
1600 SE 190th Avenue, Portland Oregon 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

DECISION OF THE HEARINGS OFFICER

Case File: T3-2016-5319

Hearing Date, Time, & Place:

Friday, March 10, 2017 at 9:00 am, in Room 103 at the Land Use Planning Division office located at 1600 SE 190th Avenue, Portland, OR 97233

Permits: Conditional Use, Community Service Conditional Use, Design Review, Willamette River Greenway, and Alteration of Nonconforming Use Permits.

Location: 12950 NW Marina Way Tax Lot 00700, Section 28D, Township 2 North, Range 1 West, W.M. Tax Account R971280500 (the “site”).

Applicant: Mike Herrick – Aquatic Contracting LLC

Owner: Daniel Gulbrandson

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

Overlays: Willamette River Greenway (WRG) and Flood Hazard

Summary: Request for Conditional Use Permit (“CUP”) to establish on-site commercial processing of forest products primarily grown in the region, Design Review Permit to establish the business infrastructure on-site for the commercial processing use, Community Service Conditional Use Permit to establish a private marina for use in conjunction with the commercial processing use, Willamette River Greenway Permit for new development on the property, Alteration of a Nonconforming Use Permit, and a deviation from the surfacing standard of MCC 34.4180(A).

Applicable Approval Criteria: Multnomah County Code (MCC):

- MCC 34.2800- 34.2885: MUA-20, 34.6300-34.6350: Conditional Use,
- MCC 34.6000- 34.6020: Community Service Conditional Use,
- MCC 34.5800-34.5865: Willamette River Greenway,
- MCC 34.7000-34.7060, Design Review,
- MCC 34.4100-34.4215: Off-Street Parking and Loading,
- MCC 34.7200-34.7214: Alteration of a Nonconforming Use
- Comprehensive Plan, Sauvie Island/Multnomah Channel Area Plan Policy 2.1
- Comprehensive Plan Policy 37: Water and Disposal System and Drainage
- Comprehensive Plan Policy 37: Fire and Police Protection
- Sauvie Island/Multnomah Channel Area Plan Policy 2.1(d): Sewage disposal for boats onboard cooking and/or sanitation facilities.

DECISION: The request for Conditional Use Permit for on-site commercial processing of forest products primarily grown in the region, Community Service Conditional Use Permit for a marina, Design Review Permit to establish the business infrastructure on-site, Willamette River Greenway Permit for new development on the property, and deviation from the surfacing standard of MCC 34.4180(A) are **approved** subject to the conditions of approval included in this Final Order. The request for Alteration of a Nonconforming Use Permit is **denied**.

Conditions of Approval:

1. The use on the property shall be (1) the commercial processing of forest products primarily grown in the region or accessory to that use such as: the office being directly related to the forest product processing operation and storage and use of equipment related to the forest product processing operation, and (2) a private marina (10 boat slips, moorage, docks, gangway, and covered areas) for mooring boats related to the forest product processing operation and related accessory uses. The authorization includes maintenance and repair of the existing marina. It does not authorize renting, leasing or any other public use of the boat slips or the sale of general retail goods to the public. If renting boat slips to the general public or retail sales to the general public are sought for the marina, then the applicant must obtain County approval of those uses.
2. The applicant shall obtain any required building permits prior to undertaking modifications or repairs to the marina structures and improvements.
3. All code compliance issues on the property shall be resolved. Building permits shall be obtained for the pole barn for the proposed commercial use, including plumbing and electrical permits. The dwelling unit in the pole barn shall be removed. A sanitary waste disposal system approved by DEQ or an agent thereof shall be installed and connected to all restrooms on the property. A Division of State Lands (DSL) lease transferred to Aquatic Contracting LLC shall be obtained. Any in-water features that are outside of DSL lease area shall be removed unless the applicant provides written

acknowledgement from DSL that it does not object to, or approves of, the location of the marina and all of its in-water features. Building permits shall be obtained for the existing floating structures if building permits were required and not obtained for these structures.

4. The property owner shall establish landscaping, parking and stormwater facilities as shown on Exhibit H.4.
5. The applicant shall install curbs and bumper rails consistent with MCC 34.4180(B) within the paved parking lot for the office building. Curbs and bumper rails are not required for the gravel surfaced parking, loading, and maneuvering areas on the site.
6. Required parking spaces shall be available for the parking of passenger vehicles of customers, occupants, and employees without charge or other consideration. No parking of non-passenger trucks, equipment, materials, structures or signs or the conducting of any business activity shall be permitted on any required parking space. Loading areas shall not be used for any purpose other than loading or unloading.
7. Required parking and loading areas shall be improved and placed in condition for use before the grant of a Certificate of Occupancy, or a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director. Any such bond shall include a condition that if the improvement has not been completed within one year after issuance of the Certificate of Occupancy, the bond shall be forfeited. Any bond filed hereunder shall be subject to the approval of the Planning Director and the County Attorney.
8. An unobstructed driveway not less than 20 feet in width for two-way traffic, leading to a public street shall be installed with traffic directions plainly marked on the pavement. The applicant shall pave all driveway approaches to NW Marina Way a minimum distance of 21 feet from the fog line. All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan and such marking shall be continually maintained.
9. All exterior artificial lighting which may be provided shall be shielded or deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street.
10. No signs are approved with this application. Any future signs shall meet the provisions of MCC 34.7465. [MCC 34.4190]
11. Provision shall be made for watering planting areas where such care is required. Required landscaping shall be continuously maintained. Maximum height of tree species shall be considered when planting under overhead utility lines.
12. The applicant shall obtain County approval and maintain continuous implementation of a dust control plan for the site consistent with MCC 34.4180(A)(2)(d).

13. The use of cooking and/or sanitation facilities by boats moored at this site is prohibited, unless and until the applicant installs an approved onsite mechanism for disposal of sewage, either through connections at each slip or through the availability of on-site alternative pump out facilities which are reasonably safe from accidental spillage.

Dated this 25th day of April 2017

A handwritten signature in black ink, appearing to read 'Joe Turner', written over a horizontal line.

Joe Turner, Esq., AICP
Multnomah County Land Use Hearings Officer

This Decision is final when mailed. Appeals may be filed with the Oregon Land Use Board of Appeals within the time frames allowed by State law.

A. HEARING AND RECORD HIGHLIGHTS

1. Multnomah County Land Use Hearings Officer Joe Turner received testimony at the duly noticed public hearing about this application on March 10, 2017. At the hearing, the hearings officer received into the record and physically inspected the file maintained by the Department of Community Services Land Use Planning Program regarding the application. The hearings officer made the declarations required by ORS 197.763. The hearings officer disclaimed any *ex parte* contacts and any bias or conflicts of interest.

2. County planner George Plummer summarized the Staff Report and the applicable approval criteria.

a. He noted that the proposed use includes multiple components: A CUP for on-site commercial processing of forest products, a Community Service CUP to establish a marina, a Design Review Permit to establish the business infrastructure on-site, a Willamette River Greenway Permit for new development on the property, and an Alteration of a Nonconforming Use Permit.

i. He recommended the hearings officer approve the CUP for on-site commercial processing of forest products. The applicant will transport logs and root wads to the site by boat or truck, process the logs and root wads on the site, and transport them offsite for use in conservation and habitat restoration projects.

ii. He recommended the hearings officer deny the proposed Alteration of a Nonconforming Use Permit, because there is no evidence that the nonconforming uses were legally established on the site. The approvals in Cases T3-08-002 and T2-09-018 were never perfected, because the applicant failed to fulfill the conditions of approval. The property owner admitted that the uses on the site were illegal when he entered into compliance agreements with the County. This is sufficient to rebut any presumption that the nonconforming use was legally established. Approval of the nonconforming use is not needed to allow the proposed use on the site.

iii. Historically the County has defined a “marina” as a public boat moorage where boat owners are charged a fee to moor their vessels. In this case, use of the moorage will be limited to the vessels owned or operated by the applicant or the applicant’s customers. No public use is proposed. Therefore the proposed marina could be approved as an accessory use to the commercial forest product processing use on the site. If the marina is approved as a conditional use, a condition of approval is warranted limiting use of the marina to the applicant and its customers. Public use of the marina should be prohibited unless the applicant obtains additional Design Review and Willamette River Greenway approvals for a public marina.

iv. There is inadequate information in the record to support approval of the applications for Willamette River Greenway permit and Design Review approval.

b. He requested the hearings officer include conditions of approval: (i) Limiting use of the dock to the forest processing use; public use and leasing of moorages should be prohibited; and (ii) Requiring the applicant obtain building permits for the existing docks and buildings on the site or remove these structures.

c. He noted that the Code requires curbs at the edge of paved areas to direct traffic and prevent vehicles from driving off of paved surface except at designated locations. Curbing should not be required around the perimeter of the gravel surfaced parking and maneuvering areas on the site.

d. The northern portion of the existing dock and walkway appears to extend beyond the boundaries of the DSL lease area. The applicant should be required to remove this portion of the structure or provide confirmation from DSL that it is allowed. He requested the hearings officer modify condition 2 to that effect.

3. Consulting planner Bruce Vincent, business owner Mike Herrick, attorney Wendie Kellington, and professional engineer Jake Hofeld appeared on behalf of the applicant, Aquatic Contracting, LLC.

a. Mr. Vincent submitted Exhibits H.1 through H.4 and summarized the proposed use.

i. The applicant proposes to operate a forest products processing facility on the site. The applicant will repair and maintain the existing moorage and dock on the site for use in its forest processing business. The applicant has a commercial marine lease from DSL for the dock and moorage, Tab 1 of Exhibit H.1. The applicant's use of the moorage and dock qualifies as a commercial marina under DSL's rules, set out in Tab 7 of Exhibit H.1. The applicant requests approval of a marina to ensure the marina is allowed under the terms of the DSL lease. The marina use includes 10-slips and four moorage spaces. Use of the marina will be limited to the applicant's business; no public use or leasing is proposed. He proposed a condition of approval to that effect, Tab 9 of Exhibit H.1. He objected to the portion of proposed condition 2 that requires removal of a portion of the existing dock and moorage. The applicant intends to use the entire dock and moorage as its business expands in the future.

ii. The applicant is requesting Design Review approval for an office building on the site, including a parking lot, landscaping, and stormwater facilities.

iii. The applicant requests approval of a Willamette River Greenway permit for the uses on the site. The proposed office building will be setback 288 feet or more from the top of the riverbank. The applicant will restore the riparian area on the riverbank, removing existing invasive vegetation and planting native species, to enhance the riparian habitat and buffer the site from the river.

(A) The application will comply with MCC 34.5855(A), maximizing landscaping and open space between the use and the river. The applicant will provide a 30-foot landscaped buffer between the river and developed areas of the site. The office

building will be setback 250 feet from the top of the riverbank. The existing pole barn is setback 200 feet from the riverbank. The applicant will use the existing gravel area between the buffer and the office building parking lot for vehicle parking and maneuvering, including large commercial vehicles (log trucks), storage of logs and root wads, growing plants for use in restoration projects, and other business activities.

(B) The application will comply with MCC 34.5855(C), directing development away from the river to the greatest possible degree. All structures will be located as far away from the river as possible.

b. Mr. Herrick summarized Aquatic Contracting's (the "company") business. The company has five full-time employees and 15 to 20 field personnel. The company conducts a variety of habitat and landscape restoration projects throughout the region. The company salvages timber year-round for use in restoration projects. The company needs water access to transport plants, logs, personnel, and equipment to restoration sites, many of which are only accessible by water during certain times of the year. The applicant may also transport logs to the site by water. The applicant may store logs in the water on a short-term basis.

i. He argued that the building elevation illustrations submitted by the applicant are sufficient to determine compliance with building height and footprint requirements. Additional detail is not needed at this stage of review.

ii. The applicant will remove all of the existing debris on the site and the raft of logs floating in the river. The applicant will renovate the existing pole barn, replacing the roof and siding to improve the aesthetics and bring the building up to code. Neighboring residents support the proposed use. The applicant may store logs used in its business in the river on a short-term basis.

iii. The pilings for the northern portion of the dock may extend slightly beyond the boundaries of the DSL lease, based on Exhibit H.2.

c. Ms. Kellington testified that the nonconforming use application is only needed to "fill in gaps" in the application. The nonconforming use has been continuously operating on the site for the past ten-years. Therefore the nonconforming use is presumed to be lawful pursuant to ORS 215.130(10). The site was zoned M1 when Mr. Gulbrandson acquired the property in August 1975. The site was zoned MUA-20 during the ten year period preceding this application. The establishment and continuity of the nonconforming use are discussed in detail at pp 11-16 of Exhibit A.6. The applicant's use is similar to Mr. Gulbrandson's use. The applicant operates in aquatic environments; salvages, processes, and sells logs; and uses, repairs and maintains similar equipment.

i. She requested the hearings officer modify proposed condition 3 to limit riparian area restoration to the proposed 30-foot buffer. The applicant will use the remainder of the site for its business, including storage of materials and parking and maneuvering of vehicles.

ii. The boat dock and moorage should be approved as a “marina” rather than a use accessory to the proposed forest processing use. The marina use will be accessory to the processing use. However private docks are not listed as permitted accessory uses in the MUA-20 zone. The Code defines accessory use as “A lawful use that is customarily subordinate and incidental to a primary use on a lot.” Reliance on this broad language is speculative and could create problems for the applicant in the future, when the applicant seeks a Land Use Compatibility Statement (“LUCS”) for renewal of the DSL lease. The Sauvie Island Plan documents suggest an intent that DSL’s definitions apply and the moorage is consistent with DSL’s definition of “marina” in OAR 141-082-0255(5). DSL regulations do not limit marinas to public use. The current and prior (1997) Sauvie Island Plans recognize the moorage on the site as a marina; it is identified as “Gulbrandson” or “A-1” moorage on the plan.

iii. Conditions requiring additional landscaping and buffering of the riverbank are not needed and will conflict with the applicant’s use of the site. The use will not add any pollutants to the river. The applicant will use the open gravel surfaced area in the middle of the site for vehicle and equipment parking, loading and maneuvering for the pole barn/shop and log storage area as shown on Exhibit H-4. The applicant will collect and treat all stormwater runoff from the site. The barn is an existing structure that is setback 200 feet from the riverbank. The proposed office building is setback as far as possible from the river while complying with setback requirements from the western property line.

iv. She requested the hearings officer modify Condition 4 to allow parking of passenger trucks in the office parking lot.

v. She requested the hearings officer add a condition of approval allowing the applicant to apply for a deviation from the paving and curbing requirements. The applicant proposed to retain the existing gravel parking and maneuvering areas on the site. The proposed buffer plantings and stormwater swale will reduce the peak flow of runoff from the site. The majority of other properties in the area have gravel surfaced parking and maneuvering areas. Replacing the existing gravel with pavement would increase the volume of stormwater runoff, which would require additional stormwater facilities for detention and treatment. The applicant will install curbs and bumper rails within the paved parking lot for the proposed office building. However curbs and bumpers are not warranted around the perimeter of the gravel areas on the site.

vi. The applicant did not propose any signs. Therefore condition 7 is not warranted.

d. Mr. Hofeld summarized the design of the proposed stormwater facilities. The applicant will collect, treat and detain stormwater runoff from the new impervious areas on the site, the office building and parking lot. The applicant will also provide a new stormwater swale at the edge of the enhanced riparian area to collect runoff from the existing gravel area on the site. The proposed development, without the additional swale at the edge of the gravel area, will reduce the peak flow stormwater runoff rate from the site during the 10-year 24-hour design storm compared to existing conditions on the site. The proposed development will increase the

amount of pavement on the site, but it will also reduce the amount of gravel and increase the amount of vegetation. The new stormwater swale will further reduce the rate of runoff.

4. Tom Josephson, project manager for the Columbia River Estuary Task Force; Clark Caffall of Combined Forest and Marine Services; Shawn Looney, chair of the Linnton Neighborhood Association; Ann Squire, owner of a nearby marina; and Joseph Ashton of the Multnomah Yacht Harbor, all testified in support of the application.

a. Mr. Josephson argued that the marina use is necessary to allow the applicant to transport plants and personnel to restoration sites and to facilitate inspection site visits by regulatory authorities. Planting often occurs during the wet season, when restoration sites are only accessible by water. He testified that DSL reviewed the existing dock “13 to 14 years ago” and confirmed that it is allowed by the existing lease.

b. Ms. Looney testified that the site “is an eyesore” under existing conditions. The improvements proposed by the applicant will improve the aesthetics of the area.

c. Ms. Squire supported use of the marina as part of the applicant’s business. She opposed any public use of the marina.

5. At the end of the public hearing, the hearings officer ordered the record held open until April 5, 2017 to allow the applicants an opportunity to submit a final written argument, without any new evidence. The record in this case closed at 4:00 p.m. April 5, 2017.

B. FINDINGS OF FACT

1. PROJECT DESCRIPTION AND ADMINISTRATIVE PROCEDURES

1.1. Project Description

Request for Conditional Use Permit to establish on-site commercial processing of forest products primarily grown in the region, Community Service Conditional Use Permit to establish a private marina for use in conjunction with the forest products processing use, Design Review Permit to establish the business infrastructure on-site, Willamette River Greenway Permit for new development on the property, and Alteration of a Nonconforming Use Permit.

The proposed commercial processing of forest products primarily grown in the region is listed as a Conditional Use allowed in the MUA-20 Zone. The proposal includes the processing of forest products with buildings and other uses accessory to the forest products processing operation. Forest product processing proposed on the site consists of bringing logs and root wads to the site by truck or boat, cutting the logs to length and/or stripping them of bark. Logs and root wads are stored on the site until needed for use in off-site restoration projects. The use includes: a 3,000 square foot office building providing eight office spaces; a 5,243 square foot storage barn (Exhibit A.37) used to

store a small dump truck, an off-road dump truck, a rubber track dump truck, a water trailer, a caterpillar mini-excavator, equipment trailers, and other miscellaneous equipment and tools (Exhibit A.44); one or more boats and similar vessels used to transport logs prior to processing and after processing and to transport plants, personnel, and equipment to restoration sites; a dock to moor vessels related to the business; an area for growing native plants in raised beds using imported soil for use restoration projects; and a ramp to the river to move logs and boats in and out of the river. A condition of approval is warranted to limit the use on the property to processing of forest products. The use also includes a private marina to exclusively serve boats related to the forest products processing operation. No public use of the marina is proposed. The processing operation with associated buildings, marina, and other uses accessory to the forest products processing operation is the primary permitted use.

1.2. Administrative Procedures

The subject application was submitted on June 7, 2016 (Exhibit A.1). Staff sent the applicant a letter dated August 5, 2016 deeming the application incomplete with a list of information and materials needed to complete the application (Exhibit C.1). After additional submittal by the applicant, staff sent the applicant a second letter dated November 2, 2016 finding the application continued to be incomplete, with a list including information and materials needed to complete the application (Exhibit C.2). Staff met with the applicant and his staff after each incompleteness letter was sent to clarify any questions they may have. Staff sent the applicant a letter dated December 7, 2016 deeming the application complete (Exhibit C.3). Notice of Public Hearing was sent on February 14, 2017 (Exhibit C.4). Staff issued a Staff Report recommending approval of the forest product processing operation and denial of the remainder of the application based on insufficient evidence of compliance with applicable approval criteria. At the hearing the applicant submitted additional evidence demonstrating compliance with the approval criteria for the remaining uses proposed in the application.

2. PROPERTY DESCRIPTION & HISTORY

The 2.13-acre site abuts NW Marina Way on the west and the Multnomah Channel of the Willamette River on the east (Exhibit A.22). The subject property is almost entirely covered with a packed gravel surface, with a slight slope to the river. About half the property is located in the floodplain.

The current property owner, Daniel Gulbrandson, purchased the property through a contract in 1975 (Exhibit B.3). He operated a log salvage operation on the site - capturing and pulling stray logs out of the river and processing them. An aerial photo taken in October 1977 shows piles of lumber stacked on the site (Exhibit B.4). In 1980 the property owner obtained a Willamette Greenway Permit approval for a log salvage business (Exhibit B.10). An aerial photo taken in June 1986 shows the property continued to be used for the log salvage operation. It also shows that a pole barn was built on the property.

The pole barn was thought to be an agricultural building, however in Case T3-08-002 and T2-09-018 the County found that the barn was not being used for agricultural purposes and required a building permit for other uses proposed. At some point the property owner built a dwelling on the second floor of the pole barn without obtaining permits.

After June 1986 the property owner established a marine (boat) salvage operation (a junkyard) and began mooring some boats for the public. This operation was not approved through a required Community Service permit and thus was not lawful. County Code Compliance worked with the property owner for many years attempting to get the property into compliance with varying degrees of success back and forth over the last more than 15 years (Exhibit B.11). The County Code Compliance Specialists encouraged the property owner to apply for a Community Service Conditional Use for a marina and boat repair and salvage operation. The owner submitted an application for a Community Service permit for a marina, Case T3-08-002 (Exhibits B.6, B.7 and B.8) and a later case for Willamette River Greenway and Design Review Case T2-09-018 (Exhibit B.9).

The Hearing Officer Decision (which was a denial) for Case T3-08-002 is included as Exhibit B.7. The decision was appealed to the County Board of Commissioners, which affirmed in part and reversed in part the Hearing Officer Decision, Board Order No. 09-012 included as Exhibit B.8.

The approval for Case T3-08-002 included a timeline to accomplish establishment of the approved use.

Year One 11/01/2009	Structural/Code Evaluation of pole barn/warehouse Remove crane equipment near gangway Obtain DSL lease renewal and amendment per plan
Year Two 11/01/2010	Remove encroaching portion of pole barn/warehouse Install driveway approaches and logs per ODOT permit Reconfigure in-water walkways, covered slips per plan Install planter islands, landscaping, and parking spaces
Year Three 11/01/2011	Remodel pole barn for accessory marina use Install bathroom and new drain field per plan
Year Four 11/01/2012	Install finger piers and Boat Lift system
Year Five 11/01/2013	Construct floating home per plan

There is no evidence that the timeline or conditions for T3-08-002 and T2-09-018 have been met. If the timeline has not been met and/or major conditions establishing the use, such as building permits obtained, drawings of float structures submitted, installing an approved septic system, establishing the improved designated parking area for the marina

use, then the permits approved in Case T3-08-002 and T2-09-018 are expired. Generally land use permits expire after two years if the conditions are not met unless an alternative timeline is approved. This land use approval outlined a generous five-year timeline to be met. The marina use approved through T3-08-002 and T2-09-018 was not established according to the timeline approved in that case, thus the approved use expired and the use is not established.

While some code compliance issues appear to be unresolved on the property, as required by MCC 37.0560 conditions of approval can require the property owners bring the property into compliance.

3. MULTIPLE USE AGRICULTURE 20 ZONE

3.1. Purpose

MCC 34.2800: 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.

The application request is for a Conditional Use for commercial processing of forest products primarily grown in the region and associated uses, a Community Service Conditional Use for a private marina for vessels accessory to the commercial forest processing operation, and other required permits.

3.2. Conditional Uses

MCC 34.2830: The following uses may be permitted when found by the approval authority to satisfy the applicable ordinance standards:

- (A) Community Service Uses pursuant to the provisions of MCC 34.6000 through 34.6230;**
- (B) The following Conditional Uses pursuant to the provisions of MCC 34.6300 through 34.6660:**

* * *

- (8) Commercial processing of forest products primarily grown in the region.**

The application request includes a Community Service Conditional Use Permit for a private marina with findings for the provisions of MCC 34.6000 through 34.6230 in Section 5 of this Final Order. The request also includes a Conditional Use Permit for the commercial processing of forest products primarily grown in the region with findings for the applicable provisions of MCC 34.6300 through 34.6660 in Section 6 of this Final Order and a Willamette River Greenway permit with findings for the provisions of MCC 34.555 in Section 7 of this Final Order Conditional Use permits require Design Review

per MCC 34.6005(B) and MCC 34.6325 including Off-Street Parking Review with findings under Sections 8 and 9 of this Final Order.

3.3. Dimensional Requirements And Development Standards

MCC 34.2855 (C) Minimum Yard Dimensions - Feet

Front and Rear Yard: 30, Side 10

Maximum Structure Height – 35 feet

The site plan (Exhibit A.32) shows the minimum yard dimensions are met for the proposed office building and the parking and loading spaces. Exhibit A.11 shows the proposed office building at approximately 27 feet in height. Exhibit A.37 shows the existing pole building at approximately 27 feet in height. It appears the Mr. Gulbrandson acted on the Adjustment approval in Case T3-08-002 for the reduction of the front minimum yard to 18 feet for the pole barn. The submitted site plan labeled Exhibit A.32 show the pole barn meeting the 18-foot of Adjustment approved minimum front yard. *These standards are met.*

3.4. Lot Of Record

MCC 34.2870 (A) Lot of Record definition standards in MCC 34.0005,

MCC 34.0005: Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 34.7785. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

- (a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.**
- (b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:**
 - 1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or**
 - 2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or**
 - 3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or**
 - 4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and**
 - 5. “Satisfied all applicable land division laws” shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of**

the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU district.)

The property was found to be a Lot of Record in Case T3-08-002. The subject 2.13-acre property was created in 1975 through a contract recorded in Book 1060, Page 38 by Nicholas and Louise Calcagno (Exhibit B.13) and with contract fulfilled as noted in Warranty Deed record in 1988 in Book 2106 on page 1645 for the subject property (Exhibit B.3).

3.5. Lot Sizes For Conditional Uses

MCC 34.2875 The minimum lot size for a Conditional Use permitted pursuant to MCC 34.2830, except subpart (C)(1) thereof, shall be based upon:

- (A) The site size needs of the proposed use;**
- (B) The nature of the proposed use in relation to its impact on nearby properties;**
- (C) Consideration of the purposes of this district; and**
- (D) A finding that the lot or parcel is at least two acres in area.**

MCC 34.2830(C)(1) is not applicable for this request.

(A) The application shows that the property meets the site size needs for the proposed Conditional Use Permits. *This standard is met.*

(B) The nature of the surrounding area includes dense residential use of floating homes on the adjacent properties up and down river. The properties directly across St. Helens Road are zoned CFU-2 (Commercial Forest Use) with dwellings. Properties to the northwest zoned Rural Residential with dwellings developed prior to the zone designation on existing subdivision lots which are small in size for rural development. Across the river is an ESCO Corporation approved fill site.

In Exhibit A.2 on Page 7 the application states that, “the nature of the proposed business will be low impact, generate very little traffic, noise or other off-site impacts and will be compatible with the surrounding area.” Exhibit A.21 describes in detail the Aquatic Contracting business activity. In Exhibit A.21 on Page 3 the narrative addresses “mitigation of noise.” The narrative included as Exhibit A.21 on Page 14 addresses impacts on nearby properties.

The nature of the proposed use in relation to its impact on nearby properties includes forest processing noise and exhaust. The noise would relate to moving and receiving logs, chain saw and other equipment noise, transportation of processed logs to off-site projects and other noise related to the business operation, such as vehicles (including boats) arriving, loading and unloading, and departing. The exhaust from equipment used for the business should be similar to that of other properties along the river with the possible exception of chain saw exhaust. The application proposes business hours of 7:30 am to 5:00 pm. There should be no other impacts on nearby properties. *This standard is met.*

(C) 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 applicable County policies. The proposed Community Service Conditional Use for a private marina and Conditional Use for the commercial processing of forest products primarily grown in the region are uses that are allowed through the Conditional Use review process in the MUA-20 Zone district. *The hearings officer finds that the proposed uses, processing of forest products primarily grown in the region and a private marina for use in association with the forest processing use, meet the purpose of the MUA-20 Zone District.*

(D) The subject parcel is 2.13 acres. *This standard is met.*

3.6. Off-Street Parking And Loading

MCC 34.2880 Off-Street parking and loading shall be provided as required by MCC 34.4100 through 34.4220.

Off-Street parking and loading requirements per MCC 34.4100 through 34.4220 are addressed under Section 8 of this Final Order.

3.7. Access

MCC 34.2885 All lots and parcels in this district shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 34.2870(B).

The property abuts NW Marina Way, which is an ODOT road. Access to NW Marina Way is approved through ODOT. The application includes a letter from ODOT addressing the requirement for that access. The parcel is pre-existing. *This standard is met.*

4. ALTERATION OF A NONCONFORMING USE

4.1. Nonconforming Use

4.1.1 MCC 34.7200(A): The purpose of this section is to establish standards and procedures regulating the continuation, alteration, expansion, and replacement of nonconforming uses. The intent is to allow procedures for considering changes to nonconforming uses that do not increase the level of adverse impacts on the neighborhood, or changes required for the use to comply with State or County health or safety requirements.

As discussed in Section 4.2 (Verification of Nonconforming Use Status) of this Final Order, the proposed nonconforming use was not lawfully established on the site.

- 4.1.2. MCC 34.7200(B): The Planning Director must consider the purpose of the current zoning provisions that cannot be satisfied when determining whether or not the alteration, expansion, or replacement of the nonconforming use will have a greater adverse impact on the neighborhood under MCC 34.7214(C).**

The nonconforming use was not lawfully established. Therefore findings for alteration, expansion, or replacement of the nonconforming use are not included.

- 4.1.3. MCC 34.7200(C): Nonconforming uses shall be allowed to continue without additional permission, except that such uses may be replaced, altered or expanded only as provided in MCC 34.7209 and 34.7214 after verification under MCC 34.7204.**

As discussed in Section 4.2 (Verification of Nonconforming Use Status) of this Final Order, the proposed nonconforming use was not lawfully established on the site.

- 4.1.4. MCC 34.7200(D): If a nonconforming use is abandoned or discontinued for any reason for more than two years, it shall not be re-established unless the resumed use conforms with the requirements of this Zoning Code at the time of the proposed resumption.**

As discussed in Section 4.2 (Verification of Nonconforming Use Status) of this Final Order, the proposed nonconforming use was not lawfully established on the site.

- 4.1.5. MCC 34.7200(F): A nonconforming use may be maintained with ordinary care.**

As discussed in Section 4.2 (Verification of Nonconforming Use Status) of this Final Order, the proposed nonconforming use was not lawfully established on the site.

- 4.1.6. MCC 34.7200(G): A change in ownership or occupancy of a nonconforming use is permitted.**

As discussed in Section 4.2 (Verification of Nonconforming Use Status) of this Final Order, the proposed nonconforming use was not lawfully established on the site.

- 4.1.7. MCC 34.7200(H): No application under this section is required for the alteration, expansion, or replacement of a lawfully established habitable dwelling when a governing zoning district regulates such alteration, expansion, or replacement and the proposed alteration, expansion, or replacement satisfies the dimensional requirements of the district.**

As discussed in Section 4.2 (Verification of Nonconforming Use Status) of this Final Order, the proposed nonconforming use was not lawfully established on the site.

4.2. Verification of Nonconforming Use Status

4.2.1. MCC 34.7204(A): The Planning Director shall verify the status of a nonconforming use upon application for a determination by an owner on application for any land use or other permit for the site, or on finding there is a need for a determination (e.g., on learning of a possible Code violation). The determination shall be based on findings that the use:

- (1) Was legally established and operating at the time of enactment or amendment of this Zoning Code, and**
- (2) Has not been abandoned or interrupted for a continuous two year period.**

The application submittal included a Nonconforming Use Alteration request. Exhibit A.6 (Applicant's Exhibit 3) compiled by Wendie L. Kellington, which presented evidence for the applicant to address the legally established and continuous use standards. Ms. Kellington states that there is a "lawful nonconforming marine salvage" use of the subject property. She continues that, "especially, the lawful nonconforming marine salvage use of (1) shipbuilding, (2) forging, (3) vehicle wrecking yard and (4) junkyard."

The first test for a nonconforming use is whether or not it was lawfully established under the code that existed at the time of establishment. Ms. Kellington states that a marine salvage and junkyard use was established on the property in 1976. Ms. Kellington states "Mr. Gulbrandson engaged in dismantling ships ('other vehicles'), as well as storing the 'parts or equipment resulting from such dismantling' on the Subject Property in 1976-October 1977, meeting the county definition of 'junkyards' in effect..."

However, Exhibit B.4, an October 1977 aerial photo of the subject property, shows what appears to only be piles of lumber from Mr. Gulbrandson's log salvage operation. There is no evidence of any boat salvage occurring on the property in October 1977. Exhibit B.10 includes the file for Case WRG 4-80, a Willamette Greenway Permit approval for the log salvage operation. A condition of Case WRG 4-80 states, "Expansion of a commercial marina use would require approval at a public hearing." The handwritten notes submitted for the application request in Case WRG 4-80 includes the statement, "Public access is denied because this permit does not include commercial moorage." There is no reference of a junkyard or boat salvage operation. Exhibit B.5, a June 1986 aerial photo of the property, shows no evidence of a junkyard or boat salvage operation. These documents demonstrate that a junkyard and marine (boat) salvage uses were not lawfully created on the site prior to the zone change on October 6, 1977. A junkyard could not be established on the site after October 6, 1977 and a marina use including working on boats (marine salvage) required a Community Service Conditional Use after that date (Exhibit B.14).

Exhibit B.12 is a signed 2007 Voluntary Compliance Agreement (VCA) between the Multnomah County Code Compliance Program and Mr. Gulbrandson. The VCA states,

“the County has no record of land use permits or other approvals on file for the subject property establishing a marina.” The VCA states the following as unlawful, “the current configuration of the marina (covered boat docks)”, “commercial boat storage” and “the burnt out two story floating structure” (boat salvage). Previously, County Code Compliance required Mr. Gulbrandson to remove unlawful junk and boat salvage on the site. An attorney represented Mr. Gulbrandson in that proceeding as demonstrated by Exhibit B.12. County Code Compliance has several files (one two inches thick) of complaints and action taken with regards to the unlawful operation of a junkyard, boat salvage operation and a marina. Staff included just two Exhibits from the Code Compliance files so as not to increase the amount of exhibits.

In 2008, Mr. Gulbrandson submitted an application for a marina, boat repair and salvage uses on the site, Case T3-08-002. Exhibit B.6 is a Staff Report for Case T3-08-002, a request for Conditional Use, Community Service Use, Willamette River Greenway and Design Review Permits for a moorage use, a marina use including boat repair and salvage operation, and to legalize violations on the property related to the marina use and boat repair and salvage. The Hearings Officer Decision for that case is included as Exhibit B.7. The decision was appealed to the County Board of Commissioners with the Board Order No. 09-012 included as Exhibit B.8. These documents include findings about the use of the property and demonstrate that the junkyard and boat salvage operation were not lawful existing uses.

The hearings officer finds that the evidence included as Exhibits B.4, B.5, B.6, B.7, B.8, B.11, B.13 and B.14 demonstrate that marine (boat) salvage and junkyard on the property were not lawfully established, and did not appear on the property until after 1986.

- 4.2.2. MCC 34.7204(B) The Planning Director shall verify the status of a nonconforming use as being the nature and extent of the use at the time of adoption or amendment of the Zoning Code provision disallowing the use. When determining the nature and extent of a nonconforming use, the Planning Director shall consider:**
- (1) Description of the use;**
 - (2) The types and quantities of goods or services provided and activities conducted;**
 - (3) The scope of the use (volume, intensity, frequency, etc.), including fluctuations in the level of activity;**
 - (4) The number, location and size of physical improvements associated with the use;**
 - (5) The amount of land devoted to the use; and**
 - (6) Other factors the Planning Director may determine appropriate to identify the nature and extent of the particular use.**
 - (7) A reduction of scope or intensity of any part of the use as determined under this subsection (B) for a period of two years or more creates a presumption that there is no right to resume the use above the reduced level. Nonconforming use status is limited to the greatest level of use that has been consistently maintained since the use became nonconforming. The presumption may be rebutted by substantial evidentiary proof that the long-term fluctuations are inherent in the type of use being considered.**

As discussed above, the proposed nonconforming use was not lawfully established on the site.

- 4.2.3. MCC 34.7204(C) In determining the status of a nonconforming use, the Planning Director shall determine that, at the time of enactment or amendment of the Zoning Code provision disallowing the use, the nature, scope and intensity of the use, as determined above, was established in compliance with all land use procedures, standards and criteria applicable at that time. A final and effective County decision allowing the use shall be accepted as a rebuttable presumption of such compliance.**

As discussed above, the proposed nonconforming use was not lawfully established on the site.

- 4.2.4. MCC 34.7204(D) Except for nonconforming uses considered under MCC 34.7214 (B), the Planning Director may impose conditions to any verification of nonconforming use status to insure compliance with said verification.**

As discussed above, the proposed nonconforming use was not lawfully established on the site.

- 4.2.5. MCC 34.7204(E) An applicant may prove the continuity, nature and extent of the nonconforming use only for the 10-year period immediately preceding the date of application. Evidence proving the continuity, nature and extent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of application. Evidence proving the continuity, nature and extent of the use for the 10-year period preceding application does not create a rebuttable presumption that the use lawfully existed at the time the applicable zoning ordinance or regulation was adopted.**

The applicant relies on the language of ORS 215.130(10)(a) to support its argument that the nonconforming use was lawfully established on the site, because the use existed on the site during the ten-year period preceding the application. ORS 215.130(10)(a) provides:

Evidence proving the existence, continuity, nature and extent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, *lawfully existed at the time the applicable zoning ordinance or regulation was adopted* and has continued uninterrupted until the date of application.
[Emphasis added].

However the language of MCC 34.7204(E) differs from the statute. The County Code specifically denies the presumption that a nonconforming use was legally established based on evidence the use existed during the ten-year period preceding the application. MCC 34.7204(E) provides, “Evidence proving the continuity, nature and extent of the use for the 10-year period preceding application *does not create a rebuttable presumption*

that the use *lawfully existed at the time the applicable zoning ordinance or regulation was adopted*. [Emphasis added].

The language of the statute does not bind the County. ORS 215.130(10) is explicitly optional, stating, “A local government *may* adopt standards and procedures to implement the provisions of this section. The standards and procedures *may* include but are not limited to the following:” [Emphasis added]. The County chose not to adopt the language of the statute regarding the presumption of legal establishment.

As discussed in Section 4.2 of this Final Order (Verification of Nonconforming Use Status), the proposed nonconforming use was not lawfully established on the site. Therefore assertions that the nonconforming use existed on the site for the 10-year period preceding application are irrelevant.

4.2.6. MCC 34.7204(F) For purposes of verifying a nonconforming use, the Planning Director shall not require an applicant for verification to prove the continuity, nature and extent of the use for a period exceeding 20 years immediately preceding the date of application. Evidence proving the continuity, nature and extent of the use for the 20-year period preceding application does not create a rebuttable presumption that the use lawfully existed at the time the applicable zoning ordinance or regulation was adopted.

MCC 34.7204(F) only prohibits the County from requiring evidence of the continuity, nature and extent of the use more than 20 years before the application was submitted. It does not prohibit the County from requiring evidence that the use was legally established more than 20 years before the application was submitted. *Aguilar v. Washington County*, 201 Or. App. 640, 120 P.3d 514, 517 (2005). As discussed in Section 4.2 (Verification of Nonconforming Use Status) of this Final Order, the proposed nonconforming use was not lawfully established on the site.

4.3. Alteration, Expansion or Replacement of Nonconforming Uses

4.3.1. MCC 34.7214(A): Alteration, expansion or replacement of a nonconforming use includes a change in the use, structure, or physical improvement of no greater adverse impact on the neighborhood, or alterations, expansions or replacements required for the use to comply with State or County health or safety requirements.

As discussed in Section 4.2 (Verification of Nonconforming Use Status) of this Final Order, the proposed nonconforming use was not lawfully established on the site.

4.3.2. MCC 34.7214(B): After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 34.7204, the Planning Director shall authorize alteration of a nonconforming use when it is demonstrated that:

- (1) The alteration, expansion or replacement is necessary to comply with state or local health or safety requirements, or**
- (2) The alteration is necessary to maintain in good repair the existing structures associated with the nonconformity.**

As discussed in Section 4.2 (Verification of Nonconforming Use Status) of this Final Order, the proposed nonconforming use was not lawfully established on the site.

- 4.3.3. MCC 34.7214(C): After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 34.7204, the Planning Director may authorize alteration, expansion or replacement of any nonconforming use when it is found that such alteration, expansion or replacement will not result in a greater adverse impact on the neighborhood. In making this finding, the Planning Director shall consider the factors listed below. Adverse impacts to one of the factors may, but shall not automatically, constitute greater adverse impact on the neighborhood.**
- (1) The character and history of the use and of development in the surrounding area;**
 - (2) The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable within the neighborhood;**
 - (3) The comparative numbers and kinds of vehicular trips to the site;**
 - (4) The comparative amount and nature of outside storage, loading and parking;**
 - (5) The comparative visual appearance;**
 - (6) The comparative hours of operation;**
 - (7) The comparative effect on existing flora;**
 - (8) The comparative effect on water drainage or quality; and**
 - (9) Other factors which impact the character or needs of the neighborhood.**

As discussed in Section 4.2 (Verification of Nonconforming Use Status) of this Final Order, the proposed nonconforming use was not lawfully established on the site.

- 4.3.4. MCC 34.7214(D): Any decision on alteration, expansion or replacement of a nonconforming use shall be processed as a Type II permit as described in MCC Chapter 37.**

As discussed in Section 4.2 (Verification of Nonconforming Use Status) of this Final Order, the proposed nonconforming use was not lawfully established on the site.

5. COMMUNITY SERVICE CONDITIONAL USE

5.1. Purpose

MCC 34.6000: MCC 34.6010 through 34.6230 provides for the review and approval of the location and development of special uses which, by reason of their public convenience, necessity, unusual character or effect on the neighborhood, may be appropriate as specified in each district.

5.2. Uses

MCC 34.6015 (A) Except as otherwise limited in the EFU district, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority.

(1) Boat moorage, marina or boathouse moorage.

The application included a request for a Community Service Conditional Use Permit for a private marina use. The proposed marine related activities include using the existing ten slip moorage, gangways, docks, and covered areas located in the Multnomah Channel abutting the site to moor boats and other vessels owned or leased by the business or its customers and used for transporting logs to the site for processing and to transport processed logs, plants, equipment, and employees and other personnel to restoration project locations. Boats are also used in log recovery on rivers when log jams need to be cleared such as happens during flooding events at bridges. In such case, the logs and sometimes root wads may be brought back to the site for processing and/or storage.

Staff argues that the term marina should be interpreted as the provision of dock slips for the public to moor boats. Because no public use is proposed in this application, the proposed use is not a marina. The applicant's use of the existing dock, moorage and boat slips is accessory to the proposed commercial processing of forest products use. However docks, moorages, and boat slips are not listed as a permitted accessory use in the MUA-20 zone, see MCC 34.2820.F, nor are these facilities similar to any of the listed accessory structures. The dock, moorage and boat slips could arguably fall within the definition of "accessory structure" in MCC 34.0005, a "lawful use that is customarily subordinate and incidental to a primary use on a lot." However there is no evidence that such facilities are customary for commercial forest product processing operations.

The Code does not define the term "marina." Therefore the hearings officer must refer to the dictionary definition. The dictionary defines "marina" as "a boat basin offering dockage and other service for small craft." marina [Def. 1]. (n.d.). *Dictionary.com*, Retrieved April 14, 2017, from <http://www.dictionary.com/browse/marina?s=t>. The definition does not include a requirement for public use.

The hearings officer finds that the moorage, docks and associated uses on the site constitute a marina as defined by the dictionary; "a boat basin offering dockage and other service for small craft." Therefore the existing facilities should be reviewed for compliance with the community service approval criteria.

There is an existing DSL lease for the in-water structures on the site, Tab 9 of Exhibit H.1. The property owner, Daniel C. Gulbrandson, is the lessee. The applicant should be required to transfer the DSL lease to Aquatic Contracting LLC.

Some of the existing in-water improvements are located beyond the current lease boundaries. Exhibit H.2. The applicant should be required to provide written acknowledgement from DSL that it does not object to, or approves of, the location of any

existing in-water improvements located outside of the lease area or remove those improvements.

5.3. Community Service Approval Criteria

MCC 34.6010 In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria,

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

The character of the area along the river is basically water related residential, floating home moorages and boat mooring marinas. The surrounding area includes float home dense residential use on the adjacent properties up and down river. The properties directly across St. Helens Road are in Commercial Forest Use-2 Zone with dwellings, and properties to the northwest are in the Rural Residential Zone with dwellings developed prior to the zone designation on existing subdivision lots which are small in size for rural development. Across the river is an ESCO Corporation approved fill site.

The proposed use, a private marina for use in conjunction with the commercial processing operation of forest products grown in the region, is consistent with the commercial floating home and marina moorage uses along the river. Operation of the marina will be nearly identical to other marinas in the area, except use of this marina will be limited to the applicant's employees, contractors, and customers. No public use is proposed. *This criterion is met.*

5.3.2 (B) Will not adversely affect natural resources;

The proposed marina will not adversely affect any natural resources. The marina structures, gangway, docks, covered boat slips, moorages, and boat ramp to the water, currently exist on the site. The applicant proposed to repair and restore the existing structures. In addition, the applicant will restore the existing riparian area on the site, removing invasive plants and replanting the riverbank with additional native trees, shrubs, and herbaceous plants. With the exception of the areas covered by the gangway and boat ramp, the applicant will replant the site's entire riverbank frontage. The applicant will construct a 600 square foot vegetated swale between the existing upland gravel area on the site and the riverbank to collect stormwater runoff from the gravel area. The stormwater swale and enhanced riparian area will help infiltrate stormwater and filter out of the stormwater runoff any pollutants, such as hydrocarbons or other pollutants remaining from the previous activity on the site. It is not feasible to further expand the riparian area on the site without impacting the proposed use. The hearings officer finds that the proposed use will not adversely affect any natural resources (Exhibit H.4). *This criterion is met.*

5.3.3 (C) The use will not:

- (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; nor**

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

There are no farm or forest practices on surrounding lands. There are forest lands across the railroad track and St. Helens Road which have dwellings in the area nearest the road. The proposed use will not result in significant change or significantly increase cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. *These criteria are met.*

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

The site is currently served with electricity, public water, and a private septic system with drainfield. The site has frontage on and access to NW Marina Way, a Local Street that is adequate to serve the site and accommodate traffic generated by the proposed use. *This criterion is met.*

The proposed use will not require any additional public services other than those existing for the area. The application included submittal of review forms; including the form from the Fire District and the Sheriff Department indicating existing service are adequate for the proposed use (Exhibit A.10). *This criterion is met.*

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

The subject property is located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife. *This criterion is met.*

5.3.6 (F) Will not create hazardous conditions;

The marina use should not create hazardous conditions. Given the previous uses without permits on the upland portion of the property, the junkyard and marine salvage uses; there is the possibility of accidental spillage of hydrocarbons in the forest products processing operation, and there may be potential for pollutants to flow with stormwater to the river. The Taxlot 700 Landscape Plan included and labeled Exhibit H.4 shows drainage flowing across an existing compacted gravel area (about a half acre) with a drainage swale at the bottom of the slope, adjacent to the riparian area on the riverbank and enhanced plantings on the riverbank. The proposed swale and enhanced plantings will help infiltrate stormwater and filter out hydrocarbons or other pollutants remaining from the previous activity on the site. It is not feasible to further expand the riparian area without impacting the proposed use. *This criterion is met.*

5.3.7 (G) Will satisfy the applicable policies of the Comprehensive Plan.

5.3.7.1 *Comprehensive Framework Plan, Sauvie Island/Multnomah Channel Area Plan*
Policy 2.1(d) As directed by Portland's Bureau of Environmental Services and/or Oregon's Department of Environmental Quality, marina and moorage owners must provide for safe and easy collection and disposal of sewage from marine uses in Multnomah Channel.

- (1) Require marinas and moorages with floating structures to meet state standards for sewage collection and disposal similar to those standards that apply to dwellings on land.**
- (2) Boat slips serving boats with onboard cooking and/or sanitation facilities must be provided with an onsite mechanism for disposal of sewage, either through connections at each slip or through the availability of on-site alternative pump out facilities which are reasonably safe from accidental spillage.**

No floating structures (houseboats) are proposed and there is no evidence that boats used by the applicant will include cooking and/or sanitation facilities. A condition of approval is warranted prohibiting the use of cooking and/or sanitation facilities by boats moored at this site unless and until the applicant installs an approved onsite mechanism for disposal of sewage, either through connections at each slip or through the availability of on-site alternative pump out facilities which are reasonably safe from accidental spillage. *This criterion can be met through a condition.*

5.3.7.2 *Comprehensive Framework Plan, Policy 37 Water and Disposal System*
A. Shall be connected to a public sewer and water system, both of which have adequate capacity; or
B. Shall be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or
C. Shall have an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or
D. Shall have an adequate private water system and a public sewer with adequate capacity.

The upland portion of the site is connected to public water. The Septic Review Certification form, included as Exhibit B.15, states the upland site has been approved for a septic system for on-site sewage disposal for the property but not the specific proposed use. A statement on the form recommends a holding tank instead of a septic system. *This policy is met.*

5.3.7.3 *Comprehensive Framework Plan, Policy 37 Drainage*
E. Shall have adequate capacity in the storm water system to handle the run-off; or [Amended 1999, Ord. 933 § III]
F. The water run-off shall be handled on the site or adequate provisions shall be made; and [Amended 1999, Ord. 933 § III]

G. The run-off from the site shall not adversely affect the water quality in adjacent streams, ponds, lakes, or alter the drainage on adjoining lands.

The application submittal includes a Storm Water Certificate (Exhibit A.41). The proposal includes two vegetative swales that will process the storm water from the proposed new office building and other new impervious surface (Exhibit A.42). The applicant proposed to provide a third vegetative swale between the gravel area on the site and the riverbank to collect, treat, and partially infiltrate stormwater runoff from the existing hard packed gravel area on the site. (Exhibit H.4). It is not feasible to further expand the riparian area on the site without impacting the proposed use. The hearings officer finds that the proposed use will not adversely affect any natural resources (Exhibit H.4).

5.3.7.4 Comprehensive Framework Plan, POLICY 38

It is the County's Policy to coordinate and encourage involvement of applicable agencies and jurisdiction in the land use process to ensure.

B. Fire Protection: There is adequate water pressure and flow for fire fighting purposes; and

C. Fire Protection: The appropriate fire district has had an opportunity to review and comment on the proposal.

D. Police Protection: The proposal can receive adequate local policy protection in accordance with the standards of the jurisdiction providing police protection.

The application included review forms from the Fire District and the Sheriff Department indicating that existing service are adequate for the proposed use (Exhibit A.10). *This criterion is met.*

5.3.8 (H) Will satisfy such other applicable approval criteria as are stated in this Section.

5.3.8.1 Community Service Restrictions

A building or use approved under MCC 34.6015 through 34.6050 shall meet the following requirements:

5.3.8.1.1 MCC 34.6020(A) Minimum yards in EFU, MUA-20, RR, and RC, Districts:

(1) Front yards shall be 30 feet.

(2) Side yards for one-story buildings shall be 20 feet; for two-story buildings, 25 feet.

(3) Rear yards shall be as required in the district.

Setback requirements do not apply to in-water structures. *This criterion is inapplicable.*

5.3.8.1.2 MCC 34.6020(D) Off-street parking and loading shall be provided as required in MCC 34.4100 through 34.4220.

Off-Street parking and loading requirements per MCC 34.4100 through 34.4220 are addressed under Section 8 of this Final Order. *This criterion is met.*

5.3.8.1.3 MCC 34.6020(E) Signs for Community Service Uses pursuant to the provisions of MCC 34.7400 through 34.7505.

No signs are proposed or approved with this application. A condition can require that any future signs meet the provisions of MCC 34.7465. *This standard is met through a condition*

5.3.8.1.4 MCC 34.6020 (G) Other restrictions or limitations of use or development not required under this subsection shall be provided in the district.

The requirements of the MUA-20 district are addressed under Section 3 of this Final Order. *This criterion is met.*

6. CONDITIONAL USE

6.1. Purposes

MCC 34.6300: Conditional uses as specified in a district or described herein, because of their public convenience, necessity, unique nature, or their effect on the Comprehensive Plan, may be permitted as specified in the district or described herein, provided that any such conditional use would not be detrimental to the adjoining properties or to the purpose and intent of the Comprehensive Plan.

The proposed use of commercial processing of forest products primarily grown in the region is listed as a Conditional Use allowed in the MUA-20 Zone. The proposal includes a forest products processing operation and buildings and other uses accessory to the forest products processing operation, such as a 3,000 square foot office building providing eight office spaces, a 5,243 square foot storage barn (Exhibit A.37) used to store miscellaneous equipment and tools, (Exhibit A.44), a boat and/or other vessels used to transport logs prior to processing and after processing, a dock to moor the vessels related to the business, an area for growing plants used for restorations, and a ramp to the river to use to get boats and logs out of and into the river. A condition can limit the use on the property to the forest products processing operation and buildings and other uses accessory to the forest products processing operation.

The applicant proposed to use and store the following types of equipment on the site: a small dump truck, an off-road dump truck, a rubber track dump truck, a water trailer, caterpillar mini-excavator, equipment trailers, and other miscellaneous equipment and tools. The majority of these items will be stored in the existing pole barn structure on the site when not in use. However the applicant proposed occasional temporary outdoor storage of some of these items. Nothing in the plain language of the code prohibits such outdoor storage of equipment and tools. Such outdoor storage is consistent with and accessory to the types of permitted farm uses allowed in the MUA-20 zone. Therefore the

hearings officer finds that the occasional temporary outdoor storage of equipment and tools should be allowed on the site.

6.2. Conditional Use Approval Criteria

MCC 34.6315(A): A Conditional Use shall be governed by the approval criteria listed in the district under which the conditional use is allowed. If no such criteria are provided, the approval criteria listed in this section shall apply. In approving a Conditional Use listed in this section, the approval authority shall find that the proposal (meets the following criteria).

The proposed use of commercial processing of forest products grown in the region requires a Conditional Use. The application narrative included in Exhibit A.21 on Page 26 through 28 (second Page 26 through 28 of this exhibit) addresses the criteria.

6.2.1. (1) Is consistent with the character of the area;

The character of the area along the river is basically water related residential; floating home moorages and boat mooring marinas. The surrounding area includes float home dense residential use on the adjacent properties up and down river. The properties directly across St. Helens Road are in Commercial Forest Use-2 Zone while dwellings and properties to the northwest are in the Rural Residential Zone with dwellings developed prior to the zone designation on existing subdivision lots which are small in size for rural development. Across the river is an ESCO Corporation approved fill site.

The proposed use, commercial processing of forest products grown in the region into logs that will be used for aquatic restoration projects, includes the salvaging of logs and root wads from jams on the river that threaten infrastructure, given its marine nature is consistent with the commercial floating home and marina moorage uses along the river. *This criterion is met.*

6.2.2. (2) Will not adversely affect natural resources;

The proposed use, commercial processing of forest products grown in the region into logs that will be used for aquatic restoration projects and growing plants for use in restoration projects, will not adversely affect any natural resources. The process will include preparing logs and some root wads for installation at in-stream restoration projects. The proposal includes indoor and outdoor storage of related equipment, using the existing building for storage, an office building, and using the dock to moor boats used to transport the forest products to and from the site. The Septic Review Certification form included as Exhibit B.17 states that the site has been approved for a septic system for on-site sewage disposal for the property but not the specific proposed use. A proposed swale will process the storm water from the proposed new office building, paved parking lot, and other new impervious surfaces. The Landscape, Parking and Stormwater Facilities Site Plan included and labeled Exhibit A.32 and A.38 shows drainage across a large undesignated existing hard packed gravel area adjacent to the proposed narrow riparian

area on the river bank. At the hearing, the applicant submitted a revised landscape plan, Exhibit H.4, which indicates that the existing gravel area will be used for forestry staging and processing, loading areas for the forestry staging and processing area, raised beds for plant propagation, parking spaces for the marina use, and a truck turnaround area. In addition, the applicant will construct a 600 square foot vegetated swale between the gravel area and riverbank to collect stormwater runoff from the gravel area. The applicant will also enhance a 30-foot wide strip of riparian area along the riverbank, between the marina gangway and the boat ramp. The applicant will plant this area with additional native trees, shrubs, and herbaceous plants. The proposed plantings are in addition to the previously restored riparian area south of the gangway. The stormwater swale and enhanced riparian area will help infiltrate stormwater and filter out hydrocarbons or other pollutants remaining from the previous activity on the site. It is not feasible to further expand the riparian area on the site without impacting the proposed use. The hearings officer finds that the proposed use will not adversely affect any natural resources (Exhibit H.4). *This criterion is met.*

6.2.3. (3) The use will not:

- (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; nor**
- (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.**

There are no farm or forest practices on surrounding lands. There are forest lands across the railroad track and St. Helens Road which have dwellings in the area nearest the road. The proposed use will not result in significant change or significantly increase cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. *These criteria are met.*

6.2.4. (4) Will not require public services other than those existing or programmed for the area;

The proposed use will not require any additional public services other than those existing for the area. The application included submittal of review forms; including the form from the Fire District and the Sheriff Department indicating existing service are adequate for the proposed use (Exhibit A.10). *This criterion is met.*

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

The subject property is located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife. *This criterion is met.*

6.2.6. (6) Will not create hazardous conditions; and

The commercial processing of forest products primarily grown in the region should not create hazardous condition. Given the previous uses without permits on the property, the junkyard and marine salvage uses, there is the possibility of accidental spillage of hydrocarbons in the forest products processing operation, and there may be potential for pollutants to flow with stormwater to the river.

The Taxlot 700 Landscape Plan included and labeled Exhibit H.4 shows drainage flowing across an existing compacted gravel area (about a half acre) with a drainage swale at the bottom of the slope, adjacent to the riparian area on the riverbank and enhanced plantings on the riverbank. The proposed swale and enhanced plantings will to help infiltrate stormwater and filter out hydrocarbons or other pollutants remaining from the previous activity on the site. It is not feasible to further expand the riparian area without impacting the proposed use. *This criterion is met.*

6.2.7. (7) Will satisfy the applicable policies of the Comprehensive Plan.

6.2.7.1 Comprehensive Framework Plan, Policy 37 Water and Disposal System

- A. Shall be connected to a public sewer and water system, both of which have adequate capacity; or**
- B. Shall be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or [**
- C. Shall have an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or**
- D. Shall have an adequate private water system and a public sewer with adequate capacity.**

The Septic Review Certification form, included as Exhibit B.15, states the site has been approved for a septic system for on-site sewage disposal for the property but not the specific proposed use. A statement on the form recommends a holding tank instead of a septic system. *This policy is met.*

6.2.7.2. Comprehensive Framework Plan, Policy 37 Drainage

- E. Shall have adequate capacity in the storm water system to handle the run-off; or [Amended 1999, Ord. 933 § III]**
- F. The water run-off shall be handled on the site or adequate provisions shall be made; and [Amended 1999, Ord. 933 § III]**
- G. The run-off from the site shall not adversely affect the water quality in adjacent streams, ponds, lakes, or alter the drainage on adjoining lands.**

The application submittal includes a Storm Water Certificate (Exhibit A.41). The proposal includes two vegetative swales that will process the storm water from the proposed new office building and other new impervious surfaces (Exhibit A.42). The applicant proposed to provide a third vegetative swale between the gravel area on the site and the riverbank to collect, treat, and partially infiltrate stormwater runoff from

the existing hard packed gravel area on the site. (Exhibit H.4). It is not feasible to further expand the riparian area on the site without impacting the proposed use. The hearings officer finds that the proposed use will not adversely affect any natural resources (Exhibit H.4). *This policy is met.*

6.2.7.3. Comprehensive Framework Plan, POLICY 38

It is the County’s Policy to coordinate and encourage involvement of applicable agencies and jurisdiction in the land use process to ensure.

B. Fire Protection: There is adequate water pressure and flow for fire fighting purposes; and

C. Fire Protection: The appropriate fire district has had an opportunity to review and comment on the proposal.

D. Police Protection: The proposal can receive adequate local policy protection in accordance with the standards of the jurisdiction providing police protection.

The application included review forms from the Fire District and the Sheriff Department indicating that existing service are adequate for the proposed use (Exhibit A.10). *This criterion is met.*

6.3. Design Review

MCC 34.6325 Uses authorized under this section shall be subject to design review approval under MCC 34.7000 through 34.7060.

The Design Review findings are under Section 9 of this Final Order.

7. WILLAMETTE RIVER GREENWAY

MCC 34.5855 The elements of the Greenway Design Plan are as follows:

The application includes a narrative that addresses the Willamette River Greenway standards in Exhibit A.7, Applicant’s Exhibit 4. The applicant provided additional findings in Exhibit I.1. Site plans are included as Exhibits A.5, A.20, A.28 and A.32. These plans were amended with the later submittals to address concerns expressed by staff including minimum yard setback requirements, parking and loading requirements, landscaping requirements and drainage concerns.

7.1. MCC 34.5855(A): The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and the river.

The original submittals included large areas of the property that were not labeled as areas for a proposed use related to the processing of forest products. At the hearing the applicant submitted Taxlot 700 Landscape Plan, Exhibit H.4, which indicates that the existing gravel area will be used for forestry staging and processing, loading areas for the

forestry staging and processing area, raised beds for plant propagation, parking spaces for the marina use, and a truck turnaround area. (Exhibit H.4). It is not feasible to further expand the riparian area on the site without impacting the proposed use. The hearings officer finds that the proposed use will provide the maximum possible landscaped area between the proposed use and the river. *This criterion is met.*

7.2. MCC 34.5855(B): Reasonable public access to and along the river shall be provided by appropriate legal means to the greatest possible degree and with emphasis on urban and urbanizable areas.

The proposed use will be on a privately owned property, will not have a public use component, and is not in the urban or urbanizable area (the site is designated rural reserve). Public access to the river is provided in several locations elsewhere along the river. Providing public access on the subject property is not a reasonable expectation given the nature of the proposed use. This standard is not applicable for private property without a public component. *This standard is not applicable.*

7.3. MCC 34.5855(C): Developments shall be directed away from the river to the greatest possible degree, provided, however, that lands in other than rural and natural resource districts may continue in urban uses.

The site plan submitted at the hearing, Exhibit H.4, directs development away from the river to the greatest extent possible. The existing pole barn is setback 200 feet from the Channel. The proposed office building will be setback 285 feet from the Channel. It is not feasible to increase these setbacks; the pole barn is an existing structure that cannot be moved and both structures are located at the minimum front yard setback from the west boundary of the site.¹ The existing gravel area on the site will be used for forestry staging and processing, loading areas for the forestry staging and processing area, raised beds for plant propagation, parking spaces for the marina use, and a truck turnaround area. *This criterion is met.*

7.4. MCC 34.5855(D): Agricultural lands shall be preserved and maintained for farm use.

The property has been used for purposes other than agricultural since the late 1970s thus is not agricultural land. *This standard is not applicable.*

7.5. MCC 34.5855(E): The harvesting of timber, beyond the vegetative fringes, shall be conducted in a manner which shall insure that the natural scenic qualities of the Greenway will be maintained to the greatest extent practicable or will be restored within a brief period of time on those lands inside the Urban Growth Boundary.

No on-site harvesting of timber is proposed. *This standard is not applicable.*

¹ In Case T3-08-002 the County approved an adjustment to reduce the front minimum yard to 18 feet for the pole barn.

7.6. MCC 34.5855(F): Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflicts with farm uses.

The proposed use will be on a privately owned property and will not have a public recreational use component. The proposed commercial use would not be a good mix with public or private recreation. *This standard is not applicable.*

7.7. MCC 34.5855(G): Significant fish and wildlife habitats shall be protected.

The proposed use should not have any negative impacts on existing fish and wildlife habitats. The Landscape, Parking and Stormwater Facilities Site Plan included and labeled Exhibit A.32 and A.38 shows drainage across a large undesignated existing hard packed gravel area adjacent to the proposed narrow riparian area on the river bank. At the hearing the applicant submitted a revised landscape plan, Exhibit H.4, which indicates that the existing gravel area will be used for forestry staging and processing, loading areas for the forestry staging and processing area, raised beds for plant propagation, parking spaces for the marina use, and a truck turnaround area. In addition, the applicant will construct a 600 square foot vegetated swale between the gravel area and riverbank to collect stormwater runoff from the gravel area. The applicant will also enhance a 30-foot wide strip of riparian area along the riverbank, between the marina gangway and the boat ramp. The applicant will plant this area with additional native trees, shrubs, and herbaceous plants. The proposed plantings are in addition to the previously restored riparian area south of the gangway. The stormwater swale and enhanced riparian area will help infiltrate stormwater and filter out hydrocarbons or other pollutants remaining from the previous activity on the site and provide a minor improvement for fish and wildlife habitats for the site. It is not feasible to further expand the riparian area on the site without impacting the proposed use. *This criterion is met.*

7.8. MCC 34.5855(H) Significant natural and scenic areas and viewpoints and vistas shall be preserved.

The applicant proposed to enhance and restore a 20 to 30 foot width (40 feet for a small section) of the riparian area along the river back, which will slightly improve the significant natural and scenic areas and viewpoints and vistas as seen from the river. It is not feasible to further expand the riparian area on the site without impacting the proposed use. The existing and proposed buildings are relatively low (27 feet high) and consistent with other existing structures on lands to the north and south of the site. *This criterion is met.*

7.9. MCC 34.5855(I): Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.

The proposal includes fencing the property with a locked gate for entrance. This should provide security for the protection of the private property, especially from vandalism and trespass. *This standard is met.*

7.10. MCC 34.5855(J): The natural vegetation along the river, lakes, wetlands and streams shall be enhanced and protected to the maximum extent practicable to assure scenic quality, protection from erosion, screening of uses from the river, and continuous riparian corridors.

The proposed development on the property includes enhancing and restoring a 20 to 40 foot wide strip of riparian area along the riverbank (Exhibits A.32, A.38, and H.4). It is not feasible to further expand the riparian area on the site without impacting the proposed use. *This criterion is met.*

7.11. MCC 34.5855(L): Areas of annual flooding, flood plains, water areas and wetlands shall be preserved in their natural state to the maximum possible extent to protect the water retention, overflow and natural functions.

The prior site plan (Exhibits A.32 and A.38) did not include the detail needed to find this standard is met. Those plans show a large area in the floodplain without any indication as to whether this area will be used for the proposed use, whether it will just remain as unused graveled area or whether it will be revegetated. At the hearing the applicant submitted a revised landscape plan, Exhibit H.4, which indicates that the existing gravel area will be used for forestry staging and processing, loading areas for the forestry staging and processing area, raised beds for plant propagation, parking spaces for the marina use, and a truck turnaround area. In addition, the applicant will construct a 600 square foot vegetated swale between the gravel area and riverbank to collect stormwater runoff from the gravel area. The applicant will also enhance a 30-foot wide strip of riparian area along the riverbank, between the marina gangway and the boat ramp. The applicant will plant this area with additional native trees, shrubs, and herbaceous plants. The proposed plantings are in addition to the previously restored riparian area south of the gangway. The proposed enhancement plantings will restore this area to its natural state to the maximum possible. It is not feasible to further expand the riparian area within the floodplain on the site without impacting the proposed use. *This criterion is met.*

7.12. MCC 34.5855(M): Significant wetland areas shall be protected as provided in MCC 34.5865.

There are no significant wetland areas on the property. *This standard is not applicable.*

7.13. MCC 34.5855(N): Areas of ecological, scientific, historical or archaeological significance shall be protected, preserved, restored, or enhanced to the maximum extent possible.

There are no known areas of ecological, scientific, historical or archaeological significance, other than the 20 to 30-foot wide enhanced and restored riparian area.

Riparian areas filter the runoff of the site thus protecting the river. Riparian vegetation, especially trees, shade the river protecting the water from heating up, a problem for survival of fish and other wildlife. The riparian area also provides habitat for birds and other animals and has connections to the ecological healthy habitat of the river. However it is not feasible to further expand the riparian area on the site without impacting the proposed use. *This criterion is met.*

7.14. MCC 34.5855(O): Areas of erosion or potential erosion shall be protected from loss by appropriate means which are compatible with the character of the Greenway.

Areas of potential erosion on the site include the riverbank or other areas during a flood event. The applicant proposed restoring and enhancing riverbank riparian vegetation, which will slow flood waters to protect against erosion. It is not feasible to further expand the riparian area on the site without impacting the proposed use. *This criterion is met.*

7.15. MCC 34.5855(P): The quality of the air, water and land resources in and adjacent to the Greenway shall be preserved in development, change of use, or intensification of use of land designated WRG.

The proposed use should not have any significant impact on the quality of air and land resources in and adjacent to the Greenway. At the hearing the applicant submitted a revised landscape plan, Exhibit H.4, which indicates that the existing gravel area will be used for forestry staging and processing, loading areas for the forestry staging and processing area, raised beds for plant propagation, parking spaces for the marina use, and a truck turnaround area. In addition, the applicant will construct a 600 square foot vegetated swale between the gravel area and riverbank to collect stormwater runoff from the gravel area. The applicant will also enhance a 30-foot wide strip of riparian area along the riverbank, between the marina gangway and the boat ramp. The applicant will plant this area with additional native trees, shrubs, and herbaceous plants. The proposed plantings are in addition to the previously restored riparian area south of the gangway. The proposed enhancement plantings will help maintain and preserve the quality of the air, water and land resources in and adjacent to the Greenway. It is not feasible to further expand the riparian area on the site without impacting the proposed use. *This criterion is met.*

7.16. MCC 34.5855 (Q): A building setback line of 150 feet from the ordinary low waterline of the Willamette River shall be provided in all rural and natural resource districts, except for non-dwellings provided in conjunction with farm use and except for buildings and structures in conjunction with a water-related or a water dependent use.

The site plan included as Exhibits A.32 and A.38 shows more than a 150-foot building setback line from the ordinary low waterline of the Willamette River. *This standard is met.*

- 7.17. **MCC 34.5855(R): Any development, change of use or intensification of use of land classified WRG, shall be subject to design review, pursuant to MCC 34.7000 through 34.7070, to the extent that such design review is consistent with the elements of the Greenway Design Plan.**

Design Review for the proposed development is included under Section 9 of this Final Order.

- 7.18. **MCC 34.5855(S): The applicable policies of the Comprehensive Plan are satisfied**

The hearings officer found under Section 6.2.7 of this Final Order that applicable policies of the Comprehensive Plan are satisfied. *This standard is met.*

8. OFF-STREET PARKING AND LOADING

8.1. Purpose

MCC 34.4100: The purposes of this subdistrict and these off-street parking and loading regulations are to reduce traffic congestion associated with residential, commercial, manufacturing, and other land uses; to protect the character of neighborhoods; to protect the public's investment in streets and arterials and to provide standards for the development and maintenance of off-street parking and loading areas.

The application includes a narrative addressing the Off-Street Parking and Loading standards in Exhibit A.21, Supplemental Application Narrative (second narrative Pages 15 through 21). Site plans are included as Exhibits A.5, A.20, A.28 and A.32. These plans were amended with the later submittals to address concerns expressed by staff including minimum yard setback requirements, parking and loading requirements, landscaping requirements and drainage concerns.

8.2. General Provisions

MCC 34.4105: In the event of the erection of a new building or an addition to an existing building, or any change in the use of an existing building, structure or land which results in an intensified use by customers, occupants, employees or other persons, off-street parking and loading shall be provided according to the requirements of this Section. For nonconforming uses, the objectives of this section shall be evaluated under the criteria for the Alteration, Modification, and Expansion of Nonconforming Uses.

The proposal includes a change in use and a new building; thus an off-street parking and loading review is required. The application addresses these standards.

8.3. Continuing Obligation

MCC 34.4115: The provision for and maintenance of off-street parking and loading facilities without charge to users shall be a continuing obligation of the property owner. No building or any other required permit for a structure or use under this or any other applicable rule, ordinance or regulation shall be issued until satisfactory evidence in the form of a site development plan, plans of existing parking and loading improvements, a deed, lease, contract or similar document is presented demonstrating that the property is and will remain available for the designated use as a parking or loading facility.

A condition can require provision for and maintenance of off-street parking and loading facilities without charge to users as a continuing obligation of the property owner. This standard can be included as a condition of approval. *Can be met through a condition.*

8.4 Plan Required

MCC 34.4120: A plot plan showing the dimensions, legal description, access and circulation layout for vehicles and pedestrians, space markings, the grades, drainage, setbacks, landscaping and abutting land uses in respect to the off-street parking area and such other information as shall be required, shall be submitted in duplicate to the Planning Director with each application for approval of a building or other required permit, or for a change of classification to O-P.

The application includes a site plan showing the required items and is included as Exhibits A.32, A.38 and H.4. *This standard is met.*

8.5. Use of Space

8.5.1. MCC 34.4125(A): Required parking spaces shall be available for the parking of vehicles of customers, occupants, and employees without charge or other consideration.

A condition can require provision for and maintenance of off-street parking and loading facilities without charge to users as a continuing obligation of the property owner. This standard can be included as a condition of approval. *Can be met through a condition.*

8.5.2. MCC 34.4125(B): No parking of trucks, equipment, materials, structures or signs or the conducting of any business activity shall be permitted on any required parking space.

A condition can prohibit parking of trucks, equipment, materials, structures or signs or the conducting of any business activity on any required parking space. Parking of passenger trucks should be allowed. This standard can be included as a condition of approval. *Can be met through a condition.*

8.5.3 MCC 34.4125(C): A required loading space shall be available for the loading and unloading of vehicles concerned with the transportation of goods or services for the use associated with the loading space.

The Taxlot 700 Landscape Plan labeled as Exhibit H.4 provides loading spaces for the proposed pole barn building and the forestry staging and processing area. *This standard is met.*

8.5.4. MCC 34.4125(D): Except for residential and local commercial districts, loading areas shall not be used for any purpose other than loading or unloading.

A condition can require loading areas not be used for any purpose other than loading or unloading. This standard can be included as a condition of approval. *Can be met through a condition.*

8.5.5 MCC 34.4125(E): In any district, it shall be unlawful to store or accumulate equipment, material or goods in a loading space in a manner which would render such loading space temporarily or permanently incapable of immediate use for loading operations.

A condition can require loading areas not be used to store or accumulate equipment, material or goods in a loading space in a manner which would render such loading space temporarily or permanently incapable of immediate use for loading operations. This standard can be included as a condition of approval. *Can be met through a condition.*

8.6. Location of Parking and Loading Spaces

8.6.1. MCC 34.4130(A): Parking spaces required by this Section shall be provided on the lot of the use served by such spaces.

The proposal includes the required parking spaces for the office, barn storage, the log processing operation, and the marina. All parking spaces are proposed on the site. See the Landscape, Parking and Stormwater Facilities Site Plan (Exhibits A.32 and A.38) and Taxlot 700 Landscape Plan (Exhibit H.4). *This standard is met.*

* * *

8.6.2. MCC 34.4130(C) Loading spaces and vehicle maneuvering area shall be located only on or abutting the property served.

The narrative in Exhibit A.21, Page 16 (second Page 16 of that exhibit) does not address this code section. The Taxlot 700 Landscape Plan labeled as Exhibit H.4 provides loading spaces and vehicle maneuvering area for the proposed pole barn building and the forestry staging and processing area. The loading spaces are located adjacent to the proposed uses and on the same site. *This standard is met.*

8.7. Improvements Required

- 8.7.1. MCC 34.4135(A): Required parking and loading areas shall be improved and placed in condition for use before the grant of a Certificate of Occupancy under MCC 34.0525, or a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director.**

This standard can be included as a condition of approval. *Can be met through a condition.*

- 8.7.2. MCC 34.4135(B): Any such bond shall include the condition that if the improvement has not been completed within one year after issuance of the Certificate of Occupancy, the bond shall be forfeited. Any bond filed hereunder shall be subject to the approval of the Planning Director and the County Attorney.**

The applicant has not proposed a Performance Bond in lieu of constructing the parking and loading areas. If a bond is proposed, this standard can be included the condition of approval for (A) above. *Can be met through a condition.*

8.8. Change Of Use

- 8.8.1. MCC 34.4140(A): Any alteration of the use of any land or structure under which an increase in the number of parking or loading spaces is required by this Section shall be unlawful unless the additional spaces are provided.**

The proposal as revised by Exhibit H.4 includes an increase in the number of parking spaces for the office, storage barn, forest processing operation and marina. The plan also shows loading spaces for the storage barn and forest processing operation. *This standard is met.*

- 8.8.2. MCC 34.4140(B): In case of enlargement or change of use, the number of parking or loading spaces required shall be based on the total area involved in the enlargement or change in use.**

The approved prior use of log salvage on the property had no designated parking or loading areas. The marina use approved through T3-08-002 and T2-09-018 was not established according to the timeline approved in that case; thus the use approval expired and the use was not established. The proposal includes an increase in the number of parking spaces with the eight parking spaces for the office shown on Exhibits A.32 and A.38 and two parking spaces for the storage barn, one space for the forest products processing operation, seven spaces for the marina, and one loading space each for the storage barn and the forest products processing operation, Exhibit H.4. *This standard is met.*

8.9. Existing Spaces

MCC 34.4150 Off-street parking or loading spaces existing prior to July 26, 1979 may be included in calculating the number of spaces necessary to meet these requirements in the event of subsequent enlargement of the structure or change of use to which such spaces are accessory. Such spaces shall meet the design and improvement standards of this Section.

No off-street parking or loading spaces were established prior to July 26, 1979. *This standard is not applicable.*

8.10. Standards of Measurement

8.10.1. MMC 34.4160(A): Square feet means square feet of floor or land area devoted to the functioning of the particular use and excluding space devoted to off-street parking and loading.

This standard was used for this Final Order. *This standard is met.*

8.10.2. MCC 34.4160(B): When a unit or measurement determining the number of required off-street parking or off-street loading spaces results in a requirement of a fractional space, any fraction up to and including one-half shall be disregarded, and any fraction over one-half shall require one off-street parking or off-street loading space.

This standard was used for this Final Order. *This standard is met.*

8.11.2. Design Standards: Scope

8.11.1. MCC 34.4165(A): The design standards of this section shall apply to all parking, loading, and maneuvering areas except those serving a single family dwelling on an individual lot. Any non-residential use approved on a parcel containing a single family dwelling shall meet the design standards of MCC 34.4170 through 34.4200.

All parking, loading, and maneuvering areas for the proposed use are subject to the design standards of this section as addressed below. *This standard is met.*

8.11.2. MCC 34.4165(B): All parking and loading areas shall provide for the turning, maneuvering and parking of all vehicles on the lot. After July 26, 1979 it shall be unlawful to locate or construct any parking or loading space so that use of the space requires a vehicle to back into the right-of-way of a public street.

The proposal includes a parking area for the office that provides for the turning, maneuvering and parking of all vehicles on that portion of the lot. These parking spaces are located such there is no backing onto the right-of-way of NW Marina Way. Exhibit H.4 shows parking spaces for the storage barn, forest products process operation, and marina and loading spaces for the storage barn and forest products process operation.

These parking and loading spaces are located and designed such there is no backing on the right-of-way of NW Marina Way. *This standard is met.*

8.12. Access

8.12.1. MCC 34.4170(A): Where a parking or loading area does not abut directly on a public street or private street approved under MCC 34.7700 et seq., the Land Division Chapter, there shall be provided an unobstructed driveway not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.

The proposed access to the right-of-way is 25 feet wide. Traffic directions therefore shall be plainly marked. A condition of approval can require traffic directions to be marked and maintained. *This standard is met through a condition.*

8.12.2. MCC 34.4170(B): The Approval Authority may permit and authorize a deviation from the dimensional standard in paragraph (A) of this section upon finding that all the following standards in subparagraphs (1) through (4) are met:

- (1) The authorized provider of structural fire service protection services verifies that the proposed deviation complies with such provider's fire apparatus access standards, or, if there is no such service provider, the building official verifies that the proposed deviation complies with the Oregon Fire Code;**
- (2) The County Engineer verifies that the proposed deviation complies with the County Road Rules and the County Design and Construction Manual Standards;**
- (3) Application of the dimensional standard would present a practical difficulty or would subject the property owner to unnecessary hardship; and**
- (4) Authorization of the proposed deviation would not:**
 - (a) be materially detrimental to the public welfare;**
 - (b) be injurious to property in the vicinity or the zoning district in which the property is located; or**
 - (c) adversely affect the appropriate development of adjoining properties.**

No deviation was requested or applied for with this application. *These standards are not applicable.*

8.12.3. MCC 34.4170(C): Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this section. Required spaces may be located in a private street when authorized in the approval of such private street.

No parking is proposed or counted in the street. *This standard is met.*

8.13. Dimensional Standards

8.13.1. MCC 34.4175(A): Parking spaces shall meet the following requirements:

- (1) At least 70% of the required off-street parking spaces shall have a minimum width of nine feet, a minimum length of 18 feet, and a minimum vertical clearance of six feet, six inches.**
- (2) Up to 30% of the required off-street parking spaces may have a minimum width of eight-and-one-half feet, a minimum length of 16 feet, and a vertical clearance of six feet if such spaces are clearly marked for compact car use.**
- (3) For parallel parking, the length of the parking space shall be 23 feet.**
- (4) Space dimensions shall be exclusive of access drives, aisles, ramps or columns.**

The proposal includes 24 parking spaces that are ten feet wide by 20 feet in depth (Exhibit H.4). Based on the findings in section 8.19 this is sufficient to meet the minimum parking requirement of MCC 34.4175 for all uses proposed on the site. No overhead structures that would limit vertical clearance are proposed in the parking areas. Therefore 100-percent of the parking spaces comply with the dimensional requirements of MCC 34.4175(A)(1). No compact or parallel parking spaces are proposed. Therefore MCC 34.4175(A)(2) and (3) are inapplicable. The space dimensions for the parking spaces do not include access drives, aisles, ramps or columns as required by MCC 34.4175(A)(4). *This standard is met.*

8.13.2. MCC 34.4175(B): Aisle width shall be not less than:

- (1) 25 feet for 90 degree parking,**
- (2) 20 feet for less than 90 degree parking, and**
- (3) 12 feet for parallel parking.**
- (4) Angle measurements shall be between the center line of the parking space and the center line of the aisle.**

The aisle width for the office building parking meets the 25-foot minimum width. The 90-degree parking spaces for the storage barn, the forest products process operation, and marina back onto the gravel surfaced open area in the center of the site, which provides more than 25 feet of aisle width for these spaces. *This standard is met.*

8.13.3. MCC 34.4175(C): Loading spaces shall meet the following requirements:

- (1) Minimum Width 12 Feet and Minimum Depth 25 Feet**
- (2) Minimum vertical clearance shall be 13 feet.**

The loading space adjacent to the storage barn is roughly 15 feet wide and 53 feet deep and the loading space adjacent to the temporary log storage area is roughly 15 feet wide and 78 feet deep, based on the scale shown in Exhibit H.4. No overhead structures are proposed that would limit the vertical clearance of the loading spaces. *This standard is met.*

8.14. Improvements

8.14.1. MCC 34.4180(A): Surfacing

- (1) Except as otherwise provided in this section, all areas used for parking, loading or maneuvering of vehicles, including the driveway, shall be surfaced with at**

least two inches of blacktop on a four inch crushed rock base or at least six inches of Portland cement, unless a design providing additional load capacity is required by the fire service provider, building official or County Engineer, as applicable.

Exhibits A.32, A.38, and H.4, the latest revised site plans, indicate that the area designated for parking, maneuvering and access to the office building is to be paved consistent with this standard. The applicant proposes that the parking and loading spaces and vehicle maneuvering areas for the storage barn, the forest products process operation, and marina remain in the existing hard packed gravel surface condition. The applicant requested a deviation from the surfacing standard of this section for these parking and maneuvering areas, which is addressed below. *This standard has been met for the office building, but has not been met for the parking spaces for the storage barn, marina or the forest products process operation.*

(2) The Approval Authority may permit and authorize a deviation from the surfacing standard in paragraph (A)(1) of this section and thereby authorize, alternate surfacing systems that provide a durable dustless surface including gravel. A deviation under this paragraph may be permitted and authorized only upon finding that each parking area supporting the existing and the proposed development meets the following standards in subparagraphs (a) and (b) and, for parking areas of four or more required parking spaces, also meets the following standards in subparagraphs (c) and (d):

The applicant requested a deviation from the surfacing standard in paragraph (A)(1) of this section for the parking and loading spaces and vehicle maneuvering areas serving the storage barn, forest products process operation, and marina. The applicant proposed that these areas remain in the existing condition, surfaced with 18 to 24-inches of hard packed gravel.

(a) The authorized provider of structural fire protection services verifies that the proposed deviation complies with such provider's fire apparatus access standards, or, if there is no such service provider, the building official verifies that the proposed deviation complies with the Oregon Fire Code;

The application includes a service provider letter from the Portland Fire Bureau. The Fire Bureau reviewed the applicant's site plan, which shows gravel parking area, and checked the box on the form that states "the proposed use is in compliance with the fire apparatus access standard of the Oregon Fire Code standards as implemented by our agency." *This standard is met.*

(b) The County Engineer verifies that the proposed deviation complies with the County Road Rules and the County Design and Construction Manual Standards. Alternative surfacing can be considered for all areas used for parking, loading and maneuvering, including the driveway; however, approaches to paved public rights-of-way shall be paved for a minimum

distance of 21 feet from the fog line, or for a greater distance when required by the County Engineer;

NW Marina Way is under ODOT jurisdiction. Therefore the County Road Rules and the County Design and Construction Manual Standards are inapplicable. ODOT reviewed the application and determined that it complies with their regulations, subject to certain requirements. The applicant should be required to pave the driveway approaches to NW Marina Way a minimum distance of 21 feet from the fog line. *This standard is met through a condition.*

(c) Authorization of the proposed deviation would not:

- 1. be materially detrimental to the public welfare;**
- 2. be injurious to property in the vicinity or zoning district in which the property is located; or**
- 3. adversely affect the appropriate development of adjoining properties; and**

The hearings officer finds that the proposed deviation will not be materially detrimental to the public welfare, injurious to property in the vicinity or in the MUA-20 zoning district, or adversely affect the appropriate development of adjoining properties. All parking and maneuvering areas on the site have been gravel surfaced since the existing use began. The engineering analysis at p. 11 of Exhibit A.29 demonstrates that the 18 to 24-inch thick layer of gravel on the site is adequate to support the size and type of vehicles used on the site as well as fire trucks and other emergency vehicles. As discussed in Exhibit A.29, many of the surrounding uses are also served by gravel surfaced parking and maneuvering areas. The site is surrounded on all four sides by existing and proposed landscaping that provides a buffer between the site and adjacent properties, reducing noise and filtering dust from the gravel surfaced areas. The applicant will construct a swale between the gravel area and the riparian area abutting the Channel to collect and treat stormwater runoff from the gravel area. The applicant will also plant the riparian area with additional trees, shrubs and other vegetation that will slow and filter any runoff that does not enter the swale. *This standard is met.*

(d) Any impacts resulting from the proposed surfacing are mitigated to the extent practical. Mitigation may include, but is not limited to, such considerations as provision for pervious drainage capability, drainage runoff control and dust control. A dust control plan is required when a dwelling, excluding any dwelling served by the driveway, is located within 200-feet of any portion of the driveway for which gravel or other similar surfacing materials is proposed. Common dust control measures include, but are not limited to, reduced travel speeds, gravel maintenance planning, establishment of windbreaks and use of binder agents.

It appears, based on the aerial photos in the record, that there is an existing dwelling within 200 feet of the gravel surfaced driveway on the site; the floating home in the Channel southeast of the site. That home is not served by the gravel access on the site.

Therefore a dust control plan is required. The plan should include such measures as reduced travel speeds, gravel maintenance planning, establishment of windbreaks, and use of binder agents. The hearing officer finds that implementation and compliance with a dust control plan will mitigate impacts from the gravel surfaced parking and maneuvering areas on the site. A condition of approval is warranted requiring implementation of a County approved dust control plan. *This standard is met through a condition.*

8.14.2. MCC 34.4180(B) Curbs and Bumper Rails

- (1) All areas used for parking, loading, and maneuvering of vehicles shall be physically separated from public streets or adjoining property by required landscaped strips or yards or in those cases where no landscaped area is required, by curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress.**

All vehicle parking, loading, and maneuvering areas on the site are physically separated from public streets and adjoining properties by required landscaping and/or on-site improvements (Exhibits A.32, A.38, and H.4). The forestry staging and processing area, boat ramp, vegetated swale, and 10 to 20-foot wide landscape buffer separate all vehicle areas from the north boundary of the site. The proposed office building and 20-foot wide landscape buffer separate all vehicle areas from the west boundary of the site, with the exception of the existing driveways which are needed to provide access to the site from NW Marina Way. The storage building, vegetated swale, and 15-foot wide landscape buffer separate all vehicle areas from the south boundary of the site. There are no public roads or adjoining properties east of the site; the Multnomah Channel abuts the east boundary of the site. The applicant will provide a 30 to 40-foot wide enhanced vegetated buffer between the vehicle areas and the Channel. *This standard is met.*

- (2) The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height and at least three feet from the lot line or any required fence except as provided in (3) below.**

As discussed at the hearing, this standard only applies to the paved parking area serving the office building. The primary purpose of such bumper rails or curbing is to direct stormwater towards collection facilities and prevent it from flowing off of the paved surface. Such improvements are not required for the gravel surfaced vehicle areas. A condition of approval is warranted requiring compliance with this standard for the paved parking area serving the office building. This Final Order approves a deviation for the remainder of the parking, loading and maneuvering areas on the site. *This standard is met through a condition.*

8.14.3. MCC 34.4180 (C) Marking – All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC 34.4120, and such marking shall be continually maintained. Except for development

within the BRC zone, a graveled parking area with fewer than four required parking spaces is exempt from this requirement.

A condition can require markings showing the parking spaces and directional arrows for the driveway. *This standard met through a condition.*

8.14.4. MCC 34.4180 (D) Drainage – All areas for the parking and maneuvering of vehicles shall be graded and drained to provide for the disposal of all surface water on the lot.

All proposed vehicle parking, loading and maneuvering areas shown on the site plan will drain to swales and a stormwater planter (Exhibits A.32, A.38, and H.4). *This standard is met.*

8.14.5. MCC 34.4180 (E) Covered Walkways – Covered walkway structures for the shelter of pedestrians only, and consisting solely of roof surfaces and necessary supporting columns, posts and beams, may be located in an O-P district. Such structures shall meet the setback, height and other requirements of the district which apply.

The site is not located in an O-P district and covered walkways are not practical for the proposed use. No covered walkway is proposed. *This standard is not applicable.*

8.15. Lighting

MCC 34.4185 Any artificial lighting which may be provided shall be shielded or deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street.

The application narrative states that the existing lighting will be used and that “lighting will be shielded or deflected so as to not shine into adjoining dwellings...” A condition can require artificial lighting be shielded or deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street. *This standard is met through a condition.*

8.16. Signs

MCC 34.4190 Signs, pursuant to the provisions of MCC 34.7465.

No signs are proposed or approved with this application. A condition can require that any future signs meet the provisions of MCC 34.7465. *This standard is met through a condition*

8.17. Design Standards: Setbacks

8.17.1. MCC 34.4195(A): Any required yard which abuts upon a street lot line shall not be used for a parking or loading space, vehicle maneuvering area or access drive other than a drive connecting directly to a street perpendicularly.

The front yard abuts the street. The submitted site plans included and labeled Exhibit A.32 and A.38 and the landscape plan labeled Exhibit H.4 show compliance with this standard. *This standard is met.*

8.17.2. MCC 34.4195(C): A required yard which abuts a street lot line shall not be paved, except for walkways which do not exceed 12 feet in total width and not more than two driveways which do not exceed the width of their curb cuts for each 150 feet of street frontage of the lot.

The front yard abuts the street. The submitted site plans included and labeled Exhibit A.32 and A.38 and the landscape plan labeled Exhibit H.4 show compliance with this standard; no paving is proposed in the front yard area abutting NW Marina Way, with the exception of the driveway which is needed to provide access to the site. *This standard is met.*

8.18. Landscape and Screening Requirements

8.18.1 MCC 34.4200(A): The landscaped areas requirements of MCC 34.7055(C)(3) to (7) shall apply to all parking, loading or maneuvering areas which are within the scope of design standards stated in MCC 34.4165 (A).

The proposed development complies with the landscaped areas requirements of MCC 34.7055(C)(3) to (7) based on the following:

8.18.1.1 MCC 34.7055(C)(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.**

The parking area serving the office building provides ten spaces and is required to comply with this standard. The submitted site plans included and labeled Exhibit A.32 and A.38 and the landscape plan labeled Exhibit H.4 show compliance with this standard for this parking area. The remaining parking and loading areas on the site provide fewer than ten spaces. Therefore this standard does not apply to those areas. *This standard is met.*

- (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.**

The submitted site plans included and labeled Exhibit A.32 and A.38 and the landscape plan labeled Exhibit H.4 show compliance with this standard. There is a 20-foot wide landscape strip along the west boundary of the site, abutting NW Marina Way and 10 to 20-foot wide landscape strips along the north, south and west boundaries. *This standard is met.*

- (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.**

The hearings officer finds that the existing landscaping (mature photinia hedge) abutting NW Marina Way is adequate to comply with this requirement. The dense hedge screens and buffers the site from the road. The applicant would need to remove this existing mature landscaping to provide street trees. In addition, the majority of the parking lot does not abut the street, so this standard would only apply to the single parking space at the north end of the building. *This standard is met.*

- (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.**

The submitted site plans included and labeled Exhibit A.32 and A.38 and the landscape plan labeled Exhibit H.4 show compliance with this standard for the parking lot serving the office building. The remaining parking and loading areas on the site contain fewer than ten parking spaces. Therefore no interior landscaping is required and this standard is inapplicable to those parking areas. *This standard is met to the extent applicable.*

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

The submitted site plans included and labeled Exhibit A.32 and A.38 and the landscape plan labeled Exhibit H.4 show compliance with this standard for the parking lot serving the office building. The remaining parking and loading areas on the site contain fewer than ten parking spaces. Therefore no interior landscaping is required and this standard is inapplicable to those parking areas. *This standard is met to the extent applicable.*

8.18.1.2 MCC 34.7055(C)(4) Provision shall be made for watering planting areas where such care is required.

The applicant proposed to landscape the site with native vegetation with minimal watering requirements; the applicant will provide hand watering if required until the vegetation becomes established. (Exhibit I.1). *This standard is met through a condition.*

8.18.1.3 MCC 34.7055(C)(5) Required landscaping shall be continuously maintained.

A condition can require continuous maintenance of landscaping. *This standard met through a condition.*

8.18.1.4 MCC 34.7055(C)(6) Maximum height of tree species shall be considered when planting under overhead utility lines.

A condition can require consideration of the maximum height of tree species when planting under overhead utility lines. *This standard met through a condition.*

8.18.1.5 MCC 34.7055(C)(7) *Landscaped* means the improvement of land by means such as contouring, planting, and the location of outdoor structures, furniture, walkways and similar features.

This definition was used in reviewing the proposed landscaping. *This standard is met.*

8.19. Minimum Required Off-Street Parking Spaces

MCC 34.4205(C): Office Uses

(3) Bank or Office, including Medical and Dental – One space for each 300 square feet of gross floor area.

MCC 34.4205(D): Manufacturing and Storage

(1) Manufacturing – One space for each two employee positions on the largest shift, or one space for each 800 square feet of non-storage gross floor area, whichever is greater.

(2) Storage – One space for each 5,000 square feet of storage area for the first 20,000 square feet, plus one additional space for each additional 50,000 square feet.

MCC 34.4205(E): Unspecified Uses

Any use not specifically listed above shall have the requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

The proposed office is 3,000 square feet in gross area, thus ten parking spaces are required. Exhibits A.32, A.38, and H.4 show ten proposed parking spaces, which meets the minimum requirements for the office. Two parking spaces are required for the 5,243 square foot storage building. Two parking spaces are shown for this building. One parking space is proposed for the forest processing and log storage area and seven parking spaces are proposed for the marina. The Code does not list parking requirements for these uses. Therefore the hearings officer must determine the parking requirement for these uses pursuant to MCC 34.4205(E). The hearings officer finds that the forest processing and log storage area is most nearly equivalent to the storage use listed in MCC 34.4205(D)(2). Although some processing will occur in this area, the majority of the space will be used for storage of logs and root wads awaiting transfer to restoration sites. One parking space is sufficient to serve the 2,700 square foot area dedicated to this use, based on the standard in MCC 34.4205(D)(2). The marina use on the site is most nearly

equivalent to the manufacturing use in MCC 34.4205(D)(1), because this use will be used in conjunction with off-site restoration work, and parking is needed for employees and customers using vessels moored at the marina to access offsite restoration sites and to transport logs to and from the site. Restoration is most nearly equivalent to manufacturing. Mr. Herrick testified that the applicant has five full-time employees and 15 to 20 field personnel. Some of the employees will work in the proposed office building while others work offsite. The hearings officer finds that the combined 17 parking spaces provided for the office and marina use on this site are sufficient to accommodate 34 employees at the rate of one parking space per two employees specified in MCC 34.4205(D)(1). Ten spaces are required for the office. The remaining seven spaces are sufficient to serve the private marina use. *This standard is met.*

8.20. Minimum Required Off-Street Loading Spaces

MCC 34.4210(A): Commercial, Office or Bank

Less than 5000 square feet, zero loading space required.

MCC 34.4210(C): Manufacturing, Wholesale, Storage

5000 to 39,999 square feet of floor or land area one loading space.

MCC 34.4210(E): Unspecified Uses

Any use not specifically listed above shall have the requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

No loading space is required for the office building. One loading space is required and provided for the 5,243 square foot storage barn (Exhibits A.37 and H.4). The hearings officer finds that the forestry staging and processing area is a manufacturing area. The Code does not require a loading space for this 2,700 square foot use. However the applicant proposed to provide a loading space for this use. (Exhibit H.4). *This standard is met.*

9. DESIGN REVIEW

9.1. Purposes

MCC 34.7000: MCC 34.7000 through 34.7065 provides for the review and administrative approval of the design of certain developments and improvements in order to promote functional, safe, innovative and attractive site development compatible with the natural and manmade environment.

The “Supplemental Application Narrative” included and labeled as Exhibit A.21, Pages 29 to 37 (second labeled Pages 29 to 37 of that exhibit) addresses the Design Review standards.

9.2. Elements Of Design Review Plan

MCC 34.7005 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.

The most recent Landscape Plan, Exhibit H.4 shows all existing and proposed improvements including: buildings, raised bed structures, a log storage and processing area, parking, loading, and circulation areas, landscape areas, accessways to the docks, pedestrian walkways to the office, stormwater facilities, riparian buffering, and property line screening measures. The plan illustrates the use of the large area of gravel near the center of the site for forestry staging and processing, parking for the marina, raised beds for plant propagation, and a vehicle turnaround area for large vehicles serving the site.

9.3. Design Review Plan Contents

9.3.1. MCC 34.7030(A): The design review application shall be filed on forms provided by the Planning Director and shall be accompanied by a site plan, floor plan, architectural elevations and landscape plan, as appropriate, showing the proposed development.

Included with the application submittals are site plans including parking, landscape, and stormwater facilities labeled as Exhibits A.5, A.23, A.24, A.32, A.38 and H.4. The application included rudimentary computer designed building elevations and floor plans for the office but not architectural drawings (Exhibit A.11). Also included are drawings and photos of the existing barn (Exhibit A.36 and A.37). The hearings officer finds that the building elevations and floor plans for the office and pole barn are adequate to fulfill this requirement. The drawings are to scale and include relevant dimensions sufficient to find compliance with applicable dimensional requirements. The applicant will submit more detailed drawings as part of the building permit application. *This standard is met.*

9.3.2. MCC 34.7030(B) Plans shall include the following, drawn to scale:

- (1) Access to site from adjacent rights-of-way, streets, and arterials;**
- (2) Parking and circulation areas;**
- (3) Location, design, materials and colors of buildings and signs;**
- (4) Orientation of windows and doors;**
- (5) Entrances and exits;**
- (6) Existing topography and natural drainage;**
- (7) Pedestrian circulation;**
- (8) Boundaries of areas designated Significant Environmental Concern, Hillside Development and Areas of Special Flood Hazards;**
- (9) Service areas for uses such as mail delivery, trash disposal, above-ground utilities, loading and delivery;**
- (10) Areas to be landscaped;**
- (11) Exterior lighting location and design;**
- (12) Special provisions for handicapped persons;**
- (13) Surface and storm water drainage and on-site waste disposal systems;**

- (14) The size, species, and approximate locations of plant materials to be retained or placed on the site; and**
- (15) Proposed ground-disturbance, grading, filling and site contouring.**

With the addition of Exhibit H.4, provided at the hearing, the application included all the items on the list. *This standard is met.*

9.4. Final Design Review Plan

MCC 34.7040 Prior to land use approval for building permit review or commencement of physical development where no additional permits are necessary, the applicant shall revise the plans to show compliance with the land use approvals granted, all conditions of approval and required modifications. Final design review plan shall contain the following, drawn to scale:

- (A) Site Development and Landscape Plans, indicating the locations and specifications of the items described in MCC 34.7030, as appropriate;**
- (B) Architectural drawings, indicating floor plans, sections, and elevations; and**

The application included site, development and landscape plans (Exhibits A.5, A.23, A.24, A.32 and A.38) and architectural drawings and floor plans of the proposed office building and existing pole barn (Exhibits A.11, A.36 and A.37) for final design review. *This standard is met.*

9.5. Design Review Criteria

MCC 34.7050(A): Approval of a final design review plan shall be based on the following criteria:

9.5.1. MCC 34.7050(A)(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.**

The Multnomah Channel abutting the east boundary of the site is the primary element of the natural environment in this area. The applicant proposed to locate structures on the site as far away from the Channel as possible. The two structures on the site, the proposed office building and existing pole barn, are relatively low, (both structures are approximately 27 feet high at the roof peak), which will limit the visibility of these structures from surrounding natural environment areas; the Channel to the east and the Tualatin Hills to the west. The applicant proposed to enhance the riparian area abutting the Channel to enhance the natural environment and provide a buffer between the natural environment and the activities and development on the site. The site is separated and buffered from of the natural environment areas to the west by existing and proposed landscaping on the site, NW Marina Way, the railroad track, and St. Helens Road. *This standard is met.*

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

Finding : The applicant states the office building will be built to current energy code standards using measures to conserve energy, including double paned e-glass and extra insulation. The proposal includes vegetation surrounding the site to provide mitigation to adverse climatic conditions, noise, and air pollution. *This standard is met.*

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

The proposed office, storage barn, forest processing operation, private marina, plant propagation area, and vehicle parking and maneuvering areas are all shown on the site plans included and labeled Exhibits A.32, A.38, and H.4. The proposed vegetation surrounding the property will provide screening from neighboring properties. Proposed riparian area enhancement plantings will improve screening from the river. The existing barn, for which no permit was obtained when it was built, does not attractively serve its proposed function (Exhibit A.36). The applicant proposed to upgrade the barn through the building permit process to improve its appearance and function. This standard can be met by improving the exterior of the barn. *This standard met through a condition.*

9.5.2. MCC 34.7050(A)(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.

The proposal includes fencing the site to provide a safe environment. A vegetative buffer surrounding the property will provide an appropriate transition from public to private space. *This standard is met.*

9.5.3. MCC 34.7050(A) (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.

The parking plan (Exhibits A.32 and A.38) includes parking provisions for handicapped people and indicates access to the sidewalk. The office building will need to meet ADA access and restroom requirements. *This standard is met.*

9.5.4 MCC 34.7050(A)(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.

The proposal does not include any significant change to the existing grade. The proposal does not include removal of any landscaped area. *This standard is met.*

9.5.5 MCC 34.7050(A)(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.

The proposed parking for the office building has a sidewalk separating the pedestrian access circulation to the building from the parking area. The parking spaces for the barn abut the entry to the structure. The parking spaces for the marina are adjacent to the gangway leading to the dock and separated from vehicle maneuvering and activity areas on the site. The parking space for the forest processing area abuts this area and is separated from vehicle maneuvering and activity areas on the site. The use will utilize the two existing driveways to access NW Marina Way from the site. *This standard is met.*

9.5.6 MCC 34.7050(A)(6) Drainage – Surface drainage systems shall be designed so as not to adversely affect neighboring properties or streets.

The Landscape, Parking and Stormwater Facilities Site Plan (Exhibits A.32 and A.38) and Taxlot 700 Landscape Plan (Exhibit H.4) show on site drainage directed to vegetative swales. The application includes a Stormwater Memo and Calculation by Waterways Consulting (Exhibit A.40) and a Storm Water Certification signed and stamped by Jake Hofeld, P.E. certifying the proposed development will not result in increased offsite stormwater flow for the 10-year/24 hour storm (Exhibit A.41). According to the Taxlot 700 Landscape Plan (Exhibit H.4) the drainage from the heavily compacted existing gravel area flows to a swale abutting the riparian area. This swale will collect and treat runoff from the gravel areas of the site that will continue to be used for vehicle parking and maneuvering. *This standard is met.*

9.5.7. MCC 34.7050(A)(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.

The proposal includes a landscape buffer surrounding the entire property except where breaks are provided for offsite access (two existing driveways, the marina gangway, and the boat ramp). *This standard is met.*

9.5.8. MCC 34.7050(A)(8) Utilities – All utility installations above ground shall be located so as to minimize adverse impacts on the site and neighboring properties.

Given the rural nature of the area and the proposed landscape buffer, the proposal will minimize adverse impacts on the site and neighboring properties. *This standard is met.*

- 9.5.9. MCC 34.7050(A)(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.**

No signs are proposed. *This standard is not applicable.*

9.6. Required Minimum Standards

MCC 34.7055(C): Required Landscape Areas -The following landscape requirements are established for developments subject to design review plan approval:

See finding below.

- 9.6.1. MCC 34.7055(C)(1): A minimum of 15% of the development area shall be landscaped; provided, however, that computation of this minimum may include areas landscaped under subpart 3 of this subsection.**

The site is 2.13 acres thus a minimum of 13,917 square feet of landscaping is required by this standard. The proposed landscaped area on site, shown on Exhibits A.32 and A.38, totals 14,500 square feet. *The standard is met.*

- 9.6.2. MCC 34.7055(C)(2): All areas subject to the final design review plan and not otherwise improved shall be landscaped.**

All areas of the site that are not proposed for specific uses will be landscaped. The existing graveled area in the center of the site will be used for the turnaround of large vehicles serving the site, parking for the marina, and propagation of plants for use in restoration projects. *The standard is met.*

- 9.6.3. MCC 34.7055(C)(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.**

This standard is addressed in Section 8.18.1.1 of this Final Order. *This standard is met.*

- 9.6.4. **MCC 34.7055(C)(4): Provision shall be made for watering planting areas where such care is required.**

This standard is addressed in Section 8.18.1.2 of this Final Order. *This standard is met.*

- 9.6.5. **MCC 34.7055(C)(5) Required landscaping shall be continuously maintained.**

This standard is addressed in Section 8.18.1.3 of this Final Order. *This standard is met.*

- 9.6.6. **MCC 34.7055(C)(6) Maximum height of tree species shall be considered when planting under overhead utility lines.**

This standard is addressed in Section 8.18.1.4 of this Final Order. *This standard is met.*

- 9.6.7. **MCC 34.7055(C)(7) Landscaped means the improvement of land by means such as contouring, planting, and the location of outdoor structures, furniture, walkways and similar features.**

This definition was used in reviewing the proposed landscaping. *This standard is met.*

10. COMMENTS

- 10.1. Letter dated December 12, 2016 from Marilyn Zornado, Secretary, Marina Way Moorage Board of Directors supporting approval of the application and expressing concern that noise not be excessive or contiguous.
- 10.2. Letter dated December 15, 2016 from Tom Dee, PWS, Cascara Ecological Consulting supporting approval of the application.
- 10.3. Letter dated January 5, 2017 from Shawn Looney, Chair, Linnton Neighbor Association stating the Linnton Neighborhood Association membership voted unanimously to support for approval of the application (Exhibit C.3).
- 10.4. Letter dated January 5, 2017 from David Looney, supporting approval of the application (Exhibit C.4).

10.5. Letter of reference dated January 16, 2017 from Clark Caffal, President, Combined Forestry & Marine Service, INC (Exhibit C.5).

10.6. Email dated January 30, 2017 from Jane Hartline, Sauvie Island Habitat partnership supporting approval.

11.00 Conclusion

Based on the findings and other information provided above, the hearings officer approves the proposed Conditional Use Permit for on-site commercial processing of forest products primarily grown in the region, Community Service Conditional Use Permit for a marina, Design Review Permit to establish the business infrastructure on-site, and Willamette River Greenway Permit for new development on the property. The hearings officer denies the Alteration of a Nonconforming Use Permit. This approval is subject to the conditions of approval established in this report.

12.00 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘H’ Hearing Exhibits – if applicable

‘PH’ Post Hearing Exhibits – if applicable

All exhibits are available for review in Case File T3-2017-5319 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application form	6/7/16
A.2	34	Narrative	6/7/16
A.3	1	Applicant’s Exhibit List	6/7/16
A.4	1	Applicant’s Exhibit 1: Existing Conditions Survey	6/7/16
A.5	1	Applicant’s Exhibit 2: Proposed Aquatic Contracting Site Plan	6/7/16
A.6	124	Applicant’s Exhibit 3: Kellington Law Group Nonconforming Use Submittal	6/7/16
A.7	14	Applicant’s Exhibit 4: Willamette River Greenway Worksheet	6/7/16
A.8	16	Applicant’s Exhibit 5: Soil Capability Classification Report	6/7/16
A.9	1	Applicant’s Exhibit 6: Storm Water Certificate	6/7/16
A.10	4	Applicant’s Exhibit 7: Service Provider Letter (Fire Service Agency Review and Certification of Water Service)	6/7/16
A.11	6	Applicant’s Exhibit 8: Proposed Office Building Elevations and Floor Plan	6/7/16

A.12	1	Applicant's Exhibit 9: Aerial Photo Vicinity Map	6/7/16
A.13	2	Applicant's Exhibit 10: Site Photos Taken June, 2016	6/7/16
A.14	8	Applicant's Exhibit 11: Applicant's Exhibit Grading and Erosion Control Worksheet	6/7/16
A.15	11	Applicant's Exhibit 12: Pre-Application Conference Notes	6/7/16
A.16	9	Supplemental Application Narrative	10/3/16
A.17	4	Applicant's Exhibit A: Septic Feasibility Report	10/3/16
A.18	8	Applicant's Exhibit B: Prior Multnomah County Septic Authorization	10/3/16
A.19	3	Applicant's Exhibit C: ODOT Letter	10/3/16
A.20	3	Applicant's Exhibit D: Parking and Landscaping Plan	10/3/16
A.21	79	Supplemental Application Narrative Case Number T3-2016-5319	10/3/16
A.22	1	Oversized Aerial Photo of site with plan overlay	10/12/16
A.23	1	Oversized Landscape Plan	10/12/16
A.24	1	Oversized Topographic Site Plan	10/12/16
A.25	6	Supplemental Application Narrative	12/1/16
A.26	8	Attachment 1: Photographs of Existing Buildings	12/1/16
A.27	5	Attachment 2: Structural Drawings for the Existing Pole Barn	12/1/16
A.28	3	Attachment 3: Landscape, Parking and Stormwater Facilities (plans)	12/1/16
A.29	11	Attachment 4: Surfacing Memo	12/1/16
A.30	5	Attachment 5: Simplified Stormwater Approach Worksheet	12/1/16
A.31	2	Attachment 6: Stormwater Certificate	12/1/16
A.32	1	Amended Oversized Landscape, Parking and Stormwater Facilities Site Plan	12/1/16
A.33	1	Amended Oversized Landscape Planting Plan	12/1/16
A.34	1	Amended Oversized Landscape Planting Plan	12/1/16
A.35	7	Supplemental Application Narrative	12/19/16
A.36	8	Attachment 1: Photographs of Existing Buildings	12/19/16
A.37	5	Attachment 2: Structural Drawings for the Existing Pole Barn	12/19/16
A.38	3	Attachment 3: Landscape, Parking and Stormwater Facilities Site Plan	12/19/16

A.39	11	Attachment 4: Surfacing Memo	12/19/16
A40	5	Attachment 5: Stormwater Memo and Calculations	12/19/16
A.41	2	Attachment 6: Stormwater Certificate	12/19/16
A.42	1	Oversized Drainage Plan	12/19/16
A.43	1	Oversized Demolition Plan	12/19/16
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information	NA
B.2	1	A&T Tax Map with Property Highlighted	NA
B.3	4	Copy Warranty Deed record in 1988 in Book 2106 on page 1645 for the subject property stating it is for the fulfillment of contract dated August 27, 1975 recorded September 5, 1975 in Book 1060, Page 38.	NA
B.4	1	Aerial Photo of Subject Property taken in 1977	NA
B.5	1	Aerial Photo of Subject Property taken in 1985	NA
B.6	61	Previous Case T3-08-002 Staff Report request a Conditional Use, Willamette River Greenway and Design Review Permits to legalize and establish a marina use including boat repair and marine salvage.	NA
B.7	57	Hearing Officer Decision for Case T3-08-002, denial	NA
B.8	6	Board of Commissioners for Multnomah County, Board Order No. 09-012 for the Appeal of the Hearing Officer Decision for Case T3-08-002 approval	NA
B.9	34	Previous Case T2-08-018 Decision approval for Willamette River Greenway and Design Review Permits	NA
B.10	10	Case WRG 4-80 Willamette River Greenway Permit for the log salvage operation on the property	NA
B.11	8	2007 Voluntary Compliance Agreement (VCA) between Multnomah County Code Compliance Program and Mr. Gulbrandson.	NA
B.12	6	December 14, 2006 letter from Melinda B Wilde, Attorney to Michael Grimmet, County Code Compliance Specialist	NA
B.13	4	Zoning Maps 1977 (MUA-20), 1983 (MUF-19), 1995 (MUA-20) and 1999 (MUA-20)	NA
B.14	16	Zoning Codes - MUA-20 (10/6/1977), MUA-20 (7/26/1979), MUF-19 (3/23/1982), and MUA-20 (8//10/1995)	NA

B.15	2	Email from Erin Mick, REHS, On-Site Sanitation dated October 20, 2016 with Septic Review Certification form	10/20/16
'C'	#	Administration & Procedures	
C.1		Incomplete Letter	
C.2		Applicant's Acceptance of 180 Day Clock	
C.3		Complete Letter (Day 1)	
C.4		Opportunity to Comment	
C.5		Administrative Decision	
'D'	#	Comments Received (if needed)	
D.1	1	Letter dated December 12, 2016 Marilyn Zornado, Secretary, Marina Way Moorage Board of Directors	
D.2	1	Letter dated December 15, 2016 from Tom Dee, PWS, Cascara Ecological Consulting	
D.2.	1	Letter dated January 5, 2017 from Shawn Looney, Chair, Linnton Neighbor Association	
D.4.	1	Letter dated January 5, 2017 from David Looney	
D.5	1	Letter of reference dated January 16, 2017 from Clark Caffal, President, Combined Forestry & Marine Service, INC	
D.6	1	Email dated January 30, 2017 from Jane Hartline, Sauvie Island Habitat partnership	
'H'	#	Hearing Exhibits	
H.1	308	Binder submitted by applicant	3/10/17
H.2	1	ML-16614 applicant's Exhibit "A"	3/10/17
H.3	79	PowerPoint presentation by applicant	3/10/17
H.4	2	Taxlot 700 Landscape plan & plant species list	3/10/17
H.5	1	Hearing sign-in sheet	3/10/17
'I'	#	Post Hearing Exhibits	
I.1	50	Applicant's Final Argument	