

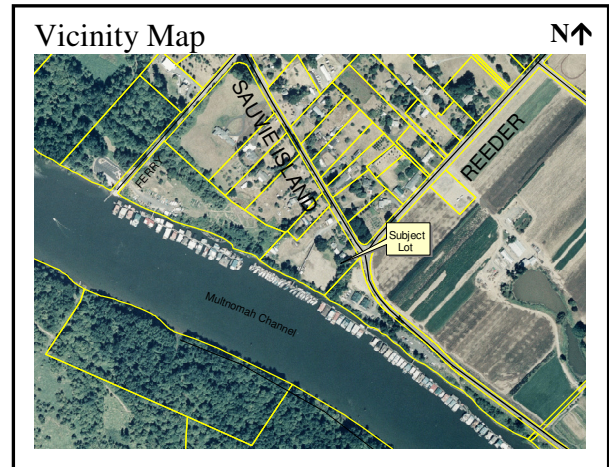


MULTNOMAH COUNTY
LAND USE AND TRANSPORTATION PROGRAM
1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://www.multco.us/landuse>

NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-2011-1385
Permit: Design Review
Location: 18015 NW Sauvie Island Road
Tax Lot 3100, Section 17D,
Township 2 North, Range 1 West, W.M.
Tax Account #R971170100
Applicant: Mike Hashem
PO Box 1587
Clackamas, OR 97015
Owner: 1. June Parker LLC to Big Island
Marina LLC.
2. Mike Hashem



Summary: Retroactive Design Review for a concrete walkway as accessory landscaping to the existing marina.

Decision: Approved.

Unless appealed, this decision is effective May 2, 2011, at 4:00 PM.

Issued by:

By: _____
Kevin Cook, Planner

For: Karen Schilling- Planning Director

Date: Monday, April 18, 2011

Instrument Number for Recording Purposes: # 2008066810

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Kevin Cook, Staff Planner at 503-988-3043, ext. 26782.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is May 2, 2011 at 4:00 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 34.7000 – 34.7060, Design Review; MCC 34.2800 – MCC 34.2885, Multiple Use Agriculture – 20 (MUA-20) zone; Chapter 37, Administration and Procedures. Multnomah County Road Rules 1.000 – 11.000.

Copies of the referenced Multnomah County Code (MCC) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://web.multco.us/land-use-planning/codes-and-plans>

Scope of Approval

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **This land use permit expires 2 years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690 or 37.0700, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.**

Conditions of Approval

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

1. Within 90 days of the final date of approval, the small storage building located approximately 18 feet from the right of way shall be removed, relocated, or otherwise approved through a land use review [MCC 34.0560].

2. Within 90 days of the final date of approval the property owner shall submit a final Design Review plan that reflects this approval [MCC 34.7040].
3. Within 90 days of the final date of approval the property owner shall submit a completed storm water certificate (Exhibit B.9). [MCC 34.7050(A)(6)]
4. Required landscaping shall be continuously maintained [MCC 34.7055(C)(5)]. Provision shall be made for watering planting areas where such care is required to maintain the plants in a living condition [MCC 34.7055(C)(4)]. Native trees along the bank of the Multnomah Channel shall be retained and replaced as soon as practicable if removed or destroyed [Condition of Approval from Community Service Permit CS 2-75].
5. The maximum height of tree species shall be considered when planting under overhead utility lines. [MCC 34.7055(C)(6)]
6. Within 90 days of the date of the final date of approval the property owner shall obtain a right of way permit for access to the property from the County right of way in compliance with the MCRR. The property owner shall close the second (southern) driveway unless an approval (such as a Road Rules Variance) for the continued use of the second driveway is obtained. [MCRR 1.000 – 11.000]
7. After the decision is final, the property owner shall record the Notice of Decision cover sheet through the conditions of approval with the County Recorder along with a copy of the final Design Review plan. The Notice of Decision shall be recorded within 90 days of the final date of approval shall run with the land. Proof of recording shall be made prior to the issuance of any permits and a copy filed with Land Use Planning. Recording shall be at the applicant's expense. [MCC 37.0670]

NOTICE OF APPEAL HEARING
CASE FILE T2-2011-1385

If an appeal of this decision is filed, a public hearing will be held on May 13, 2011. The hearing will begin at 3:00 PM or soon thereafter.

The hearing will take place in Room 103 at the Land Use Planning Division office located at 1600 SE 190th Avenue, Portland, OR 97233. If no appeal is filed, a notice canceling this hearing will be posted on the outside of the Yeon Annex Building doors. You can also call the receptionist at 503-988-5050 option '0' to inquire on the status of the hearing.

The Hearing shall be regarding the application for a Design Review to retroactively approve a concrete walkway as an accessory to the existing marina on property known as 18015 NW Sauvie Island Road. Applicable criteria are listed on page 2 of the Decision.

This Decision serves as the staff report available at the hearing pursuant to MCC 37.0620(D). Copies of the referenced Multnomah County Code sections and staff report can be obtained by contacting our office at 503-988-3043.

Any issue that is intended to provide a basis for an appeal to the Land Use Board of Appeals (LUBA) must be raised prior the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the County and all parties an opportunity to respond to the issue.

A public hearing to consider any appeal will be conducted before one of the following County Hearings Officer's:

Joan Chambers
Liz Fancher

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

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

Findings of Fact

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

1.00 Project Description:

The property owner is proising to retroactively approve a concrete walkway as accessory landscaping to the existing marina. The walkway is located on the southeast quadrant of the property (Exhibits A.3, B.3, and B.4). The path is approximately 200 feet long beginning at the lower parking area for the marina and terminating at a 25 foot diameter circular pad at top of the bank of the Multnomah Channel. The walkway begins at the lower parking lot and immediately passes underneath the existing gangway ramp and proceeds southeasterly for approximately 130 feet to the roughly the center of a level field. The center portion of the path forms an ‘elbow’ approximately 20 feet in diameter and then proceeds southwesterly approximately 70 feet to the terminus. The path is generally 6 feet to 8 feet wide not including the wider elbow and circular pad.

2.00 Property Description & History:

The 4.99 acre subject property is located along the southwest shoreline of Sauvie Island adjacent to the Multnomah Channel which forms the southwest boundary of the property. The property is also adjacent to NW Sauvie Island Road to the northeast, Sauvie Island Moorage to the southeast, and to the Mayfair Moorage and a single family residence to the northwest.

The property contains two single-family dwellings located in the northeast quadrant of the property. The dwellings date back to 1918 and 1941 (both established prior to county zoning and building permit requirements) and are separated by a carport. There is a small residential storage building located near the dwellings but closer to the road (18 feet from the right of way). Historical imagery suggests this structure first appeared between June 1994 and June 1995 (Condition 1). There is a 675 square foot storage building located in the northeast quadrant of the property that is located approximately 40 feet from the right of way.

The property is the site of a sailboat marina that was approved by way of a Community Service (CS) permit in 1975 (County case file CS 2-75, Exhibit B.10). The marina includes an upland parking area adjacent to the southwest side of the 675 square foot storage building. The upland parking area is used primarily used intermittently when the primary parking area further down-slope to the southwest is too wet for practical use by the marina users. An elevated gangway provides pedestrian access from the upper parking area to the marina’s docks in during wet spells. The gangway structure also features an elevated restroom for marina users.

The marina docks feature 38 boat slips (maximum allowed by the CS permit). The 1975 CS permit also allows a maximum of three permanent live-aboards. The applicant indicates that there are currently three live-aboards.

The subject walkway and two pergolas were proposed placed without permits in 2009. In a later pre-application meeting (PA-2009-002) between the County and the property owner contemplated the walkway and pergolas and a possible gazebo as a commercial venue that would host weddings. The property proposed the venue as accessory to a proposed kayak club.

In 2009 the applicant applied for a Willamette River Greenway Permit (file T2-09-043, Exhibit B.11) to permit two pergolas, a gazebo, and the concrete walkway that is the subject of this application. The applicant had also applied for a Community Service Permit for a kayak club in 2009 (T3-09-002) and the application was deemed incomplete by the county and was subsequently withdrawn by the applicant. The Willamette River Greenway permit was denied by staff and subsequently denied by a county hearings officer upon appeal. The Willamette River Greenway permit was denied in part because the development was not originally proposed as accessory to the marina and there was no Design Review application for the use.

The applicant has proposed to modify the approved marina site plan with the addition of the walkway for use by the marina users. Changes to a site plan approved under a CS permit are subject to Design Review approval per MCC 34.7020.

The field upon which the concrete path has been placed is the site of a large sanitary drain-field serving that serves the on-site sewage disposal needs for both the Big Island Marina and the Sauvie Island Moorage located adjacent to the subject property to the southeast. Generally, the practice of placing impervious surfaces on top of septic drain-lines is discouraged; however, there is no specific violation of the Multnomah County Code and the determination of whether the concrete path is a violation sits with the Oregon Department of Environmental Quality (DEQ) who has jurisdiction over community sewage systems. Notice regarding the current proposal to retain the walkway as part of the Marina's landscaping was sent to DEQ during the 14-day opportunity to comment.

3.00 Comments Received:

3.01 Email from Phil Sperr (Exhibit D.1):

"It looks like they are applying for a concrete walkway. I believe that it may go over the existing septic system. Also there are numerous planned parking spaces: Have the potential wetlands impact been studied? What is the traffic impact on the island/channel? What is the reason for the application?"

Staff: As detailed in Section 2 above, the application is for approval of the existing concrete walkway as accessory landscaping to the existing marina. The walkway was constructed over the marina's drain-field. No new parking is proposed. There are no mapped wetlands on the subject property. The walkway is proposed as accessory landscaping to the existing marina and is not expected to generate an increase in vehicular trips to the site.

3.02 Letter from Grant Johnson/Sauvie Island Moorage (Exhibit D.2):

"Some History:

This last year I was approached by Big Island Marina with a request for information about a drain field installation on the property at 18015 NW Sauvie Island Road. I was told they wished to install a pathway on the grounds.

We responded with a set of engineering drawings. We pointed out that the involved regulatory agencies had been very specific about the installation (even specifying the type of grass to be planted) and maintenance. In response to detailed questions, I referred them to the design

engineers along with contact information.

I did not hear further from Big Island, discovering only later that paths had been constructed. It appeared the changes were modest, and I assumed that the engineers had been consulted.

Any speculation about engineering consultation were rendered moot when I learned that the construction had been done without permit. This news was accompanied by concern voiced by Mr. Gary Artman with the Oregon Department of Environmental Quality. It was my understanding that the pathways were ordered removed by Multnomah County. I forgot that there is provision for review.

The Present:

The pathways are still in place, and now I find there is a proposal before your body to review the installation. Again, concern is expressed to me by the D.E.Q., and have had no contact with Big Island regarding engineering review.

My primary interest is to continue the safe function of the drain field. A part of my permit process in the field's construction was the requirement that the owners of the land on which it is located agree to host this sub-surface disposal system for 100 years.

Whatever else they may do with their land is not my concern. While I do not think I get a vote on the matter, I do not mind the pathways if they are indeed compatible with the drain field. It is apparent that whatever safeguards in the required permit process have not been observed. Permits were not issued.

It would seem to me, then, that the review at hand ought to address these issues.

I do not know what documents have accompanied the application, but I have not seen the compatibility of the drain field and pathway examined.

Documentation:

Included with this comment are two documents. The first is from the engineering study and specifications for the drain field. The second is a composite of the hand drawing in the application with the drain field diagram superimposed.

The superimposed result, without the use of contrasting color, is a bit muddy. To help, the field area is offered in enlargement. It can be seen that the pathway avoids trespass of the buried field for a part of it's distance. I have relied on Big Island's hand drawing as I was unable to obtain aerial photos. Even so, it is difficult to see how the portion of the path that turns towards the river (right of drawing) might pass between the parts of the field.

I have noticed a reluctance on the part of regulators to offer engineering opinion, but they seem clearly unenthusiastic about the changes. Their commentary to me touches on possible damage to the field and even damage done by the path's removal. While they surely can speak for themselves, I will be held responsible for the outcome. I would not want to have to mount a study to prove the system functional—particularly at a time when its function is required. The time for such questioning is prior to permit.

Thank you for your attention to this situation."

Staff: Staff does not know whether or not the drain field is impaired by the walkway. DEQ regulates community waste systems. The mater of potential damage to the drain-field and

whether or not the parties to the drain-field easement approve of the walkway are considered civil matters between the parties.

3.03 Letter from Michele DeHart (Exhibit D.3):

“The purpose of this correspondence is to provide comment on the Application for Design Review, Case File T2-2011-1355, and a proposal for a retroactive design review for a concrete walkway as an accessory to the existing Big Island Marina.

I am requesting that the Planning Director reject the application for this retroactive design review for the concrete walkway that was constructed without a permit. Approval of the retroactive design review conflicts with the Willamette River Greenway proposal which is under appeal. Further, I am requesting that the County, at this time when several actions have been requested to reopen the permit, to change the use and development of the site, update the conditions of the original permit, to reflect current emphasis on water quality, status of Willamette River fish and wildlife and the significant hazard to human health presented by the operation of the Marina under current permit conditions. Rather than piecemeal responses to individual requests or unpermitted actions, I am requesting that the County consolidate these requests and review the adequacy of the present permit for this site. At the present time the permit includes conditions, without any means to test compliance. The lack of pump out sewage and waste water facilities for the boats at the Marina presents a serious problem in a densely populated residential community of floating homes and an area heavily utilized for recreation.

In 1975 Multnomah County approved a Community Service application for the Marina property, for a 38 space sailboat marina moorage, associated vehicle parking and two single family homes. The permit for this property allowed 3 or 4 live-aboard sailboats at the moorage. Any changes to the original site plan require County approval. I previously provided formal comments on the requests for changes to the original site plan and site use and to the Willamette River Greenway permit process for proposed changes to the use and development of this site which is under appeal.

The site plan is vague

The site plan provided with the application for design review is inadequate and vague. The location of the septic drain field or leach field is not specified on the site plan as it relates to the construction of the concrete walkway. The actual concrete walkway on the site plan relative to the drain field is not designated. Building or paving on a drain field or leach field can destroy drain fields, compacting soil, preventing oxygen from reaching the soil and inhibiting proper bacterial action needed to treat the effluent. Effluent can reach the soil surface, or in this case reach the Willamette River.

I have attached several pictures that I have provided to Erin Mick at the Oregon Department of Environmental Quality and Messrs. Cook and Grimmatt of Multnomah County. These pictures are taken at the upstream side of my floating home about 30 feet from the Big Island Marina. Waste water and sewage discharge from the Big Island Marina is a problem and presents a human health hazard. The permit for this Marina needs to be updated to protect the public.”

Staff: As detailed in Section 2 above, the application is for approval of the existing concrete walkway as accessory landscaping to the existing marina. A notice of intent to appeal has been filed with the State Land Use Board of Appeals (LUBA) for the Willamette River Greenway

permit (T2-09-043), however no date has been set for the appeal. This review is limited to the approval criteria for a Design Review and the County is not authorized to require conditions that do not support compliance with the approval criteria. Because the application does not include an increase in the capacity to the marina, the original CS permit (CS 2-75) is not being modified; accordingly, the original conditions of approval are not being reviewed under this permit. While the site plan (Exhibit A.3) does not show the location of the individual drain-lines relative to the walkway, the site plan is for the most part, accurate insofar as it shows the location of the walkway relative to the existing features located on the property. While staff agrees that paving over drain lines is not advisable, there is no explicit prohibition against it in the Multnomah County Code. DEQ is the enforcement agency regarding alleged untreated discharge into the Multnomah Channel.

3.04 Letter from Julia Bergren (Exhibit D.4):

“I am writing in response to a call for public comment on case file T2-2011-1385 – Retroactive Design Review for a concrete walkway as an accessory to the existing site of Big Island Marina. This concrete walkway, which has concrete pads originally intended for a gazebo, was placed on Big Island Marina without a permit. I am a resident of Sauvie Island who has lived next to this property for the past 18 years, and I advocate that Multnomah County deny this design review application for a number of reasons. The placement of a walkway on a neighbor’s property would not usually warrant my attention, but this application raises important concerns related to

- *the efficacy of the county permitting process,*
- *the lack of detail and credibility with which the enclosed site plan addresses Multnomah County design review requirements, and*
- *the implications of permitting these structures given the larger context of plans for the marina’s development.*

As I understand it, in 1975 Multnomah County approved the application of a Community Service area to the property in question. It also approved a site plan that allows this property to be developed with a 38-space sailboat moorage and an associated motor vehicle parking area. When the plan was approved, two single-family homes were located on the property and were shown on the moorage site plan. These homes remain on the property, located close to Sauvie Island Road in the eastern part of the property.

The relevant facts about this walkway are summarized in the March 2, 2010 Hearings Officer’s Appeal

Decision for Willamette River Greenway Permit, case file T2-09-043 (hereafter referred to as in 3.10.10.WRG.denial). On p. 3, the hearings officer notes that Mike Hashem, the applicant for the retroactive design review, purchased this property in 2008 and improved the south and east part of the property located for use as a venue for weddings. A meandering walkway was installed between the parking area and the wedding area, along with a concrete pad for a gazebo. This walkway was constructed, in part, over a poorly documented septic drain field that serves the Big Island Marina and Sauvie Island Marina.

Any changes to the original 1975 site plan require County approval. Hashem now wants a retroactive design review to approve the concrete walkway as an accessory to the existing

marina.

The purpose of this design review of improvements such as this walkway is, as stated in MCC 34.7000, “to promote functional, safe, innovative and attractive site development compatible with the natural and man-made environment.”

I will comment on the issue of this walkway’s function, its safety and its compatibility with the natural and man-made environment. But first I wish to point out what looks to be an inherent flaw in the piecemeal way the County has addressed the development of this property, and the way this particular permit is presented for comment.

Limited information for comment, when more exists

Enclosed with a one-page “Opportunity to Comment” notice, was a hand-drawn, 11 in. x 18 in., untitled schematic plan. (The original 1975 plan was not included.) That’s it. No narrative background outlining the intended function of the walkway. No reference to past decisions about the walkway that exist in files of related permit applications. While the design review is a process unto itself, numerous issues already raised in in 3.10.10.WRG.denial, raise important considerations for this the design review. Therefore I am including the hearing officer’s document (hereafter referred to as 3.10.10.WRG.denial) with this letter so it will appear in the record for this review and I shall reference these comments accordingly.

The primary tool provided for comment is the roughly drawn site plan below, left. If you compare it to an aerial view of the current site, you will find numerous discrepancies in the number, placement and scale of existing structures as well as the design and scale of the walkway in relation to the drainfield it occupies. As noted by the hearing officer in 3.10.10.WRG.denial, p. 8, “The site plan does not accurately depict the shape of the sidewalk. As the submitted plan was not drawn to scale, it also does not depict an of the plan’s features accurately.” How can we possibly comment effectively on design review issues based on a defective site plan? And what is the planning director’s decision based on? The confusing management of the permitting process compromises County credibility and the intended function of land use planning and regulation related to MUA-20 land. The fact that relevant information from the WRG appeals commentary is not referenced or supplied to the public in this call for comment calls to question the piecemeal way in which the County has dealt with the various permit issues related to Hashem’s proposed changes to this property. In April, 2009, a preapplication meeting was held by the County to discuss requirements for Mr. Hashem to apply for a Community Service Conditional Use Permit, Willamette River Greenway Permit and Design Review Permit “to establish a private club associated with the existing marina that would include private events such as weddings.”

That spring, the concrete was poured for the walkway and gazebo pads, before the County could call a halt to the construction. Neighbors saw no indication that the County was initiating a design review permitting process. In July 2009, a conditional use permit application had been received by the County.

That permit was never released for comment; after many weeks, it was finally withdrawn. Next, in October 2009, the Willamette Greenway permit was submitted, denied, appealed, denied again, and appealed to LUBA, where it remains unresolved. And now, almost two years after the application process began and the walkway was installed, the County is reviewing the design of the walkway.

Ex-post facto approval of this concrete slab would constitute a mockery of the permitting process and the design review’s stated intention “to promote functional, safe, innovative and

attractive site development compatible with the natural and man-made environment.”

Lost in the shuffle is the bigger picture of the development of this parcel of land, and its impact on the adjacent community and environmental context. As frustrating as it must be for both the applicant and the County planners, those of us standing outside the planning process feel there is a greater need for coordination, regardless of jurisdiction, of the various permitting processes involved here: WRG, County design review, flood plain, DEQ, etc. For example, how can the County in its design review, in considering “safe...site development compatible with the natural...environment”, ignore its own land use planning staff decisions and the WRG hearing officer’s comments related to the denial of the WRG permit, which dealt extensively with the walkway constructed in this sensitive riparian environment?

Design review questions related to the walkway

- *What is the function of this walkway? One of the keys to determining the criteria that apply to this application depends on the use intended for this walkway. As noted in 3.10.10.WRG.denial, p. 5, the walkway and landscaping improvements were originally designed to create a wedding venue on the property by connecting the parking lot to the water, and providing large pads for the purpose of constructing gazebos. If, as neighbors have been told by the County, that is no longer Hashem’s intention, what purpose does the walkway serve and how does the existence of a walkway connecting 26-foot- and 20-foot-diameter concrete pads “promote functional, safe, innovative and attractive site development compatible with the natural and man-made environment.”?*

Comments on pp. 6-8 and the WRG denial make it clear that the walkway do not serve a residential landscaping purpose or support farm use activities, and that use related to nonresident marina renter is commercial. On p. 12, the hearing officer makes it clear that the marina is a community service use, not a residential use.

If the walkway does not enhance their greenway location functionally or esthetically, why not tear them out? As the hearing officer stated on p. 8, “Given the design of the walkway and improvements, there is no practical way to convert them from facilities that are designed to rely on and connect to the marina parking lot into improvements for homes located elsewhere on the property without tearing out the sidewalk—the facility the applicant is seeking to retain.”

- *Do we know it is safe? As noted in 3.10.10.WRG.denial, p. 8, a large septic drainfield exists in the grassy area of the walkway that serves Big Island Marina and Sauvie Island Moorage. No indication of this critical utility is shown on this site plan. While the exact location of its components seem to be a mystery, a portion of the walkway is located, according to testimony of one of Hashem’s lawyers, above at least one drain pipe (pp. 8-9). The hearing officer continues, “The evidence, as a whole, shows that the applicant placed the wedding venue sidewalk over the drainfield and landscaped the property without first seeking review of his plans by DEQ or the County’s sanitarian.” Even though these issues were raised in relation to the WRG permit, I do not believe the County design review can ignore the impact in relation if its role is “to promote...safe...development compatible with the natural ... environment.” One would hope the County is coordinating this issue with the County sanitarian.*

- *Is it necessary? What value does this large concrete walkway and gazebo pad provide to the design of this property? It has no clear function as a landscaping enhancement to the residential structures.*

As for its use by marina slip renters, their focus, as anyone who lives on a moorage as I do knows, is the water, which they access from their dock. As the hearing officer pointed out in

3.10.10.WRG.denial, p. 12, the elements of the walkway and landscaping of the type built by Hashem are not customarily related to the use and enjoyment of even those who live aboard sailboats at such marinas. So there is a walkway built for a commercial purpose not allowed by the property's Community Service permit, that cannot be justified for WRG purposes as residential landscaping, and that has an unknown potential impact on a significant drainfield for which the location of pipes is undocumented. Where is the value in that, other than that it will cost the applicant a lot of money to remove a structure he didn't get approval for in the first place?

In conclusion, Multnomah County has an important opportunity here to consider the impact of development initiatives on flood plain, Willamette Greenway and MUA-20 lands as integral components in the larger context the use of the land. Retroactively approving a walkway constructed for a purpose that is not relevant to the property's Community Service, MUA-20 status, that violates regulations of the Willamette River Greenway, and that may well compromise the functioning of a drain field with a poorly documented substructure only serves to reward the "just-ask-forgiveness" attitude of those who consider their actions above the law.

I respectfully urge Multnomah County to withhold approval for this Retroactive Design Review and consider a broader view of permit coordination governed by the overriding need to preserve vital rural areas, as intended, for the future. This onesy-twosey approach to permit approval doesn't work, nor does retrospectively condoning land stewardship that can result from the irreversible, habitat-adjusting initiatives of private individuals."

Staff: As detailed in Section 2 above, the application is for approval of the existing concrete walkway as accessory landscaping to the existing marina. A notice of intent to appeal has been file with the State Land Use Board of Appeals (LUBA) for the Willamette River Greenway permit (T2-09-043), however no date has been set for the appeal. This review is limited to the approval criteria for a Design Review and the County is not authorized to require conditions that do not support compliance with the approval criteria. Because the application does not include an increase in the capacity to the marina, the original CS permit (CS 2-75) is not being modified; accordingly, the original conditions of approval are not being reviewed under this permit. While the site plan (Exhibit A.3) does not show the location of the individual drain-lines relative to the walkway, the site plan is for the most part, accurate insofar as it shows the location of the walkway relative to the existing features located on the property. An opportunity to comment notice typically only contains basic summary of the proposal and lists the approval criteria. The notice directs recipients to contact the Land Use Planning regarding reviewing the application, making copies and so on. The County does not initiate land-use applications on a property owner's behalf in response to a land use violation, this is the property owner's responsibility. The application for a kayak club was deemed incomplete by the County and subsequently withdrawn by the applicant. The county does not send out notices on applications before they are deemed complete.

3.05 Email from Joanna Valencia, Multnomah County Transportation Specialist (Exhibit D.5):

"In taking a look at the site plan there are two driveways identified to access the site. In reviewing the 1975 Moorage Approval, it is unclear from the site plan if another driveway was approved, separate from the main way one which is identified in the current site plan as the gravel driveway located furthest away from the intersection of NW Sauvie Island Road and Reeder Road. I will note that a 10 foot dedication was required to mitigate transportation

impacts and the dedication was finalized in 1978, so this requirement has been met. Also, in talking with Alan, no access permits were found on file for the subject property.

As we discussed, you have raised the issue with the applicant regarding the second driveway access (closest to the intersection of NW Sauvie Island and Reeder Road) as part of the WRG review and the applicant didn't seem to have issue with closing this access as access is available internally via the main gravel driveway furthest away from the intersection, and therefore providing for increased spacing between the driveway and intersection of NW Sauvie Island and Reeder Road.

With this, as we discussed, a condition of approval would be appropriate requiring the applicant to close the access closest to the intersection of NW Sauvie Island and Reeder Road (access serving the homes) as access is available via the main gravel access. If the applicant wants to pursue use of the access, a variance process is available for a second access, however burden of proof is on the applicant to demonstrate how the criteria listed under 16.200 is met.

Multnomah County Road Rules 16.200:

A. Special circumstances or conditions apply to the property or intended use that do not apply to other property in the same area. The circumstances or conditions may relate to the size, shape, natural features and topography of the property or the location or size of physical improvements on the site or the nature of the use compared to surrounding uses;

B. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant and extraordinary hardship would result from strict compliance with the standards;

C. The authorization of the variance will not be materially detrimental to the public welfare or injurious to other property in the vicinity, or adversely affect the appropriate development of adjoining properties;

D. The circumstances of any hardship are not of the applicant's making.”

3.06 Email from Erin Mick REHS, (Exhibit D.6):

“Hello Kevin. I wanted to provide you with official comments about this pathway. Neither this office nor DEQ approves of the pathway or any alteration to this grassy area as it is a violation of OAR 340-71-130(12) and potentially his easement agreement with Sauvie Island Moorage. However, since it was put in without review or approval, we can not also recommend removal of the pathway due to the potential damage it may cause to the drainfield. The septic system here is regulated under a WPCF permit by Gary Artmen, DEQ, who had notified the other owner of this drainfield, Grant Johnson from Sauvie Island Moorage, about the concerns of this pathway. With recent notice of of this pathway's appeal, Gary Artmen responded to Grant with the following e-mail. Please consider it part of the comment as well.

In summary, I do not approve this pathway and have concerns about allowing it stay as it may "reward" the owner for doing work without review. I also can not recommend its removal as any potential damage incurred to the drainfield will need to be evaluated by their septic maintenance provider, reviewed by DEQ and resolved between Big Island Marina and Sauvie Island Moorage.

Thanks for the notice and please let me know of final decision. Have a good day,

Erin Mick

REHS, Onsite Sanitation

Multnomah County

Site Development, BDS

1900 SW 4th, Suite 5000

Portland, OR 97201

503-823-5471 ph.

503-823-5433 fax

From: ARTMAN Gary [mailto:ARTMAN.Gary@deq.state.or.us]

Sent: Friday, February 04, 2011 2:33 PM

To: johnsongrant2@qwest.net

Cc: Mick, Erin (BDS)

Subject: Sauvie Island Marina Septic system

Dear Mr. Johnson,

I recently received a notice from Multnomah County Land Use staff regarding the application for a retroactive design review for the concrete walkway located at 18015 NW Sauvie Island Road. This walkway was constructed over portions of the drainfield serving both the marina located at that address and Sauvie Island Marina. I believe that I advised you in the past of this condition. This is a link to the referenced notice:

<http://web.multco.us/sites/default/files/documents/t2-2011-1385.pdf>

I forward this to you so that you are aware that the drainfield area serving your marina may have been impacted by this development. I cannot advise you about the impacts that this may have had or the impacts of removing it may have on your drainfield. I hope that you are having conversations with your neighbor regarding this issue and that further development over the drainfield area will be discouraged.

To be clear, if your sewage disposal system is damaged in a way that cannot be repaired, and another alternative cannot be found, there will be no means of sewage disposal for these marinas and therefore no discharges allowed. I encourage you to participate in conversations with your neighbor about this if you have not already done so.

Please feel free to contact me if you have any questions.

Gary Artman

Oregon Dept. of Environmental Quality

Onsite Wastewater Treatment Systems

165 East 7th Ave., Suite 100

Eugene, OR. 97401

(541) 687-7426

Fax: (541) 686-7551

Artman.Gary@deq.state.or.us”

3.07 Applicant’s Response to Comments Submitted via Email (Exhibit A.6):

“I am attaching a letter responding to all the letters you sent me. I did not respond to the transportation letter since this is something we are not doing. I know at one time during the process of the conditional use permit application for the Kayak club we discussed the driveway , but since we are not doing that now we are not going to deal with the driveway. as you know the marina property dedicated 10 feet in the past as a concession for the 1973 conditional use permit , the drive way was approved at that time as is , and was grand father in . I am sure if the new owner ask for future development permits the county may raise that issue then , but I don't see a reason to raise it now.”

“Thank you for providing me with the letters received during the public comment period for our plan review permit. I will try to respond to the comment in this letter, and you can share it with whomever you feel need to get a response.

I would like to clarify that when we built the walkway, we were in consultation with the county planning staff about numerous permits application. We submitted a pre application to notify the neighbors about exploring the idea of hosting wedding at the marina and obtaining a conditional use permit for a kayak club. We paid all the fees, and had a long discussion about change of use, and the possibility of conducting additional activity at the marina property. At the time we were told that landscaping could be done at anytime without any special permit and no construction permits were needed for walkways concretes or otherwise. Obviously we now know that was partially true, and we do need a plan review because of where the walkway is located on the property.

Sadly some neighbors chose not to have a direct discussion with us about our exploration of possible use of our property and chose to turn this into a neighborhood feud that we are not interested in participating in. as you are aware we withdrew our wedding application, but that was not enough for some neighbors. Then we withdrew our Kayak application, and that was not enough either. Then the fight became about black berry removal, and the concrete walkway.

We wished that the county planner were clearer about the walkway before we built it. We would have saved lots of money and grief for all involved. The fact of the matter the walkway is already built. We are not looking to play the blame game, and would like to move forward. The experts from the city of Portland, DEQ, and our engineer agree since the walkway was already built, removing it now may harm the drain field.

Mr. Johnson of the Sauvie Island Marina hold the DEQ permit for the drain field in question, also agree that he had not encounter any difficulties in operating the drain field after the walkway was built. He shows the layout of such drain field and how the walkway interacts with a small area of the large field.

As to Mrs. DeHart, and Burgren. Their letters deals with matters which are not part of this application and frankly many of those complain have been raised in the past and have been

investigated and found to be not true. It is sad that they continue to attack us and make false accusation when the truth that our marina is safer, and more in compliance with the county code since we bought it then it ever been in the past 37 years. They never had anything to complain about until we talked about the possibility of hosting wedding at our Marina. We wish them the best at their house boats and wish they can be a better neighbor. This application is not about weddings, or a change of use. Somebody needs to tell them they have won, and they should leave us in peace.”

4.00 Greenway Permit Exception

4.01 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.

§ 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.

(B) *Development* - means the act, process or result of developing.

(Footnote: The definitions of *develop* and *development* should be read in harmony with the definitions of *intensification* and *change of use* since it is not the intention of the Commission to include in the definitions of *develop* and *development* any of the items excluded specifically from the meanings of *intensification* or *change of use*.)

(C) *Develop* - means to bring about growth or availability; to construct or alter a structure, to conduct a mining operation, to make a physical change in the use or appearance of land, to divide land into parcels, or to create or terminate rights of access.

(D) *Farm Use* - means (a) "the current employment of land including that portion of such lands under buildings supporting accepted farming practices for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding

management and sale of, or the produce of, livestock, poultry, furbearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. Farm use includes the preparation and storage of the products raised on such land for man's use and animal use and disposal by marketing or otherwise. It does not include the use of land subject to the provisions of ORS Chapter 321 . . . ".

"It includes, for this purpose, the installation of irrigation pumps, and the use of existing pumps on the banks of the Willamette River, and the construction and use of dwellings customarily provided in conjunction with farm use when such dwellings are located 150 feet or more from the ordinary low-water, line of the Willamette River. It also includes the construction and use of buildings other than dwellings customarily provided in conjunction with farm use whether or not within 150 feet of the ordinary low-water line. If a dwelling is destroyed or torn down, it may be replaced in kind with another dwelling even though it is within 150 feet of the ordinary low-water line. (b) "Current employment of land for farm use includes (A) land subject to the soil-bank provisions of the Federal Agricultural Act of 1956, as amended (P.S. 84540, 70 Stat. 188); (B) land lying fallow for one year as a normal and regular requirement of good agricultural husbandry; (C) land planted in orchards or other perennials prior to maturity; and (D) any land constituting a woodlot of less than 20 acres contiguous to and owned by the owner of land specially assessed at true cash value for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use." (c) "As used in this subsection, 'accepted farming practice' means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use."

(Footnote: The definition of farm use is taken from ORS 215.203(2). The addition to the paragraph relating to farm dwellings is to incorporate the permitted non-farm uses for customary farm dwellings provided in ORS 215.283 but modified so as to permit only new farm dwellings which will be 150 feet or more from ordinary low water.)

(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. 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. Residential use of land within the Greenway includes the practices and activities customarily related to the use and enjoyment of one's home. Landscaping, construction of driveways, modification of existing structures, or construction or placement of such subsidiary structures or facilities adjacent to the residence as are usual and necessary to such use and enjoyment shall not be considered an intensification for the purposes of this order. Seasonal increases in gravel operations shall not be considered an intensification of use.

(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*.

§ 34.5820 EXCEPTIONS

A Greenway Permit shall not be required for the following:

- (A) Farm Use, as defined in ORS 215.203 (2) (a), including buildings and structures accessory thereto on "converted wetlands" as defined by ORS 196.905 (9) or on upland areas;
- (B) The propagation of timber or the cutting of timber for public safety or personal use;
- (C) Gravel removal from the bed of the Willamette River, conducted under a permit from the State of Oregon;
- (D) Customary dredging and channel maintenance and the removal or filling, or both, for the maintenance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation ditches and tile drain systems as allowed by ORS 196.905 (6);
- (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;
- (G) On scenic easements acquired under ORS 390.332 (2) (a), the maintenance authorized by that statute and ORS 390.368;
- (H) The use of a small cluster of logs for erosion control;
- (I) The expansion of capacity, or the replacement, of existing communications or energy distribution and transmission systems, except substations;
- (J) The maintenance and repair of existing flood control facilities; and
- (K) Uses legally existing on October 6, 1977, the effective date of Ordinance 148; provided, however, that any change or intensification of such use shall require a Greenway Permit.

Staff: The walkway is part of the landscaping of the marina, which is a water dependent use, and is therefore exempt from Greenway permit review.

5.00 Design Review:

5.01 MCC 34.7000 Elements of Design Review Plan

The elements of a Design Review Plan are: The layout 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.

MCC 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.

MCC 34.7015 Exceptions

The provisions of MCC 34.7000 through 34.7065 shall not be applied to the following:

(A) Single family residences.

(B) Type B Home Occupations that require the addition of less than 400 square feet of ground coverage to the structure.

MCC 34.7020 Application of Regulations

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 in any district.

Staff: The walkway is proposed as an amendment to the marina site plan that was approved as part of a Community Service use and as such is subject to Design Review.

5.02 MCC 34.7040 Final Design Review Plan

A final design review plan shall contain the following, drawn to scale:

(A) Site Development and Landscape Plans, indicating the locations and specifications of the items described in MCC 34.7030 (D) and (E), as appropriate;

(B) Architectural drawings, indicating floor plans, sections, and elevations;

(C) Proposed minor exceptions from yard, parking, and sign requirements; and

(D) When the Planning Director determines that immediate execution of any feature of an approved final design review plan is impractical due to climatic conditions, unavailability of materials or other temporary condition, the Director shall, as a precondition to the issuance of a required permit under MCC 34.7010 through 34.7020, require the posting of a performance bond, cash deposit, or other surety, to secure execution of the feature at a time certain.

Staff: Condition 2 requires the final Design Review Plan.

5.03.01 MCC 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.

Staff: The purpose of the walkway is for the enjoyment of the marina users as a form of passive recreation adjacent to the marina's existing dock, gangway ramp, and gangway stairs. The pathway's visual impact to the surrounding area is relatively minimal. The pathway meanders and varies in width creating a relatively natural appearance in contrast to a more typical urban path with straight lines and sharp angles.

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

Staff: The walkway is intended for pedestrian use and is not meant to be used by motorized vehicles. The walkway in itself is not expected to generate additional vehicle trips to the marina because existing marina users will use the path.

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

Staff: The walkway is effective, efficient, and attractive as walkways go. The pedestrian walkway is on the human scale, varies in width and meanders across the landscape and provides a connection from the marina parking area to the top bank of the Multnomah Channel thus providing a passive recreation to the marina users.

5.03.04 (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.

Staff: The walkway is meant to serve the users of the existing marina and is generally considered a private use that includes a minor interface with a space enjoyed by the larger public, the Multnomah Channel.

5.03.05 (3) Special Needs of Handicapped – Where appropriate, the design review plan shall provide for the special needs of handicapped persons, such as ramps for wheelchairs and Braille signs.

Staff: The walkway is relatively level and is wider than the three foot minimum typically called for in ADA guidelines for accessibility purposes.

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

Staff: The walkway is a relatively minor feature on the landscape and generally does not detract from it.

- 5.03.07 (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 proposed and neighboring buildings and structures.**

Staff: The walkway does not include a proposal for new parking areas. The walkway supports pedestrian circulation insofar as it provides a more formal means of access from the marina's lower lot to the top of the bank of the Multnomah Channel.

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

Staff: The letter from Adnan Haddad (Exhibit A.5), P.E. indicates that surface drainage of stormwater runoff from the concrete should not be a concern. A storm water certificate is specifically requested confirming compliance with County stormwater standards MCC 29.333(C), which require that the rate of runoff for the 10 year 24 hour storm event is no greater than that which existed prior to development at the property line or point of discharge into a watercourse (Condition 3).

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

Staff: The proposal does not include storage areas, machinery or equipment.

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

Staff: The proposal does not include above ground utility installations.

- 5.03.11 (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.**

Staff: The proposal does not include signs, graphics, or lighting.

5.04.01 MCC 34.7055 Required Minimum Standards

...(C) Required Landscape Areas

The following landscape requirements are established for developments subject to design review plan approval:

(1) A minimum of 15% of the lot area shall be landscaped; provided, however, that computation of this minimum may include areas landscaped under subpart 3 of this subsection.

Staff: The property is approximately 20% landscaped (Exhibit B.3).

5.04.02 (2) All areas subject to the final design review plan and not otherwise improved shall be landscaped.

Staff: The subject property meets the 15 percent minimum landscaping requirement. The existing landscaping is adequate.

5.04.03 (3) The following landscape requirements shall apply to parking and loading areas:

(a) A parking or loading area providing ten or more spaces shall be improved with defined landscaped areas totaling no less than 25 square feet per parking space.

(b) A parking or loading area shall be separated from any lot line adjacent to a street by a landscaped strip at least 10 feet in width, and any other lot line by a landscaped strip at least 5 feet in width.

(c) A landscaped strip separating a parking or loading area from a street shall contain:

1. Street trees spaces as appropriate to the species, not to exceed 50 feet apart, on the average;

2. Low shrubs, not to reach a height greater than 3'0", spaced no more than 5 feet apart, on the average; and

3. Vegetative ground cover.

(d) Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.

(e) A parking landscape area shall have a width of not less than 5 feet.

Staff: The walkway will not result in any changes to existing parking, which was approved under the original Community Service Permit.

5.04.04 (4) Provision shall be made for watering planting areas where such care is required.

Staff: Condition 4 requires the property owner to insure the survival of required landscaped areas.

5.04.05 (5) Required landscaping shall be continuously maintained.

Staff: Condition 4 requires the property owner to insure the survival of required landscaped areas.

5.04.06 (6) Maximum height of tree species shall be considered when planting under overhead utility lines.

Staff: This is a condition of approval (Condition 5).

5.04.07 (7) Landscaped means the improvement of land by means such as contouring, planting, and the location of outdoor structures, furniture, walkways and similar features.

Staff: The proposed walkway, in this context, is a landscape feature.

6.00 Transportation Standards

MCRR 4.000 Access to County Roads

MCRR 4.100 *Required Information:* Applicants for a new or reconfigured access onto a road under County Jurisdiction may be required to provide all of the following:

- A. Site Plan;**
- B. Traffic Study-completed by a registered traffic engineer;**
- C. Access Analysis-completed by a registered traffic engineer;**
- D. Sight Distance Certification from a registered traffic engineer; and**
- E. Other site-specific information requested by the County Engineer**

MCRR 4.200 *Number:* Reducing the number of existing and proposed access points on Arterials and Collectors and improving traffic flow and safety on all County roads will be the primary consideration when reviewing access proposals for approval. One driveway access per property will be the standard for approval. Double frontage lots will be limited to access from the lower classification street. Shared access may be required in situations where spacing standards cannot be met or where there is a benefit to the transportation system.

MCRR 4.300 *Location:* All new access points shall be located so as to meet the access spacing standards laid out in the Design and Construction Manual.

MCRR 4.400 *Width:* Driveway and Accessway widths shall conform to the dimensions laid out in the Design and Construction Manual.

MCRR 4.500 *Sight Distance*: All new access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the Design and Construction Manual and AASHTO's A Policy on Geometric Design of Highways and Streets.

Staff: NW Sauvie Island Road is classified as a Rural Local Road as identified in Functional Classification Map, the access point spacing standard is 50 feet. The minimum distance is applied to both driveways on the same side of the street as well as driveways opposite to the site.

The property features two access locations. A driveway provides access to both the upper and lower marina parking areas. The marina driveway is located towards the northwest corner of the property approximately 270 feet northwest of the intersection of NW Sauvie Island Road and NW Reeder Road.

A second access driveway is located approximately 135 feet southeast of the marina driveway and 135 feet northwest of the intersection of NW Sauvie Island Road and NW Reeder Road. This second driveway provides direct access to the two existing dwellings on the property. The two driveways are connected internally on the property as well.

The County Right of Way office indicates that no access permits exist for either driveway. The MCRR generally allow one access per lot. Condition 6 requires the owner to obtain an access permit(s) in compliance with the MCRR. Condition 6 also requires the property owner to close the second (southern) driveway unless the property owner obtains an approval (such as a Road Rules Variance) for the continued use of the second driveway.

MCRR 5.000 Transportation Impact

MCRR 5.100 To determine if a Transportation Impact is caused by a proposed development, the County Engineer will determine the number of new trips generated by a site by one of the following methods:

- A. Calculations from the most recent edition of the Institute of Transportation Engineers' Trip Generation (ITE); or**
- B. A site development transportation impact study conducted by a professional engineer registered in the State of Oregon and accepted by the County.**

MCRR 5.200 The County Engineer will use the information obtained pursuant to subsection 5.100 and/or the frontage length of the subject property to determine the pro-rata share of the requirements set forth in Section 6.000.

MCRR 5.300 Except where special circumstances require the County Engineer to make an alternate determination, any new construction or alteration which will increase the number of trips generated by a site by more than 20 percent, by more than 100 trips per day or by more than 10 trips in the peak hour shall be found to have a *Transportation Impact*. A minimum increase of 10 new trips per day is required to find a transportation impact.

Staff: Because the proposed walkway is intended to serve the existing marina users it is not expected to generate additional trips to the site.

7.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Design Review permit to establish a pedestrian walkway accessory to the existing marina on the property in the MUA-20 zone. This approval is subject to the conditions of approval established in this report.

8.00 Exhibits

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits
- 'C' Procedural Exhibits
- 'D' Comments Received

All exhibits are available for review in Case File T2-2011-1385 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application Form	01/04/2011
A.2	1	Applicant's Narrative	01/04/2011
A.3	1	Applicant's Site Plan	01/04/2011
A.4	1	Memo from Adnan Haddad, PE regarding proposed developments. Dated Sept. 24, 2009	01/04/2011
A.5	2	Memo from Adnan Haddad, PE regarding proposed developments. Dated Jan. 6, 2010	01/04/2011
A.6	3	Applicant's Response Letter regarding comments received	03/07/2011
'B'	#	Staff Exhibits	Date
B.1	3	A&T Property Information	01/04/2011
B.2	1	County Zoning and Overlays Map with 2008 Aerial Photo	03/28/2011
B.3	1	2008 Aerial Photo with existing landscaped area highlighted	03/29/2011
B.4	1	August 15, 2010 Aerial Photo of walkway via <i>Google Earth</i> TM Accessed March 29, 2011.	03/29/2011
B.5	1	August 15, 2010 Aerial Photo of subject property via <i>Google Earth</i> TM Accessed March 29, 2011.	03/29/2011
B.6	2	Pre-Filing Notes	03/29/2011
B.7	1	Table 1.2.5 (Minimum Private Access Driveway Spacing Standards) of the Multnomah County Design and Construction Manual.	03/29/2011

B.8	1	Table 2.2.5 (Rural Cross Sections) of the Multnomah County Design and Construction Manual.	03/29/2011
B.9	1	Blank Storm Water Certificate to be completed by an Oregon registered engineer.	03/29/2011
B.10	89	Multnomah County Case File CS 2-75 (Approval for marina).	03/29/2011
B.11	37	Multnomah County Case File T2-09-043 (Decision of the Hearings Officer – Denial of Willamette River Greenway Permit).	03/29/2011

'C'	#	Administration & Procedures	Date
C.1	1	Letter Deeming Application Complete (January 4, 2011 = Day 1).	02/02/2011
C.2	2	14 Day Opportunity to Comment.	02/02/2011

'D'	#	Comments Received	Date
D.1	1	Email from Phil Sperr	02/04/2011
D.2	4	Letter from Grant Johnson, Sauvie Island Moorage dated Feb. 14, 2011.	02/16/2011

Attachments:

D.2.a: Drainfield Layout Plan

D.2.b: Drainfield Layout Plan superimposed onto Applicant's site plan.

D.3	7	Email from Michele DeHart.	02/15/2011
		Attachments:	
		D.3.a: Photographs labeled "sewage waste water discharge approximately 30 feet downstream of Big Island Marina."	
		D.3.b: "my previous comments on Case File: T2-2011 1385."	

D.4	42	Email from Julia Bergren.	02/15/2011
		Attachments:	
		D.4.a: Multnomah County Case File T2-09-043	

D.5	2	Email from Joanna Valencia, Multnomah County Transportation Specialist.	02/08/2011
D.6	2	Email from Erin Mick REHS, On Site Sanitation for Multnomah	03/02/2011

