



Bureau of Planning and Sustainability

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## MEMO B-11

**DATE:** May 1, 2020

**TO:** Portland Planning and Sustainability Commission

**FROM:** Debbie Bischoff, Senior Planner

**CC:** Sallie Edmunds, Planning Manager, Jeff Caudill, City Planner, Mindy Brooks, City Planner

**SUBJECT:** Residential Docks

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### ISSUE SUMMARY

The purpose of this memo is to describe the impacts that residential docks have on the Willamette River and how to address those impacts. There are 47 existing private docks in the South Reach, most of them in the Riverdale/Dunthorpe area. These docks have environmental as well as recreation/access impacts as described below:

- **Recreation/Access:** Since the Willamette River is a State of Oregon waterway and a mostly public resource, the number of private use residential docks takes away from public use of the river. It also confounds river recreation congestion by reducing the public use area on this fairly narrow stretch of the river.
- **Environmental:** Another significant negative impact of residential dock structures is the location of these structures in shallow habitat areas, which are essential resting, feeding and migration areas for threatened and endangered salmon and steelhead fish. Dock structures reduce the area of habitat resources and can create a shady hiding place for predatory fish who attack salmon and steelhead fish. Such attacks reduce the survival rate of these critical fish species.

### STAFF RECOMMENDATIONS



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*In Proposed Draft with Revised Elements:*

**Recommendation 1: New Residential Dock Development Standard.** Plan draft includes a new development standard (33.475.225) that requires new docks to meet standards that prohibit the floating portion of the dock structure to locate in a shallow water habitat area; and limits the size of the floating portion of the dock structure to 200 square feet. The size of the floating portion of the dock structure could be larger but must be approved through a modification request under the River Review process.

A revised proposal allows existing residential docks that are replaced to request an adjustment for continued location in the shallow water habitat through a River Review application. However, the applicant would have to prove that there are no alternatives to locating outside shallow water habitat. The applicant, if unable to avoid shallow water habitat areas, would have to minimize impacts in it, and mitigate onsite for impacts and/or contribute to a South Reach fee in-lieu fund (see below recommendation).

*New Proposal:*

**Recommendation 2: Revise the Exemption Provision for Normal Repair, and Maintenance of Docks .** Update the exemption for normal repair and maintenance of existing docks (33.475.405) that exempts normal maintenance and repair of residential docks for up to 50% of the dock structure for a two-year period. Add that repair beyond 50% of the structure constitutes replacement and would need to meet the residential dock standard and go through River Review.

*Revisions to Proposed Draft:*

**Recommendation 3: Approval Criteria under River Review.** Update the approval criteria for River Review to add a fee in-lieu program option to address impacts.

*New Proposal:*

**Recommendation 4: New Plan Action to Develop and Implement a South Reach In-Lieu Fee.** Propose a new action to develop a South Reach fee in-lieu program that would be adopted with *River Plan/South Reach* and implemented when the plan is in effect. Bureaus involved: BES, PPR, BDS and BPS. The fee in-lieu program could be used by an applicant to compensate for the negative impacts of a new/replacement residential dock, if on-site mitigation cannot be met. The bureaus are working on this program and planning to earmark the funds generated to support shallow water habitat restoration at Willamette Park and perhaps another site in the South Reach.

## **ANALYSIS**

Staff analyzed various approaches to address these impacts and developed several recommendations that address new residential docks and the replacement of residential docks in the South Reach. The recommendations aim to reduce the bad effects of these private structures on river recreation and to



assist in the protection of threatened and endangered fish species. The City has ability to address docks permitting in a more in-depth manner than federal and state agencies can.

There are 47 docks in the South Reach area, most of them are privately owned. There are 31 developed private residential docks in the Riverdale/Dunthorpe area. To our knowledge, all of these docks are in single ownership use and not shared facilities with adjacent property owners. A few new residential docks were permitted in 2020 and there are currently 4 land use review cases for new residential docks. City staff estimates that there are 7 remaining residential lots south of the Sellwood Bridge that could apply for a new dock. Given this small number, it doesn't make sense to prohibit new residential docks from applying for land use approval. However, it does seem appropriate to consider development standards for new docks and also to identify if there might be new regulations for the replacement of existing residential docks; with the overall goal of positively impacting the riverine environment.

There are no existing zoning standards for the location and size of docks in Portland. All new and replacement dock proposals must go through a greenway land use review and must meet greenway approval criteria in Chapter 33.440. The criteria require an applicant to show that the proposed development, excavation or fill will not have significant detrimental environmental impacts on in-water, riverbank and upland habitats within the greenway area. Development riverward of the greenway setback must also not result in a significant loss of biological productivity in the river, ensure riverbank protection from wave and wake damage, and will not interfere with other uses in the river. Bureau of Development Services (BDS) staff appreciates having the greenway approval criteria do not limit the size of dock structures, which often exceed 300 square feet and can end up locating in shallow water habitat.

The zoning code exempts normal maintenance and repairs for docks from land use review. Residential property owners could piece-meal renovate portions of docks such that it is not considered replacement, and therefore have to go through land use review and meet applicable zoning standards.

Since the majority of South Reach docks are for private residential use, BPS staff have worked with Bureau of Development Services (BDS) and Bureau of Environmental Services (BES) staff to determine how best to review and permit new residential docks and the replacement of existing residential docks in a way that minimizes adverse effects on the natural environment and public use of the river. The recommendations below reflect a combination of standards

