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

##### **§ 34.6005 GENERAL PROVISIONS**

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

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

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

##### **§ 34.6015 USES**

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

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

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

##### **§ 34.6005 GENERAL PROVISIONS**

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

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

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

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

#### **§ 34.6010 APPROVAL CRITERIA**

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

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

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

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

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

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

*(F) Will not create hazardous conditions;*

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

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

#### **§ 34.6015 USES**

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

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

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

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

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

#### **§ 34.7000- PURPOSES**

*MCC 34.7000 through 34.7065 provides for the review and administrative approval of the design of certain developments and improvements in order to promote functional, safe, innovative and*

*attractive site development compatible with the natural and man-made environment. (Ord. 997, Repealed and Replaced, 10/31/2002; Ord. 953 §2, Reorg&Renum, 11/30/2000)*

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

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

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

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

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

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

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

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

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

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

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

*(b) The elements of the design review plan should promote energy conservation and provide protection from adverse climatic conditions, noise, and air pollution.*

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

*(2) Safety and Privacy – The design review plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transitions from public to private spaces.*

*(3) Special Needs of Handicapped – Where appropriate, the design review plan shall provide for the special needs of handicapped persons, such as ramps for wheel-chairs and braille signs.*

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

*(5) Pedestrian and Vehicular circulation and Parking – The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures, shall be designed to maximize safety and convenience and shall be harmonious with pro-posed and neighboring buildings and structures.*

*(6) Drainage – Surface drainage systems shall be designed so as not to adversely affect neighboring properties or streets.*

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

*(8) Utilities – All utility installations above ground shall be located so as to minimize adverse impacts on the site and neighboring properties.*

*(9) Signs and Graphics – The location, texture, lighting, movement, and materials of all exterior signs, graphics or other informational or directional features shall be compatible with the other elements of the design review plan and surrounding properties.*

*(B) Guidelines designed to assist applicants in developing design review plans may be adopted by the Planning Commission. (Ord. 997, Repealed and Replaced, 10/31/2002; 953 §2, Re- org&Renum, 11/30/2000)*

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

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

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

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

### Department of State Lands (DSL)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Relevant OSMB plans and publications**

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

### **ORS 830 Small Watercraft**

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

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

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

## Department of Environmental Quality Programs

[IN PROCESS]

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

### SIMC Vision Statement – Including Multnomah Channel Vision Statement if Appropriate

*“Once plied by paddlewheel steamers churning toward Portland or St. Helens, Multnomah Channel is now a lazy byway marked by quiet houseboat moorages and a major wildlife sanctuary—a delightful getaway from the marine congestion that otherwise dominates the lower Willamette...The channel is mostly a peaceful water way featuring quiet moorages, lush vegetation, plentiful song birds and waterfowl.” (Willamette River Guide, Oregon Parks, 200X)*

Based on CAC and Subcommittee meetings held to date, the following “vision statement” is offered for the Subcommittee’s review and comment:

*The Multnomah Channel Area will maintain the rural character (as described above) while adapting to changing economic conditions. This vision will be realized by:*

- *Recognizing the historical marine character of the Channel and facilitating the continuation and modernization of working marinas that serve recreational boating and fishing enthusiasts;*
- *Working collaboratively with the West Multnomah Soil and Water Conservation District, the Sauvie Island Habitat Partnership, and state and federal agencies to maintain the Channel’s unique ecological values;*
- *Providing an objective land use review process for redevelopment of existing marinas within their existing footprints that also:*
  - *Maintains the linear design form that distinguishes Multnomah Channel moorages from those in urbanized areas and provides a direct connection to water and nature for floating home residents;*
  - *Complies with fire, building safety, electrical, plumbing and structure codes;*
  - *Maintain and enhance fish and wildlife habitat, water quality, and open channel views.*

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

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

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

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

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

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

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

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

Things changed after 2000.

- In 2000, the Land Conservation and Development Commission amended its rules related to goal exceptions to address the Goal 14 *Urbanization* requirement that urban level densities occur

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

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



within urban growth boundaries.<sup>6</sup> This rule specifies that residential development shall not occur at densities above one unit per two acres outside UGBs.

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

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

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

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

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

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

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

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

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

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

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

#### Suggested Floating Home Moorage Definition

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

#### Complementary DSL Definitions

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

*designation as a dock/float if it has an unenclosed recreation area, or includes a second level that is used primarily to protect a boat, but which may also be used for a recreational purpose such as a viewing platform or sunbathing deck.*

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

docks/floats, boat ramps, boat landings and/or viewing structures where no or minimal entry or use fees are charged; and navigation aids.

- **“Public Trust Use(s)”** means those uses embodied in the Public Trust Doctrine under federal and state law including, but not limited to navigation, recreation, commerce and fisheries, and other uses that support, protect, and enhance those uses. Examples of Public Trust Uses include, but are not limited to, short term moorage, camping, bank fishing, picnicking, and boating.
- **“Residential Use”** means an activity conducted on, in, or over state-owned submerged and/or submersible land devoted to, or available for single or multiple dwelling units, single-family homes, floating homes, apartments or condominiums.
- **“State Land Board”** means the constitutionally created body consisting of the Governor, Secretary of State, and State Treasurer that is responsible for managing the assets of the Common School Fund as well as for additional functions placed under its jurisdiction by law. The Department of State Lands is the administrative arm of the State Land Board.
- **“Structure”** means anything placed, constructed, or erected on, in, under or over state-owned submerged and/or submersible land that is associated with a use that requires a waterway use authorization. A “structure” includes a ship, boat, or vessel occupying state-owned submerged and/or submersible land.
- **“Submerged Land”** means land lying below the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.
- **“Submersible Land”** means land lying between the line of ordinary high water and the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.
- **“Transient Use”** means any commercial use of state-owned submerged and/or submersible land which is of a short or intermittent duration, and not more than fourteen (14) consecutive days in any one (1) location or area; or any non-commercial use of state-owned submerged and/or submersible land which occurs for less-than or equal-to thirty (30) calendar days during any contiguous 12-month time period, within a distance of five miles.
- **“Voluntary Habitat Restoration Work”** means the same as set forth in ORS 274.043(4)(d). Voluntary habitat restoration work does not include: (a) Activities undertaken to satisfy any actual or potential legal obligation; (b) Activities for which the person undertaking the work receives compensation of any kind to do the work; or (c) Work completed by an entity to satisfy an environmental mitigation obligation or to generate, sell or obtain credit as an offset against actual or potential natural resource damages liability.

#### Complementary OSMB Definitions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Summary of Progress Made at January 21, 2014 Subcommittee Meeting

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

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

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

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

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



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

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

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

#### Alternative Issue Resolution Recommendations

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

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

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

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

## Section 8: Subcommittee Meeting Process

### Agendas

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

### Subcommittee Agenda

Tuesday, December 17, 2013

3:00 – 5:00 p.m.

Multnomah Building – 501 SE Hawthorne Blvd., Portland 97214

1<sup>st</sup> Floor Board Room (Room 112)

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

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3:50-4:50 p.m.

**Key Issues**

- Discuss and reach consensus on the Key Issues to be addressed (Section 1 of the draft outline)

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4:50-5:00 p.m.

**Adjourn**

- Next Meeting
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## Meeting Summaries

## MEETING SUMMARY: Marinas and Moorages Subcommittee Meeting #1:

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

**Date:** 12/17/2013

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

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

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

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

### Introduction:

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

The following issues, topics, and concerns were raised:

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



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

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

- Some people have scheduling difficulties with upcoming meetings. County staff noted the schedule has been difficult to set and can't accommodate everyone's preferences but we will do what we can and this is why we selected a number of people to help represent Moorage and Marina issues.
- The channel doesn't fit a box. Rather than urban, others felt it was still rural when compared to Hayden Island type floating development. The residents are the watchmen of the river and habitat protectors. It was noted that docks also provide for fish habitat. Later in the conversation an opposing view was raised noting floating structures impact fisheries.
- A request was made to the group to narrow discussion to a few focused issues next meeting.
- Parking areas difficult for fire trucks to navigate (narrow) and addressing is a problem. Addresses should be posted on both sides of each structure (landward and water sides).
- It was noted that the terms Moorage and Marina are typically used synonymously but the county tends to view them as having different meanings. Moorages and Marinas have the same infrastructure and it isn't clear why we are using two different terms.
- There is desire for standardized definitions of floating homes and other floating structures, standard definition of a boat slip, and good definition water dependent vs. water related.
- Policy should be developed regarding controlling invasive species and restoring with natives as appropriate.
- There is desire to adopt building, electrical, and plumbing code consistent with City of Portland.

#### **Action Items:**

- Select members of the committee agreed to send county staff mapping information related to locations of existing development and lease areas.
- Staff with DEQ agreed to research how TMDL regulations may relate to any need to amend policy, particularly as it relates to septic disposal in the channel.
- Further investigation is needed concerning whether CS for moorages is still an option in MUA-20 in the Rural Reserve. If so, can additional impacts be accommodated?

**Next meeting: January 21, 2014**

*\*Meeting audio available upon request\**

## **Documents & Materials Considered**

## **Detailed Findings & Recommendations**