



DEPARTMENT OF ENVIRONMENTAL SERVICES  
LAND USE PLANNING DIVISION  
1600 SE 190<sup>th</sup> Avenue  
Portland, OR 97233

***ADMINISTRATIVE DECISION***

**Alteration to a Non-Conforming Use**

**Case File Nos.: MC 3-99 and FD 1-99**

**June 8, 1998**

**WHAT:**

An application for an Alteration to a Non-Conforming Use for the proposed alterations to the existing Sauvie Island Boat Ramp. The applicant proposes to: replace the existing asphalt coated planks with a concrete ramp; resurface, stripe, and curb the existing gravel and turf parking lot and install stormwater drainage measures; and replace the existing portable toilet with a permanent toilet facility. The applicant has submitted three applications for the proposed activities and this decision is issued for two of the applications: MC 3-99 and FD 1-99. Staff has made findings, pursuant to the applicant request, that the proposed activities are exempt from the WRG permit under Section .6358.

**APPLICANT:**

Dan Kromer for  
Metro Parks and Greenspaces  
600 NE Grand Avenue  
Portland, OR 97232

**PROPERTY OWNER:**

Oregon Department of Fish and Wildlife  
2501 SW First Avenue, P.O. Box 59  
Portland, OR 97207

**LOCATION:**

Sauvie Island Boat Ramp  
15475 NW Ferry Road  
T2N, R1W, Section 17, Tax Lot 34  
R#97117-0340.  
See attached map.

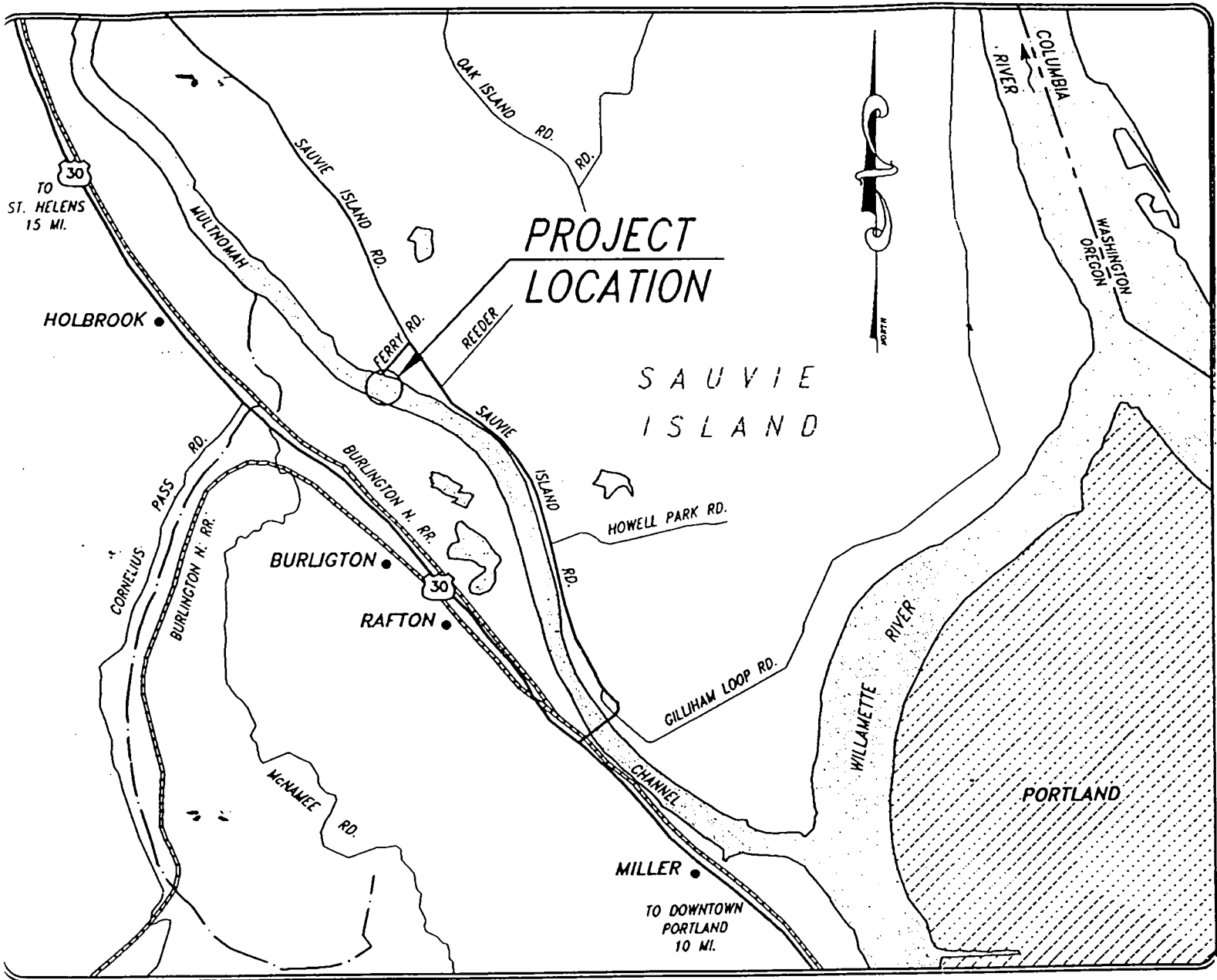
**ZONING:**

Multiple Use Agriculture (MUA-20), Willamette River Greenway (WRG), Floodway Fringe (FF).

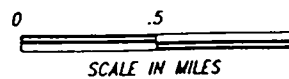
**APPROVAL  
CRITERIA:**

The applicable approval criteria for this decision include the following: Multnomah County Zoning Code (MCC): Multiple Use Agriculture (MUA-20) (11.15.2122 – 2150); Flood Hazard (FH) (11.15.6301 - .6323); Willamette River Greenway (WRG) (11.15.6350 – 6376); and Non-Conforming Uses (11.15.8805 - .8810).

Figure 1



## VICINITY MAP



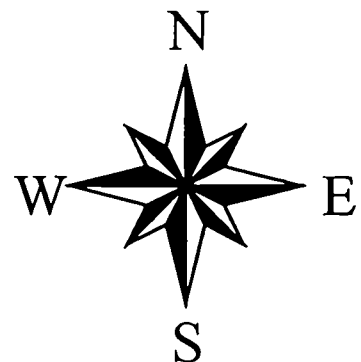
SAUVIE ISLAND BOAT RAMP  
PARKING AREA & VAULT TOILET IMPROVEMENTS

# MC 3-99 and FD 1-99 Sauvie Island Boat Ramp



500 0 500 1000 1500 2000 2500 3000 3500 Feet

The information on this map was derived from digital databases on Multnomah County GIS. Care was taken in the creation of this map but it is provided "as is." Multnomah County cannot accept any responsibility for errors, omissions, or positional accuracy in the digital data or the underlying records. There are no warranties, express or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.



## **PLANNING DIRECTOR DECISION:**

**Approval with conditions** of the Alteration of a Non-Conforming Use, MC 3-99, and the Floodplain Development permit, FD 1-99, for the proposed improvements to the Sauvie Island Boat Ramp on the subject parcel. Staff has made findings, pursuant to the applicant request, that the proposed activities are exempt from the WRG permit under Section .6358. The project work is described above. The applicant shall comply with the attached Conditions of Approval.

## **CONDITIONS OF APPROVAL:**

1. Prior to issuance of building permits, the applicant shall submit and receive approval for the Grading and Erosion Control (GEC) permit. Prior to building permit sign-off, the applicant shall install erosion control measures on the site. At the time of building permit sign-off, the applicant shall provide photo documentation that the erosion control measures have been installed on the site. The applicant shall maintain Best Erosion Control Practices through all phases of development.
2. Replanting and/ or reseeding of areas disturbed by this project shall occur within one month of completion of the proposed work. The applicant may submit a request for an extension of the date to the Planning Director, the Planning Director will then establish a date certain for the revegetation of the disturbed areas on the site.
3. The applicant shall provide a site plan showing compliance with the required 30-foot front yard setback on the subject parcel. In addition, the setback requirement established by DEQ in OAR 340-71-330 in Table 8, Minimum Separation Distances for Non-Water-Carried Waste Disposal Facilities, is 25 feet from a property line for self-contained non-water-carried waste disposal facilities and for unsealed earth type privies, gray water waste disposal sump and seepage chambers.
4. The applicant shall comply with the sign requirements of Section .7902 to .7982.
5. At the time of building permit sign-off, the applicant shall make an appointment with the Staff Planner, Tricia R. Sears, at Multnomah County by contacting her at (503)-248-3043, for building permit sign-off. The applicant shall bring five (5) sets of building plans to the County. The County will keep one (1) copy of the plans and send four (4) copies of the plans with the applicant to be reviewed by the City of Portland.
6. Notice: On May 18, 1998, the National Marine Fisheries Service (NMFS) listed Steelhead as a threatened species in the lower Columbia River. The Endangered Species Act prohibits "taking" of Steelhead without a permit from NMFS. We interpret "taking" to mean destruction of or modification of Steelhead habitat. Multnomah County approval criteria are designed to protect fish habitat by minimizing erosion and related environmental damage. However, as the County is not the ultimate review authority on this matter, applicants are strongly encouraged to contact NMFS at (503)-230-5400 to ensure compliance with applicable elements of the Endangered Species Act.
7. The Department of State Lands (DSL) has determined that a wetland exists on the property (Wetland Land Use Notification Form received 3/26/99 from DSL). DSL stated, "No construction or dirt work shall occur on property until delineation and removal-fill permit has been approved by DSL. A wetland delineation by a private consultant done with concurrence by DSL staff needs to be done."

8. According to Alan Young in the Right-of-Way Division, five (5) feet of right-of-way dedication and deed restrictions will be required. Young also states that submittal of a more detailed plan as to the impact on public right-of-way will be required for Right-of-Way review purposes. Young can be contacted at (503)-248-3582 for additional information.
9. This approval is based on the submitted material. The proposed improvements to the Sauvie Island Boat Ramp area shall be constructed on the site in accordance with the design, size, and location shown and described in the application materials submitted by the applicant. Additional submittals and actions may be required of the applicant as noted in these Conditions of Approval.
10. No additional land use action and/ or permit requests shall be accepted, relating to the subject application, until such time as all required fees for the said application have been paid in full.

## **FINDINGS:**

Note: Differences in spelling words such as stormwater and restroom occur throughout the document; these differences are the word choices of the applicant and the Staff. Staff provides the applicant narrative as submitted with the application materials.

### **A. Applicant:**

Narrative submitted with MC 3-99/ WRG 1-99/ FD 1-99 on February 8, 1999.

#### **Introduction and Summary of the Requested Action**

Metro Regional Parks and Greenspaces Department operates and maintains the Sauvie Island boat ramp facility (the "facility") at 15475 NW Ferry Road on Sauvie Island. See Figure 1, Vicinity Map, and Figure 2, Aerial Photograph. The facility is built on land owned by the Oregon Department of Fish and Wildlife ("ODFW"). Metro and ODFW have executed an intergovernmental agreement (the "IGA") under which Metro will manage the property and may improve the property as proposed herein. Exhibit 1 is a copy of the IGA.

Although historical records of the facility are incomplete, a boat ramp and related parking area were developed some time in the 1950's before the area was zoned. As evidence of that, the application includes an aerial photograph from 1975 (Figure 6) and three documents attesting to the historic existence of a boat ramp on the site. When the property was zoned in 1977, the County applied a Community Service ("CS") designation to it, recognizing its historic use. The facility has been used continuously since the 1950's. But it was not well-maintained. Due to years of deferred maintenance and changes in the law, the facility is badly in need of repair and improvement.

Responding to this need, Metro now proposes to rebuild the boat ramp, to improve the existing turf and gravel parking area, to replace portable toilets with a permanent rest room and to make lesser related improvements to the picnic area, storm water quality features, lighting and signage at the facility.

The existing facility is nonconforming with respect to current development regulations. The proposed improvements are subject to review as a modification of that nonconforming use. Metro requests that the County approve the development described in this application as an alteration to a nonconforming use and approve related Willamette River Greenway Permit and, if applicable, a Floodplain Development Permit.

#### **Existing Conditions on the Site**

The County Division of Assessment and Taxation ("A & T") identifies the property containing the facility site as Tax Lot 34, Section 17, Township 2 North, Range 1 West, Multnomah County. See Exhibit 2 for an A & T printout for the property.

The site is a roughly rectangular parcel (363 feet by 740 feet (average)) containing about 6.18 acres. The majority of the site is relatively level and heavily vegetated with mixed deciduous trees and understory. Most of the forested area of the site is a wetland based on the National Wetlands Inventory. See Figure 5 for wetlands and soils data. Only the southeast 25,000 square feet of the property, or a little more than one-half acre, is used for Metro's facility. See Figure 3 for a site plan showing existing conditions.

The relatively upland area where the facility is situated is not identified as a wetland on the National Wetlands Inventory. This upland area has a turf and gravel surface that is used mostly for vehicle parking and maneuvering. There is a relatively large transition between the site and NW Ferry Road where that street adjoins the southeast edge of the parking area.

The southwest edge of the parking area is defined by a barrier consisting of a single strand of logs placed end to end on the ground.

The southwest edge of the site is a steep bank that slopes ten to fifteen feet down into the Multnomah Channel.

Between the log barrier and the bank is a grassy area containing a few large deciduous trees, a barbecue and several benches, picnic table and trash receptacles. Metro places and maintains a portable toilet in the grassy area most of the year.

The boat ramp itself extends from the end of NW Ferry Road at the edge of the site into Multnomah Channel. Adjoining the boat ramp is a series of wood floats on which people can walk from the site to a boat in the water. The floats are secured by steel pilings driven into the channel floor.

Two sections of applicant narrative, 1) Zoning and Relevant Use History of the Site and 2) Surrounding Land Uses and Zoning, are not included in this decision document. These two sections are located in the case files.

#### Proposed Improvements

Metro proposes three principal improvements pursuant to this application: replacement of the boat ramp; grading, paving and striping of the parking lot and improvement of associated drainage features; and construction of a permanent rest room. See Figure 4, Proposed Site Plan. These improvements are described more below.

The existing boat ramp consists of asphalt-coated planks. These planks are badly deteriorated and in need of immediate replacement to prevent harm to the public. In addition, there is a severe drop-off at the end of the existing ramp which poses a potential safety hazard, especially at times of low water levels. Metro will replace the plank ramp with a concrete ramp. The ramp will be designed to provide a smooth transition from the upland to the waterway without the precipitous drop-off that now poses a hazard to users.

The existing gravel and turf surface of the parking lot is difficult to traverse during the wet months of the year, and vehicles occasionally get stuck in the mud. When the existing lot is wet, vehicles carry mud onto County roads. When it is dry, vehicle maneuvering in the parking lot raises dust. There are no measures in the parking area to collect or treat storm water. There is not lighting in the parking area, adding to the potential hazards for users in early morning and evening hours when boats often use the ramp. The parking lot is not striped, and vehicles park in every possible way, causing inefficiencies and sometimes chaos with vehicles overflowing onto the adjacent road. To remedy these conditions, Metro proposes to pave the parking lot, create a one-way maneuvering route for vehicles, stripe spaces for vehicles with and without trailers, provide for collection, treatment and discharge of storm water from the parking lot, and install one

light and signage for the parking lot. Paving for the parking lot will not extend beyond the edge of the existing gravel and turf parking area.

Metro will stripe the parking lot to provide parking spaces as follows:

<u>Use</u>	<u>Number of Spaces</u>
Vehicle and trailer parking	21 spaces, including 1 for disabled
Vehicle-only parking	5 spaces, including 1 for disabled
Total	26 spaces, including 2 for disabled

The proposed site plan was prepared by the Oregon Marine Board based on their experience with similar facilities throughout the State. Proposed striping and the one-way traffic flow will allow more efficient use of the parking lot. Paving and striping of the parking lot also is necessary to comply with the requirements of ADA. See Exhibit 3 for a copy of selected sections of those regulations.

The proposed one-way traffic flow also will provide for a safer intersection with NW Ferry Road compared to the anything-goes nature of the existing intersection. The new intersection design requires relocation of the mailboxes and sign for the adjoining marina a little north of their existing location.

Untreated runoff from the existing parking lot now carries sediment, oil and other contaminants to the adjoining wetland and Multnomah Channel. To remedy that, Metro proposes to install a continuous extruded concrete curb along both sides of the parking lot and maneuvering area to contain storm water and to grade the lot so that storm water will flow to the northwest corner of the lot. At that point storm water will be routed to through a bio-swale baffle for treatment, and it will be discharged to the Multnomah Channel through a 24-inch culvert. This is consistent with recommendations from Dennis Jurries in DEQ's storm water section. The proposed improvements will reduce existing adverse water quality impacts.

Currently a single portable toilet is provided at the site for seven months of the year. When the existing portable toilet is occupied or unavailable, people resort to the surrounding brush. Also vandals all-too-frequently tip over the portable toilet, spilling raw sewage onto the ground and into the Multnomah Channel. This has obvious adverse water and land quality impacts. City of Portland sanitary engineer Mike Ebeling recommends this situation be remedied by installing a permanent toilet. See Exhibit 4. That is what Metro proposes to do.

Metro will construct a permanent two-stall vault toilet in a landscaped island at the south end of the parking lot to serve the users of the boat ramp facility. Both stalls of the restroom will be handicap accessible consistent with ADA standards. The proposed restroom will be available year-round and will double the capacity of the existing portable toilet. Metro will design and landscape the restroom facility to be as unobtrusive as possible. Paved pedestrian walkways will lead from the parking lot to the rest room so people will not walk over landscaping.

#### Approvals Requested

Metro requests approval of the proposed improvements as alterations to a nonconforming use pursuant to MCC 11.15.8810.

The boat ramp facility is a nonconforming use as defined by the County Code. Although the boat ramp property bears a "CS" designation on the County's zoning maps, there is no record of a CS approval by the County. The facility has existed and operated since the 1950's, prior to the effective date of zoning on Sauvie Island. Therefore the existing facility is a legally established nonconforming use.

The proposed improvements are "alterations of a nonconforming use" as they involve a "change in the structure or physical improvements of no greater impact to the neighborhood" MCC 11.15.8810 (A).

Because the site is in the FF (Flood Fringe) overlay zone, and the proposed improvements are subject to review pursuant to the Flood Hazard regulations based on MCC 11.15.6307, Metro also requests approval of a Floodplain Development Permit. Compliance with floodplain regulations is assured, largely because the proposed development will not occur in the floodway, will not increase the average elevation of the site, and will not obstruct flood flows.

Because the site is in the WRG (Willamette River Greenway) overlay zone, Metro also requests approval of a Greenway Permit if required. Metro believes the proposed development is exempt from WRG regulations under MCC 11.15.6358(F), because the proposed development will "protect, conserve, enhance and maintain public recreational... uses on public lands." If the planning director agrees with Metro, then the WRG portion of the application is moot. Otherwise the application shows that the proposed development will comply with WRG regulations, largely because the proposed development will substantially enhance the visual impacts of the boat ramp and its parking lot and will facilitate a safer water-dependent use (i.e. boating).

Metro understands that, if the County approves the application for the nonconforming use and related floodplain and WRG regulations, detailed plans for the site will be subject to design review before development will proceed, except as otherwise permitted by law.

**B. Staff:**

The applicant has submitted three land use applications to Multnomah County's Land Use Planning Division: the Alteration to a Non-Conforming Use, MC 3-99; the Floodplain Development Permit, FD 1-99; and the Willamette River Greenway, WRG 1-99. With these applications, Metro, the applicant, has submitted a scope of the project, a history of the site, and a description of the existing site conditions. The site is located at 15475 NW Ferry Road on Sauvie Island. The proposed improvements to the Sauvie Island Boat Ramp area on the subject parcel (R#97117-0340) are to rebuild the boat ramp, to pave and stripe the existing turf and gravel parking area, and to replace the portable toilets with permanent toilets. In addition, Metro proposes to improve the picnic area, stormwater quality features, lighting, and signage at the facility.

Zoning maps on file with Multnomah County Land Use Planning illustrate the subject parcel is zoned MUA-20/ WRG/ CS. The CS designation appears on the subject parcel for the zoning maps on file at Multnomah County since the inception of zoning on Sauvie Island. No records are on file at Multnomah County that indicate the Sauvie Island Boat Ramp site received land use approval for its existence. Aerial photographs indicated the site was used as boat ramp facility since the 1950's. The CS stamp on the zoning maps indicates the use of the site as a boat ramp facility that predates the zoning of the site. At the time the County implemented zoning, existing uses such as the boat ramp were designated with a CS or Community Service stamp on the map to indicate this pre-existing condition. The designation did not serve as an approval of a land use activity. Subsequent to this designation – during the early years of zoning in Multnomah County – the CS or Community Service designation has become a land use application with specific requirements. Currently, the Sauvie Island Boat Ramp is considered a non-conforming use. The applicant, Metro, for the submitted land use applications, is not requesting a Community Service approval for the boat ramp. Instead, Metro has requested approval for An Alteration to a Non-Conforming Use. This type of land use application is identified as the case file MC 3-99.

The subject parcel is designated as part of the Willamette River Greenway (WRG) and is subject to the Willamette River Greenway permit. The applicant has requested an exemption to the WRG permit application under the Exceptions provisions, Section .6358, of the Multnomah County Code (MCC). Section .6358 (F) provides an exception for, "Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses on public lands." Metro has submitted narrative response to the WRG criteria. As noted in the March 8, 1999 letter from Staff to Dan Kromer of Metro, Staff has concerns about the intensification of the use of the site based on the proposed activities. However, Staff notes the WRG application is subject to the provisions established in Section .6354, "any development,



change of use or intensification of use, *except as provided in .6358*, shall be subject to a Greenway Permit issued under the provisions of MCC .6362" (emphasis added). Even with a possible intensification of use, MCC .6358 provides for the exemption to the WRG for the proposed activities.

Under Section .6356, the included definitions come from paragraph A of the *Order Adopting Preliminary Willamette River Greenway Plan of the Oregon Land Conversation and Development Commission*, dated December 6, 1975. The definition of intensification includes, "any additions which increase or expand the area of amount of an existing use, or 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. Intensification 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. Maintenance and repair usual and necessary for the continuance of an existing use is not an intensification of use. Reasonable emergency procedures necessary for the safety or protection of property are not an intensification of use." The Sauvie Island Boat Ramp is a public recreational use area; the proposed activities are considered exempt from the WRG permit. Multnomah County grants the exemption to the WRG, as requested by Metro.

Portions of the subject parcel are within the 100-year floodplain, according to the FIRM, Community Panel #410179-0040B which illustrates the location of the subject parcel in relationship to the floodplain area. As noted in MCC Section .6303 of the Flood Hazard provisions, all areas within the FIRM and Flood Boundary and Floodway maps are subject to the Flood Hazard provisions in Section .6301 – 6323. Note that Section .6315 (I) states, "Land may be exempted from the requirements of MCC .6315 upon review and approval by the Director of an acceptable elevation survey, certified by a State of Oregon Registered Professional Engineer or Land Surveyor, which demonstrates that the subject land is at least one foot above the base flood level." The subject parcel is designated Flood Fringe and Floodway and hence the criteria of Section .6317 also apply. The applicant has addressed the Flood Hazard criteria.

The proposed activities are subject to review and approval under a Grading and Erosion Control Permit, (GEC) for "any stripping, cutting, filling, stockpiling or any combination thereof" that exceeds fifty (50) cubic yards of material.

On May 18, 1998, the National Marine Fisheries Service (NMFS) listed Steelhead as a threatened species in the lower Columbia Valley. See Endangered and Threatened Species: Threatened Status for Two ESUs of Steelhead in Washington, Oregon, and California, 63 Fed. Reg. 13347 (1998) (to be codified at 50 C.F.R. pt. 227). The Endangered Species Act prohibits "taking" of Steelhead without a permit from NMFS. 16 U.S.C. §1538. Multnomah County recognizes that destruction or modification of habitat may constitute a "take" under the Endangered Species Act. See e.g. 50 C.F.R. § 17.3.

This application is subject to compliance with the Endangered Species Act because it may result in destruction or modification of habitat; the applicant's proposed activities occur on a site zoned WRG and on the Multnomah Channel. The applicant proposes activities which may require excavation and fill within a floodplain area of the Multnomah Channel. A Condition of Approval, #5, Staff has provided a notice that the applicant may be subject to requirements from NMFS.

This application was deemed incomplete on March 8, 1999. The application was deemed complete June 4, 1999. Please see the Staff comments below.

Exhibits:

- 1) Applicant site plan of the existing site.
- 2) Applicant site plan of the proposed alterations to the site.
- 3) Applicant's elevation drawings of the proposed permanent toilet facility (2 pages).

## **Applicable Multnomah County Code Provisions:**

### **Multiple Use Agriculture (MUA-20)**

#### **11.15.2122 Purposes**

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

#### **11.15.2124 Area Affected**

MCC .2122 to .2150 shall apply to those lands designated MUA-20 on the Multnomah County Zoning Map.

Staff: The subject parcel, R#97117-0340, is zoned MUA-20/ WRG/ CS.

#### **11.15.2126 Uses**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC .2128 through .2136.

Staff: The applicant has submitted land use applications for a Willamette River Greenway, WRG 1-99, a Floodplain Development Permit, FD 1-99, and an Alteration to a Non-Conforming Use, MC 3-99. The introductory paragraphs in this decision document have provided a detailed description of the applicant's proposed activities.

#### **11.15.2134 Accessory Uses**

##### **(A) Signs, pursuant to the provisions of MCC 11.15.7902-.7982. *[Amended 1986, Ord. 543 § 2]***

Staff: The applicant shall obtain any required sign-off for the installation of the proposed signs on the subject property and in the right-of-way adjacent to the Sauvie Island Boat Ramp property.

##### **(B) Off-street parking and loading;**

##### **(C) Type A home occupations pursuant to the definition and restrictions of MCC 11.15.0010; and *[Amended 1998, Ord. 900 § 111]***

##### **(D) Other structures or uses customarily accessory or incidental to any use permitted or approved in this district; and**

\* \* \*

#### **11.15.2138 Dimensional Requirements**

- (A) Except as provided in MCC .2140, .2142, .2144 and .7629, the minimum lot size shall be 20 acres.
- (B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.
- (C) Minimum Yard Dimensions - Feet

Front   Side   Street Side   Rear

30      10      30      30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

*[Amended 1984, Ord. 428 § 2]*

**Staff:** The applicant's proposed site plan illustrates the new structure, the permanent toilet facility, at approximately 20 feet from the front property line. The front property line is the "line separating the lot from the street or accessway" (MCC .0010 definition of lot line (front)). The zoning of the subject parcel is MUA-20, which as noted above, requires a 30-foot front yard setback. When contacted, the applicant representative for Metro, Dan Kromer, stated that he measured a 20-foot setback based on the site plan. Staff makes the finding the applicant does not meet the required 30-foot setback and hence does not meet the requirement. As a Condition of Approval, the applicant shall either alter the site plan to show compliance with the required 30-foot setback or submit a variance application for a request to not meet the required 30-foot setback.

In addition, the applicant has provided TABLE 8, Minimum Separation Distances for Nonwater-Carried Waste Disposal Facilities, from the Department of Environmental Quality (DEQ) and listed in OAR 340-71-330. The table lists the required setback from a property line for 1) self – contained non-water-carried waste disposal and 2) unsealed earth type privies, gray water waste disposal sump and sewage chambers at 25 feet. Given that the toilet facility qualifies as one of these systems, the applicant's proposed location for the permanent toilet facility does not meet the required DEQ setback.

*The application does not meet the criterion.*

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

**Staff:** Please see Condition of Approval #8 for the requirements established by Alan Young of the Right-of-Way Division. Young can be reached at (503)-248-3582.

- (E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.
- (F) *[Added 1990, Ord. 643 § 2; Repealed 1994, Ord. 804 § III]*

#### **11.15.2142 Lot of Record**

- (A) For the purposes of this district, a Lot of Record is a parcel of land for which a deed or other instrument dividing land was recorded with the Department of Administrative Services or was in recordable form prior to October 6, 1977, and which, when established, satisfied all applicable laws.

**Staff:** The applicant parcel was established prior to October 6, 1977. A 1962 Land Use Zoning Map indicates the parcel existed at that time in the same form it currently exists, at the size of 6.18 acres. The parcel was zoned Suburban Residential (SR) in 1962. The map indicates the Community Service (CS) designation was added to the sectional zoning maps by 1962.

- (B) A Lot of Record which has less than the area or front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.
- (C) Separate Lots of Record shall be deemed created when a street or zoning district boundary intersects a parcel of land.
- (D) Except as otherwise provided by MCC .2140, .2144, .6256 and .7720, no sale or conveyance of any portion of a lot, other than for a public purpose, shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

#### **11.15.2146 Off-Street Parking and Loading**

Off-Street parking and loading shall be provided as required by MCC .6100 through .6148.

#### **11.15.2148 Access**

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

### **Willamette River Greenway (WRG)**

#### **11.15.6350 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.

.6362.

#### **11.15.6356 Definitions**

For the purposes of this district, the terms *change of use*, *development*, *develop*, *farm use*, and *intensification*, shall have the meanings as defined in paragraph a. of the *Order Adopting Preliminary Willamette River Greenway Plan of the Oregon Land Conservation and Development Commission*, dated December 6, 1975.

#### 11.15.6358 Exceptions

A Greenway Permit shall not be required for the following:

\* \* \*

- (E) The placing, by a public agency, of signs, markers, aids, etc., to serve the public;
- (F) Activities to protect, conserve, enhance and maintain public recreational, scenic, historical and natural uses on public lands;

**Staff:** The subject parcel is owned by the Oregon Department of Fish and Wildlife. The applicant and operator of the boat ramp is Metro Parks and Greenspaces. The applicant and the property owner are public agencies. The applicant states that signage will be installed. The use of the subject parcel as a boat ramp facility has occurred since the 1950's. Please see the Staff comments in the beginning of this document for additional Staff analysis. Staff has granted the applicant request for the exception to the WRG permit requirements.

\* \* \*

#### Non-Conforming Uses

##### 11.15.8810 Alteration of a Non-Conforming Use

- (A) Alteration of a non-conforming use includes:

- (1) A change in the use of no greater adverse impact on the neighborhood.
- (2) A change in the structure or physical improvements of no greater impact to the neighborhood.

**Applicant:** Not applicable.

**Staff:** The applicant narrative addresses the criteria of subsections (B) and (C) of MCC .8810.

- (B) Alteration of a non-conforming use shall be permitted when necessary to comply with any lawful requirement for alteration in the use.

**Applicant:** Metro must pave and stripe the parking lot to comply with the requirements of the Americans with Disabilities Act. ADA Design Guide 1 provides in relevant part: "...Business or privately owned facilities that provide goods or services to the public have a continuing ADA obligation to remove barriers to access in existing parking lots when it is readily achievable to do so. Because restriping is relatively inexpensive, it is readily achievable in most classes."

**Staff:** The applicant proposes to pave and stripe the existing gravel and turf parking lot. Metro provides a service to the public by operating the Sauvie Island Boat Ramp facility. The applicant has cited the requirements of the Americans with Disabilities Act (ADA) as part of the basis for the proposed activities on the site. The application meets the criterion.

- (C) An alteration as defined in (A) above may be permitted to reasonably continue the use.

**Applicant:** The proposed alterations are necessary to reasonably continue the use, because, without such alterations, the boat ramp facility will fall further into disrepair until it becomes hazardous to use and must be closed.

**Staff:** See Staff comments in (B) above. In addition, the applicant, as the operator of the boat ramp facility, has a responsibility to maintain the facility. It is reasonable to consider the proposed activities as maintenance and improvements to the existing site. The application meets the criteria.

- (D) A proposal for an alteration under (C) above shall be considered a contested case and a hearing conducted under the provisions of MCC .8205 – .8295 using the standards of (E) below.**

**Applicant:** No comment.

**Staff:** This is not a contested case, the decision for MC 3-99 is issued as an administrative decision.

- (E) An alteration of a non-conforming use may be permitted if the alteration will affect the surrounding area to a lesser negative extent than the current use, considering:**

**Applicant:** The proposed alterations will reduce the impacts of the use on the surrounding area (i.e. it will have a lesser negative effect) considering the factors in MCC 11.15.8810 (E) based on the following findings.

**Staff:** The applicant has submitted a narrative addressing the proposed activities as appropriate actions for the maintenance of the site. The applicant's analysis of the criteria within Section (D) concern the "lesser negative extent" portion of the Alteration to a Non-Conforming Use Code provisions. Staff has responded to each of the subsections of Section (D). With the caveat of concern for subsection (7), The comparative effect on existing vegetation, Staff makes findings that the applicant meets the criteria set forth in Section (D). Based on the analysis of the criteria contained herein, the decision document is issued for MC 3-99 and FD 1-99 as an Approval with conditions.

- (I) The character and history of the use and of development in the surrounding area;**

**Applicant:** The proposed alterations are necessary to maintain what has historically been a public boat launch facility. A public boat launch facility has existed and been in continuous operation at this location for forty years or more. During that time there have been no significant conflicts with surrounding uses. Surrounding uses include a state wildlife refuge (Sauvie Island), a state park (Wapato), a state boat landing (Hadley's Landing), a regional park (Howell Territorial), boat and houseboat moorages, vehicle parking for houseboat residents (paved, gravel and turf), farm, non-farm and accessory single family residences and agricultural uses. The boat launch facility is consistent and compatible with all of these uses, because the boat launch has been and will continue to be a water dependent use with limited upland facilities to serve essential human needs (for water and sanitation) and to temporarily store vehicles and trailers while boats are in the water. The proposed improvements will reduce or prevent existing adverse effects on the adjoining floating home community. That is, the proposed improvements will enhance the safety of the in-water and upland areas, reducing the potential for damage to people or property. Proposed reconfiguration of the access drive to the site also reduces the potential for adverse impacts due to uncontrolled traffic movements. Proposed paving will reduce the amount of dust generated on the site. The proposed rest rooms will reduce the potential for uncontrolled release

of sewage, because they will double the existing capacity of sanitary waste facilities on the site, and, more importantly, they cannot be tipped over.

**Staff:** The subject parcel is zoned Multiple Use Agriculture (MUA-20) and is part of the Willamette River Greenway (WRG). Multnomah County Sectional Zoning Maps indicate the site has been designated with a CS or Community Service designation. The CS designation on the map indicates a non-conforming use. In other words, the use that existed on the subject parcel at the time of the zoning designation was allowed to continue but deemed non-conforming. No land use approval has been granted for use of the subject parcel as a boat ramp facility; it is allowed to continue to be used as a boat ramp facility. The application for the proposed changes to the Sauvie Island Boat Ramp has been made under the Alteration of Non-Conforming Use provisions. Modifications to existing uses and structures can be made under this application. The addition of new uses that currently do not exist within the boat ramp facility would entail a Community Service application (approval is through the Conditional Use process).

**(2) The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable at the property line;**

**Applicant:** The proposed alterations will reduce the potential noise, dust and odor impacts of the use at and beyond the property line. Paving the gravel and turf parking lot will reduce the amount of noise, dust and mud leaving the site. Paving also will reduce the amount of sediment carried by storm water runoff. Runoff from pavement will pick up less sediment than runoff from gravel and exposed soil. Proposed storm water treatment measures are new, further reducing the pollution load of the runoff; they have not existed in the past. To the extent proposed paving will reduce the potential for vehicles getting stuck in the mud, proposed improvements will reduce the potential for associated noise and vehicle exhaust.

To the extent the proposed rest rooms will reduce the likelihood that people will "go in the woods," it will reduce odors resulting from such activities. Because the proposed restrooms are permanent, and sewage will be stored in a sealed container underground pending pumping and removal, the rest rooms will cause fewer odors than does the temporary portable toilet. Because the rest room will be a substantial structure, adverse impacts now caused when vandals tip over the existing portable toilet on the site will be wholly eliminated.

**Staff:** The proposed installation of the permanent toilet and related sewage facilities will reduce the potential odors that can be attributed to portable toilets. In addition, since the proposed structure would be permanent and hence difficult to overturn, the likelihood of impacts to the site as described by the applicant above, are indeed eliminated. The availability of restroom facilities on a year-round basis will, it is hoped, eliminate the "go in the woods" activity the applicant has described. Paving the parking lot would reduce the problems of dust when it is dry weather and mud when it is wet weather. Striping the parking lot would organize the rather haphazard parking arrangement that can occur at the site in the current format. A more organized parking lot, including ADA parking spots, would increase public safety as people would be cognizant of the parking and non-parking areas. Persons with disabilities would find improved access to the site. The applicant proposes to install stormwater mechanisms to control surface run-off. The applicant has not included the details for these stormwater detention mechanisms; such information will be required in the application for Grading and Erosion Control (GEC) which the applicant is required to submit.

The criterion is written such to indicate a quantifiable approach to review the level or degree of smoke, dust, odor, fumes, noise, vibration, or glare detectable at the property line. No quantifiable information on the levels of smoke, dust, odor, fumes, noise, vibration, or glare have been provided by the applicant. A "comparable degree" indicates the (measurable) level before the proposed activities (that is the current level) would be comparable to the (measurable) level after the proposed activities occur. After careful analysis and based on the provisions the applicant has described above, it is reasonable to agree the proposed activities, as described by the applicant, will not alter the existing degree of noise, vibration, dust, odors, fumes, smoke, glare and so forth detectable at the property line. The application meets the criteria.

**(3) The comparative numbers and kinds of vehicular trips to the site;**

**Applicant:** Metro believes the proposed alterations will not change the number or kind of vehicular trips to the site, based on its experience. The proposed alterations are necessary to maintain the existing facilities. More people are using the facility, because there are more boats in the region. The number of registered boats in Multnomah County has increased from 26,279 in 1990 to 28,519 in 1995. However this increase is unrelated to the proposed alterations. The number of boaters using the facility will continue to increase regardless of whether the proposed alterations are implemented. The improvements will not increase the size or change the nature of boats that can use the ramp and parking lot.

Applicant narrative from the letter from Metro to Multnomah County dated April 15, 1999 and received April 19, 1999.

Planning staff has asked for clarification on Metro's Alteration of a Non-Conforming Use regarding reconciling differences on vehicle use. Presently, the turf/ gravel parking lot can handle and estimated 35-38 vehicles on the site depending on how they position themselves. However, since there is no defined parking area vehicles sometimes park in a chaotic manner causing not only inefficiencies in parking but safety problems launching and retrieving boats. Users at the facility also currently park on the roadway (NW Ferry Road). "No Parking" signs have been placed on the road shoulder informing users of this restriction. Metro wishes to see vehicles park in an orderly and neat fashion in order to accommodate the appropriate number of vehicles for this area. The proposed alterations/ development actually reduces vehicle stalls in the parking lot to 28 and includes designated disable parking areas.

**Staff:** The applicant does not state that the numbers and kinds of vehicular trips to the site that currently occur. The criterion indicates a quantifiable level of use in terms of the numbers and kinds of vehicular trips to the site in its current state and the numbers and types of vehicular trips to the site after the proposed improvements occur at the site. The applicant states that the "number of boaters using the facility will continue to increase regardless of whether the proposed alterations are implemented." The proposed improvements to replace the boat ramp, pave and stripe the parking lot, and to install a permanent toilet facility are to accommodate the ramp's visitors. In addition, the stormwater facilities, the landscaping, the lighting, and the signage will improve the functionality of the site as it used as a boat ramp area. The applicant cites safety of the ramp area as a primary concern and need for the proposed site activities. In some aspects, improved boat ramp facilities could draw people to the site who may not have used the facility otherwise. Metro takes the stance that the improvements must be made for public safety and to maintain the use of the site. Metro states that the use of the site may increase simply based on the increase in the number of boaters. Staff recognizes the proposed activities as



improvements to the functionality of the site as a boat ramp facility; a facility that has been used for over forty years and will continue to be used. The application meets the criteria.

**(4) The comparative amount and nature of outside storage, loading and parking;**

**Applicant:** The proposed alterations will not increase the amount of parking available on the site, because paving will be limited to the area of the existing gravel and turf parking lot. Metro will stripe the parking lot to allow more efficient use of the available space for vehicle and trailer parking and maneuvering. Replacing the existing gravel and turf area with pavement will change the nature of the existing parking lot. However this change will reduce the impacts of the use by reducing the amount of dust, mud and noise generated on the site. It also will reduce the likelihood that vehicles and trailers will need to maneuver or park in the public right-of-way adjoining the site, as they do now due to the free-form nature of the existing parking lot, because paving and striping will enhance maneuver-ability within the parking lot and the ultimate capacity of the lot. The proposed improvements are not expected to change the nature of storage on the site; vehicles and trailers will continue to be stored on the lot temporarily. Overnight parking on the site is prohibited. Paving will reduce the existing potential for petroleum products that leak or drain from stored boats or vehicles to percolate into the ground. Grading will direct surface water from the lot to a bio-swale, reducing existing adverse water quality impacts that occur due to the lack of such features.

**Staff:** The criterion indicates a quantifiable approach to the amount and nature of outside storage, parking, and loading on the site, based on the term "comparable". The applicant does not provide quantitative information on the level of outside storage or loading. In subsection (3) the applicant stated that 35-38 vehicles sometimes park at the site. The applicant states that the site will be paved with 21 vehicle and trailer parking spaces and 5 vehicle-only parking spaces. The total of 26 parking spaces includes 2 ADA parking spaces (see the applicant narrative at the introduction of this decision). The applicant does not propose to alter the amount and nature of outside storage and loading. Parking on the site will be organized by striping the site. The application meets the criteria.

**(5) The comparative visual appearance;**

**Applicant:** Paving and striping of the parking lot and construction of a permanent rest room will improve the visual appearance of the facility by eliminating the potholes, mud and tire ruts that are now visually apparent to the casual observer. The access drive, parking lot and rest room will be more visually ordered and neat. On the perimeter of the site, Metro will retain vegetation that now buffers and screens the facility from surrounding properties, to avoid increasing off-site visual impacts of the use. Metro also will plant new vegetation in and around the parking lot as shown on the proposed site plan, enhancing the visual character of the site compared to its existing unlandscaped, unpaved and unimproved condition. The permanent rest room will be more attractive than the portable plastic mode now used on the site, particularly because the permanent rest room cannot be tipped over. When the existing portable rest room is tipped over, it is unaesthetic and unhealthy.

**Staff:** The term comparative indicates a measurable level; however, the visual appearance of a site is not quantifiable. With that in mind, Staff has reviewed the applicant's proposed alterations to the site. Paving and striping the parking lot will create a more organized parking lot. The paved surface will minimize the amount of dust raised in dry weather and the amount of mud in

wet weather. A permanent toilet facility, as illustrated by the applicant's submitted elevation drawings, will be more visually appealing than the typical portable toilet facility. The applicant proposes landscaping for the site, this will increase the aesthetic appearance of the site. Natural vegetation will be retained on the site. The proposed installation of lighting and signage will assist in keeping the traffic flow of the parking lot and boat ramp area in an orderly fashion. The improvements proposed by the applicant will be visually comparable, and in Staff's analysis, improve the visual appearance, of the existing site. The application meets the criteria.

**(6) The comparative hours of operation;**

**Applicant:** The proposed alterations will not change the hours of operation of the facility. Metro will not add features to increase operating hours. One light is proposed near the site entry/ exit to enhance driver safety. That light is needed to illuminate existing activities on the site which now occur before dawn and after dusk.

**Staff:** The proposed alterations to the park will not alter the hours of operation at the Sauvie Island Boat Ramp. The application meets the criteria.

**(7) The comparative effect on existing vegetation;**

**Applicant:** Paving the turf portion of the existing parking lot will eliminate the grass in the turf portion of the parking lot. However the grass in the parking lot is substantially impacted by vehicle parking and maneuvering under existing conditions. The grass is crushed and the soil is compacted by the weight of vehicles and trailers. Grass is torn up and wheel ruts are created during wet weather. The soil dries to the consistency of concrete. It is a poor quality medium for growing plants.

The proposed alterations will not have an adverse impact on vegetation outside of the perimeter of the existing parking lot. The proposed changes will better protect existing off-site vegetation, because petroleum-tainted storm water run-off from the parking lot will be contained and treated before it is discharged into the Multnomah Channel. Under existing conditions, that run-off drains onto adjoining land and into the channel. The proposed curbs also will prevent vehicles from leaving the boundaries of the parking lot and destroying surrounding vegetation.

Landscaping in a large on-site island at the northwest end of the parking lot and in the island at the southeast end of the parking lot (where Metro proposes to build the rest room) will increase the amount of vegetation on the site. That landscaping will be protected from compaction or other adverse impacts by a continuous curb that will enclose the paved areas.

**Staff:** The applicant narrative states that the area of site work for the boat ramp will be replanted with native vegetation. The existing and proposed site plans attached as Exhibits #1 and #2 illustrate the existing conditions of the site and the proposed changes to the site. The Department of State Lands (DSL) has returned the Wetland Land Use Notification Form to Multnomah County Land Use Planning. DSL states, "National Wetlands Inventory indicates wetlands on property. A wetland delineation by a private consultant done with concurrence by DSL staff needs to be done. No construction or dirt work should occur on property until a delineation and a Removal-Fill permit have been approved by DSL." Based on the submitted application information and the comments from DSL, Staff cannot make a conclusive finding that the comparative effect on the vegetation is the same or less to the site after the proposed activities. The applicant's description states that the storm water run-off will be handled with a stormwater run-off mechanism. The

applicant also states that the parking lot boundaries will prevent vehicles from maneuvering into the vegetated (non-parking lot) areas. The applicant site plan shows two landscape islands. Staff has concerns about the impacts of the proposal to the site, particularly in light of the existing wetland on the site (the NWI map and other Multnomah County zoning maps). DSL has indicated a wetland exists on the site. Without the evaluation from DSL regarding the location of the wetland and the impacts the project may have, Staff cannot make findings of complete compliance with the criterion "The comparative effect of existing vegetation."

*The application does not meet the criteria.*

**(8) The comparative effect on water drainage;**

**Applicant:** The existing gravel surface of the parking lot has been severely compacted by vehicles and trailers; consequently it is essentially impervious surface area on the site, particularly the turf-covered area of the parking lot, resulting in a minor increase in surface water run-off volumes. However, the proposed alterations improve the water quality of the run-off.

Under existing conditions storm water run-off from the parking lot is untreated. Run-off from the gravel and turf parking lot carries sediment, oil and other contaminants off-site (e.g. into the Multnomah Channel and adjoining wetlands).

Run-off from a paved parking lot will pick-up less sediment than run-off from the existing gravel and turf lot, because a paved parking lot does not have soil on the surface as does the existing lot. The bio-swale baffle will remove other pollutants from storm water before it is discharged to the channel at the low point of the upland area of the site.

**Staff:** The applicant states the compaction of the existing gravel surfaced parking lot is essentially impervious surface. The applicant states that the run-off would be treated through the bio-swale baffle, thus removing contaminants from the run-off, and lessening the impacts of run-off into the Multnomah Channel and wetland. The applicant has not delineated the wetland area. See Staff comments under subsection (7) above. The term comparative indicates a quantifiable level of effect to the site at its existing level and the level that may occur after the proposed activities have occurred on the site. Based on the applicant description of the stormwater run-off mechanism, the comparative effect for water drainage on the site would be that it is reasonable to expect the drainage of the site to improve. Mechanisms will be installed to clean and control the surface run-off. The installation of the permanent toilet and the appropriate sewage containment mechanisms will also lessen the potential impacts of human excrement contamination to the water. The applicant's proposed alterations to the site will have a positive comparative effect on the water drainage of the site. The application meets the criteria.

**(9) The degree of service or other benefit to the area; and**

**Applicant:** The Sauvie Island boat launch facility benefits the area by providing public access to the Multnomah Channel. The nearest alternative public ramp, the Gilbert River ramp, is located 12.2 miles downstream from this site. This benefit has been provided at this location for more than 40 years. The proposed alterations are necessary to maintain and continue to provide this historically existing public service to the area. The proposed improvements will benefit users of the public facility by improving safety and ease of use of the facilities and reducing the adverse impacts of the use as described above. In summary:

- By rebuilding the boat ramp, Metro improves the safety with which it can be used. Boat-carrying trailers will not have to risk falling through the ramp or falling precipitously off the steep end of the ramp. The rebuilt ramp will need less maintenance and will provide more solid footing and a more gradual transition into the channel.
- Paving, striping, lighting and landscaping the parking lot and providing a more defined traffic flow will make the lot safer, neater, cleaner and more orderly and capable of accommodating more users.
- Grading, paving and curbing the vehicle areas and installing water quality features will serve the area by reducing the uncontrolled release of petroleum-contaminated storm water run-off and other potential for adverse water quality effects on adjoining wetlands or in the Multnomah Channel.
- A permanent rest room will reduce the potential for severe adverse impacts when the portable toilet is full or tipped over.

**Staff:** The subject parcel has been used as a boat ramp facility since the 1950's. It is unlikely that the use of the site will decrease from its current level of use. The applicant's proposed paving and striping of the parking area will, according to the applicant narrative, actually reduce the number of vehicles that park on the site at a given time. The parking lot will certainly be more organized with the paved and striped surface area. ADA compliance is a requirement and, is a service and benefit to the public who use the site. As has already been stated, the benefits of the permanent toilet facility are likely to include improved water quality. Lighted and signed areas will improve public safety, as will a better organized parking lot. Landscaping will improve the aesthetics of the boat ramp facility as will the maintenance of natural vegetation (which can occur since people won't drive over it repeatedly). The application meets the criterion for service and benefit to the area.

**(10) Other factors which tend to reduce conflicts or incompatibility with the character or needs of the area.**

**Applicant:** There are no other factors which tend to reduce conflicts or incompatibility.

**Staff:** The criterion is not applicable.

*[Amended 1990, Ord. 643 § 2]*

## **Flood Hazard**

### **11.15.6301 Purposes**

**The purposes of the Flood Hazard District are to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas, all in accordance with ORS 215, LCDC Statewide Planning Goal 7 and Multnomah County Framework Plan Policy 14. The regulation of uses within this District is intended to:**

#### **(A) Protect human life and health;**

- (B) Protect property and structures;
- (C) Minimize public costs for flood control projects;
- (D) Minimize public costs of rescue and relief efforts associated with flooding;
- (E) Minimize business interruptions due to flooding;
- (F) Minimize damage to public facilities and utilities including water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood hazard areas;
- (G) Maintain a stable tax base by providing for appropriate use and development of areas of flood hazard;
- (H) Make the designation of property subject to flood hazards a matter of public record; and
- (I) Qualify Multnomah County for participation in the National Flood Insurance Program.

#### **11.15.6303 Area Affected**

The provisions of MCC .6301 - .6323 shall apply to all areas within the 100-year flood boundary as identified on the Flood Boundary and Floodway Maps and the Flood Insurance Rate Maps as published by the Federal Emergency Management Agency (FEMA). These maps may be periodically revised or modified by FEMA in accordance with prescribed procedures pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (P.L. 92-234). These changes are technical in nature and are made in order to reflect new or revised data on base flood elevations, ground elevations, flood control structures or other factors. In order to employ the best available information and maintain compliance with Federal Flood Insurance Program regulations, Multnomah County shall utilize any such revisions or modifications upon their effective date.

**Staff:** The subject parcel (R#97117-0340) is identified on the Flood Insurance Rate Map published by FEMA and on file at Multnomah County, Community Panel #410179-0040B, in Zone A. Zone A is an area of 100-year flood. The applicant is thus required to address the Code provisions of this Flood Hazard Section, .6301 – 6323.

#### **11.15.6307 Permits**

- (A) No structure or manufactured home shall be erected, located, altered, improved or enlarged and no other new development including but not limited to grading, mining, excavation and filling shall occur on lands within the 100-year flood boundary unless a Floodplain Development Permit specifically authorizing the proposal has been obtained from Multnomah County.

**Staff:** The applicant, Metro Parks and Greenspaces, proposes to establish one structure on the site. The applicant proposes to install a permanent toilet facility. Exhibit #3 (2 pages) is the applicant's submitted elevation drawings that illustrate the structure. The applicant also proposes to grade the site in order to pave the surface of the existing gravel and turf parking area. The subject parcel is located in the 100-year floodplain boundary. The applicant has submitted the Floodplain Development Permit application, FD 1-99.

\* \* \*

**11.15.6315 Development Standards**

**The following standards shall apply to all new construction, substantial improvement or other development in areas within the 100-year flood boundary:**

- (A) All new construction and substantial improvement shall be constructed in conformance with Oregon State Building Codes.**

**Applicant:** The proposed development will comply with the Oregon State Building Codes, because it will be subject to building permits. (From the submitted narrative entitled "Floodproofing and No-Rise Certificate" by Ray Lanham, P.E.) Description of proposed work: Project consists of the replacement of a temporary portable toilet unit with a permanent reinforced concrete masonry block, vault toilet building, 11' x 12' in size, with a finish floor elevation of 19.0', NGVD 1929.

**Staff:** The applicant states the proposed structure, the permanent toilet facility, will be in compliance with the Oregon State Building Codes. The structure will be reviewed for building code compliance at the time of building permit review.

\* \* \*

- (C) New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor including basement, elevated at least one foot above the base flood level, with proper documentation as set forth in subsection (B) above, or, together with attendant utility and sanitary facilities, shall:**

- (1) Be floodproofed such that the structure is substantially impermeable to the passage of water to an elevation at least one foot above the base flood level; and**
- (2) Have structural components capable of withstanding hydrostatic and hydrodynamic loads, effects of buoyancy, flood depths, pressures, velocities and other factors associated with the base flood; and**
- (3) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied.**

**Applicant:** The proposed development involves only one structure that is relevant to MCC .6315 (C) - the restroom. Metro will elevate the floor of the restroom one foot above the base flood elevation or will floodproof the restroom, build it to withstand hydrostatic and hydrodynamic loads associated with a base flood event and have the structure certified as such by a registered professional engineer or architect.

Narrative from Ray Lanham, P.E.

Establishment of the finished floor elevation for the restroom is a matter of serious consideration. The building will be located within the Multnomah Channel flood plain, but not within any established floodway. The 100 year flood at this location is established by the Federal Emergency Management Agency (FEMA) at 27' elevation. This is approximately 9 vertical feet above natural ground at the boating facility. It is not feasible to locate the floor above the 100 year flood elevation. A fill of this magnitude would cause permit problems, be cost prohibitive, and could not be made reasonably accessible to persons with disabilities, as required by law.

The toilet building will be located a minimum of 50 feet away from the edge of Multnomah Channel to be consistent with Oregon Department of Environmental Quality (DEQ) regulations. Proposed floor elevation is 19.0', 2.5 feet vertically above the ordinary high water (a one year flood). Building will be constructed to withstand flooding by a five year (probability to exceed one time in five years) and greater flood heights.

The interior and exterior walls are sealed for ease of cleanup for normal maintenance which would reduce flood cleanup to simply hosing down the unit. The manhole cover for access to pump sewage from the vaults are sealed. Hatch rings will be cast into the floor of the toilet interior, where the toilet risers connect to the floor. In the event of a flood, the toilet risers can be removed and the hatch covers installed to seal the vault, preventing the interchanging of sewage into the waterway. The top of the vent stack for the vaults will be at elevation 30.5', over 3 feet above the 100 year base flood level.

The toilet building will be located within the 100 year base flood zone, subjecting it to various amounts of submersion during flood events. The building will be constructed of reinforced concrete masonry block designed to withstand the effects of anticipated current and submersion. The location of the toilet building is immediately downstream and 200'+/- behind (shoreward) of 65'+/- floating homes and a marina. The floating homes and their related outbuildings, gangways/piers and trees will shadow or protect the proposed toilet building from the impact or accumulation of debris that could cause structural damage to the unit.

The building is located out of the floodway, with the upstream shadowing effect of the adjacent community will slow down the flood water velocity, reducing hydrodynamic forces on the walls. The wall vents designed for odor control allow flood waters to fill the interior of the toilet rooms equalizing the hydrostatic pressure on the walls. The building does not contain any electrical or mechanical components that would be damaged if submerged by flood waters.

This vault toilet building has been evaluated for buoyancy. The dead weight of the toilet floor slab, without the building, outweighs the net uplift of the two empty 1,000 gallon tanks by more than 10,000 pounds. If the weight of the building was taken into consideration it would add an additional 36,000 pounds to offset the buoyancy of the holding tanks.

The electrical service for the toilet building security lighting and pole mounted parking area light will have a main service disconnect located along the access road, above the 100 year base flood zone and outside of the floodplain.

**Staff:** The subject parcel is within the 100-year flood area as described in Section .6303 above. The applicant has addressed the Flood Hazard Development Standard criteria applicable to the proposed project at the Sauvie Island Boat Ramp area. The development, in this case the grading and filling of the area for the paving of the parking lot, the replacement of the boat ramp, and the construction of a permanent toilet facility, take place within or near the floodplain area. The applicant has provided a "Floodproofing and No-Rise Certificate" (four pages) prepared by Ray Lanham, P.E. and dated April 13, 1999. The applicant has addressed the criteria.

\* \* \*

**(F) For all new construction and substantial improvements, the electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during**

**conditions of flooding.** *[Amended 1987, Ord. 549 § 2]*

**Applicant:** The restroom is the only structure relevant to MCC .6315 (F) and (G). Metro will design the restroom to prevent flood water from accumulating in structure or elements of the restroom that would suffer from exposure to such water. The restroom plumbing is contained and sealed such that floodwater should not be able to infiltrate the system and vice versa.

**Staff:** See the applicant narrative from Ray Lanham, P.E. provided above in (C). The application meets the criterion.

**(G) All new and replacement water and sewer systems, including on-site waste disposal systems, shall be designed to:**

- (1) Minimize infiltration of flood waters into the system;**
- (2) Minimize discharge from systems into flood waters;**
- (3) Avoid impairment or contamination during flooding.**

**Applicant:** See subsection (F).

**Staff:** See the narrative response from Ray Lanham, P.E. as provided by the applicant and included above in Section (C). The application meets the criterion.

**(H) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:**

**A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.**

*[Amended 1987, Ord. 549 § 2]*

**Applicant:** The restroom will have a minimum of two openings with a total net area of at least one square inch for every square foot of enclosed area subject to flooding. The openings may be equipped with suitable screens or the like that allow automatic entry and exit of flood waters. Metro will have the structure certified as such by a registered professional engineer or architect.

**Staff:** The applicant has provided a "Floodproofing and No-Rise Certificate" from Ray Lanham, P.E. Much of the narrative from Lanham has been included in Section (C). The application meets the criterion.

**(I) Land may be exempted from the requirements of MCC .6315 upon review and approval by the Director of an acceptable elevation survey, certified by a State of Oregon Registered Professional Engineer or Land Surveyor, which demonstrates that the subject land is at least one foot above the base flood level.** *[Renumbered 1987, Ord. 549 § 2]*

**Applicant:** MCC .6315 (I) and (J) are not applicable, because the development is not purported to be



above the base flood elevation, and no historic sites are involved.

**Staff:** The applicant has submitted an elevation survey for non-residential structures. The applicant has submitted a "Floodproofing and No-Rise Certificate." Both documents have been completed by Ray Lanham, P.E.

#### **11.15.6317 Floodway Requirements**

**In areas identified as floodway on the Flood Boundary and Floodway Maps, the following restrictions, in addition to the requirements of MCC .6315, shall apply:**

**No development shall be permitted that would result in any measurable increase in base flood levels. Encroachment is prohibited, including fill, new construction, substantial improvement and other development, unless a detailed step backwater analysis, certified by a Registered Professional Engineer, is provided which demonstrates that the proposed encroachment will cause no measurable increase in flood levels (water surface elevations) during a base flood discharge.**

**Applicant:** (From Ray Lanham, P.E.) The toilet building will be located in the floodplain, downstream of numerous outbuildings of the adjacent floating home community, trees, mooring piles, and shore access for floating homes that restrict the flow and velocity of the flood waters in Multnomah Channel. With the reduced flow velocities and the small cross sectional area of the toilet building will create an insignificant backwater effect and will result in an immeasurable increase in the base flood elevation. The building is designed to flood, through wall vents and door thresholds, reducing the displacement of flood waters within the floodplain.

The proposed toilet building floor elevation of 19.0', is set at or near the existing grade for ADA disabled access. To meet the FEMA requirements of raising the finish floor elevation a foot above the base flood elevation would require the structure being built on top of a nine feet high mound. The resulting ramp system required to provide disable access to the toilet with a floor elevation of 28.0' and earthen mound would be large enough to create some concerns with FEMA on the impacts on the base flood elevation. A mound and ADA ramp system of this magnitude is cost prohibitive.

**Staff:** The applicant has provided an analysis of the impact of the installation of the new, permanent toilet facility, pursuant to the requirements of Section .6317 above. The analysis was completed by Ray Lanham, a State of Oregon Registered Professional Engineer. Lanham states that the project will "result in an immeasurable increase in the base flood elevation". Lanham provides the following conclusion, "Based upon the above information and comments, the proposed development will have not measurable increase in the level of the base flood. Further hydraulic studies, such as HEC-RAS analysis, is not warranted. This document will certify 'that this building is of floodproof construction and will not create a measurable increase in the level of the base flood". The application meets the criteria.

### **COMPREHENSIVE PLAN POLICIES**

The applicable Comprehensive Plan Policies include:

- 13 Air, Water, and Noise Quality
- 14 Developmental Limitations
- 22 Energy Conservation
- 31 Community Facilities and Uses

37 Utilities  
38 Facilities  
40 Development Requirements.

**Staff:** The applicant submitted a narrative on April 19, 1999 to address the Comprehensive Plan Policies. Staff has reviewed the applicant response to the applicable Comprehensive Plan Policies and concludes those policy requirements have been met by the applicant except the applicant does not meet the standards of Policy 31. Policy 31 was discussed at the Pre-Application Meeting for PA 40-97, the Sauvie Island Boat Ramp. The Pre-Application Meeting was held January 8, 1998. Under Policy 31, boat launch facilities are classified as a minor regional scale use. With the designation of a minor regional scale use, the vehicular standards are "Direct access to a collector street and no routing of traffic through local neighborhood streets" (Multnomah County Comprehensive Framework Plan Summary: Volume 2: Policies, pg. 55). Staff has chosen not to include the applicant narrative and Staff response in the decision document in an effort to reduce the length (already considerable) of the decision document.

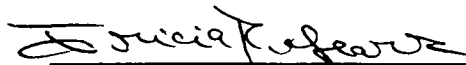
## CONCLUSIONS:

The applicant has carried the burden necessary for granting an **Approval with Conditions** for an Alteration for Non-Conforming Use, MC 3-99, and the Floodplain Development permit, FD 1-99, for the purposes of the proposed improvements to the Sauvie Island Boat Ramp. The proposed activities have been discussed at length within the decision document. Conditions of Approval are within this document.

## NOTICE:

This decision was mailed June 8, 1999 in the manner required by ORS 197.763. Opportunity to appeal this decision and have the application considered at a public hearing will be provided until the close of business on June 18, 1999 at 4:30 PM. In the event of an appeal to this administrative decision, additional notice will be provided for the public hearing.

**In the Matter of MC 3-99 and FD 1-99:**



By: Tricia R. Sears, Land Use Planner  
For: Kathy Busse, Planning Director

### NOTICE:

*The Administrative Decision detailed above will become final unless an appeal is filed within the 10-day appeal period, which starts the day after the notice is mailed. If the 10<sup>th</sup> day falls on a Saturday, Sunday, or a legal holiday, the appeal period extends through the next full business-day. If an appeal is filed, a public hearing will be scheduled before a County Hearings Officer pursuant to Multnomah County Code section 11.15.8290 and in compliance with ORS 197.763. To file, complete an Appeal of Administrative Decision for, and submit to the Multnomah County Land Use Planning Office, together with a \$100.00 fee and supplemental written materials (as needed) stating the specific grounds, approval criteria, or standards on which the appeal is based. To review the application file(s), obtain appeal forms, or other instructions, call the Multnomah County Land Use Planning Division at (503) 248-3043, or visit our offices at 1600 SE 190<sup>th</sup> Avenue, Portland, Oregon, 97233 [hours: 8:00 a.m.-4:30 p.m.; M-F].*

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

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