Department of Community Services
Land Use Planning Division
www.multco.us/landuse

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

NOTICE OF DECISION

Case File:	T2-2021-14388
Permit:	Significant Environmental Concern for Streams (SEC-s) Geologic Hazards (GH)
Applicants:	Steven Edelman **Owners:** Multnomah County
Location:	Within the right of way of NW North Road from NW Laidlaw Road to NW East Road
Base Zone:	Rural Residential (RR)
Overlays:	Significant Environmental Concern for Streams (SEC-s) Geologic Hazards (GH)
Proposal Summary:	Applicant requests a Significant Environmental Concern for Streams (SEC-s) and Geologic Hazards (GH) permits to authorize the paving of NW North Road, a public road, between the intersections of NW Laidlaw Road and NW East Road.

Decision: **Approved with Conditions**

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Thursday, September 9, 2021 at 4:00 pm.

Opportunity to Review the Record: The complete case file, including the Planning Director Decision containing Findings, Conclusions, Conditions of Approval, and all evidence associated with this application is available by contacting Rithy Khut, Staff Planner at 503-988-0176 or at rithy.khut@multco.us. Copies of all documents are available at the rate of $0.40/per page.

Opportunity to Appeal: An appeal requires a $250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning office at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

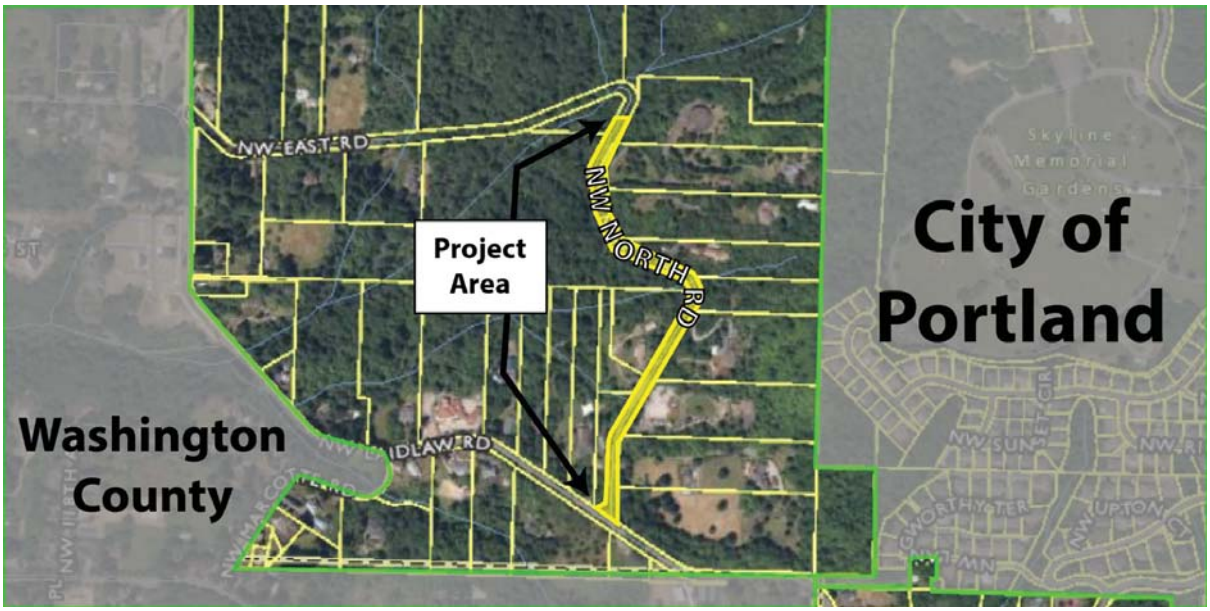
Issued by:

By: Rithy Khut, Planner

For: Carol Johnson, AICP
Planning Director

Date: Thursday, August 26, 2021

Vicinity Map N↑



Applicable Approval Criteria:

For this application to be approved, the proposal will need to meet applicable approval criteria below:
Multnomah County Code (MCC): Violations, Enforcement and Fines: MCC 39.1515 Code Compliance and Applications

Definitions: MCC 39.2000 Definitions

Rural Residential (RR): MCC 39.4360(J) Transportation facilities and improvements, MCC 39.4375(F) Dimensional Requirements and Development Standards

Geologic Hazards (GH): MCC 39.5075 Permit Required, MCC 39.5085 Geologic Hazards Permit Application Information Required, MCC 39.5090 Geologic Hazards Permit Standards

Significant Environmental Concern (SEC): MCC 39.5510 Uses; SEC Permit Required, MCC 39.5750 Criteria for Approval of SEC-s Permit – Streams

Ground Disturbing Activity and Stormwater: MCC 39.6235 Stormwater Drainage Control

Copies of the referenced Multnomah County Code sections are available by contacting our office at (503) 988-3043 or by visiting our website at *https://multco.us/landuse/zoning-codes/* under the link: **Chapter 39 - Zoning Code**

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.

- Permit Expiration – This land use permit shall expire as follows:
    a. Within two (2) years of the date of the final decision when construction has not commenced. [MCC 39.1185(B)]
        i. For the purposes of 1.a, commencement of construction shall mean actual grading of the roadway.
        ii. For purposes of Condition 1.a, two (2) days prior to starting the project, notification of commencement of construction will be given to Multnomah County Land Use Planning Division by e-mail to Staff Planner, Rithy Khut at rithy.khut@multco.us. Work may commence once notice is completed.
    b. Within four (4) years of the date of commencement of construction when the paving of the roadway has not been completed. [MCC 39.1185(B)]
        i. For the purposes of 1.b. completion of the paving of the roadway shall mean completion of the paving of the roadway, installation of the stormwater system and completion of mitigation plantings and compliance with all conditions of approval in the land use approval.
        ii. For purposes of 1.b., the applicant shall notify Rithy Khut at rithy.khut@multco.us when the project is complete and all conditions have been met. The applicant shall provide documentation at that time that all conditions have been completed.

Note: The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 39.1195, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.

2. The applicant or their representative(s) shall comply with the following limitations on the development project:
    a. Be limited to 41,924 square feet of ground disturbance, which includes the paving of the roadway, creation of the stormwater system, planting of mitigation plantings, and potential use of stockpile areas. [MCC 39.5085(C), MCC 39.5090(A), MCC 39.6210, and MCC 39.6225(B)(1)]
    b. Be limited to 20 dump trucks that will be traveling to the site with approximately 340 cubic yards or 17 truckloads of asphalt, and 30 cubic yards or approximately 3 truckloads. No more than 340 cubic yards of asphalt and 30 cubic yards of mulch shall be used in the project. [MCC 39.5085(C), MCC 39.5090(A), MCC 39.6210, and MCC 39.6225(B)(1)]

c. Cut soil, if created as part of the leveling of the road, is authorized to be stockpiled only within driveways ("dw") outside of the Stream Conservation Area in the Significant Environmental Concern for Streams overlay as shown in Exhibit A.3. These materials can only be used to prepare the road (i.e., leveling of the road surface) for the placement of hot mixed asphalt. [MCC 39.5090(E), MCC 39.5090(G), MCC 39.5090(K), MCC 39.5090(R), MCC 39.5090(S), and MCC 39.5510]

d. Any excess soil not used to level the road and any excess fill not used for paving the road shall be removed from the project area at the conclusion of construction activities and disposed of off-site at a location approved for the disposal of such material by applicable Federal, State and local authorities in compliance with the rules in the jurisdiction that disposal will occur. [MCC 39.5085(B), MCC 39.6210 and MCC 39.6225(B)(1)]

e. Soil-disturbing activities (i.e., trenching, excavating, filling, or combination thereof) within the Stream Conservation Area shall be limited to the period between June 15 and September 15. Revegetation/soil stabilization must be accomplished no later than October 15 of the year ground disturbance occurs. [MCC 39.5750(E)(6)]

f. Best Management Practices related to erosion control shall be required. [MCC 39.5750(E)(6) and MCC 39.5090(G)]

3. Prior to and/or during construction, the applicant or their representative(s) shall ensure that:

a. The Mitigation Plan within Exhibit A.3 and A.7 is implemented. The Mitigation Plan outlines the minimum restoration requirements, which includes 9,000 square feet of planting of red twig dogwood and Oregon grape that are spaced 36" on-center, for the creation of the Stormwater Mitigation Areas. [MCC 39.5750(D)(1)]

b. Best erosion control practices are maintained through all phases of development. Erosion control measures are to include the installation of sediment fences/barriers at the toe of all disturbed areas and post construction re-establishment of ground cover as described in the Exhibit A.3. Straw mulch, erosion blankets, or 6-mil plastic sheeting shall be used as a wet weather measure to provide erosion protection for exposed soils. All erosion control measures are to be implemented as prescribed in the current edition of the City of Portland's Erosion Control Manual, copies of which are available through the City of Portland. [MCC 39.5750(G), MCC 39.5750(K) through (O), and MCC 39.5750(R)]

i. The County's inspectors may visit the project site at any time to ensure that Best Management Practices are occurring. [MCC 39.6210]

ii. The County may require supplementation of erosion control techniques if turbidity or other down slope erosion impacts results from on-site grading work. The Portland Building Bureau (Special Inspections Section), the local Soil and Water Conservation District, or the U.S. Soil Conservation Service can also advise or recommend measures to respond to unanticipated erosion effects. [MCC 39.6210(F)(2)]

c. All fill trucks shall be loaded, covered, and otherwise managed to prevent any of their load from dropping, sifting, leaking, or otherwise escaping from the vehicle. The total daily number of fill haul truck trips shall not exceed what is permitted under EP-2021-14381. No fill shall be tracked or discharged in any manner onto any public right-of-

way and no compensation, monetary or otherwise, shall be received by the property owner for the receipt or placement of fill. [MCC 39.5090(W) through (Y)]

d. Any sedimentation caused by development activities or hot mixed asphalt spoils are removed from all neighboring surfaces and/or drainage systems. If any features within adjacent public right-of-way or private property are disturbed, the applicant shall be responsible for returning such features to their original condition or a condition of equal quality. [MCC 39.6210(E)(1) and (2)]

e. All disturbed soils outside of the area that is paved are seeded and mulched to prevent erosion and sedimentation in the channel. Monitor daily to ensure vegetation is sprouting and that no erosion or sedimentation is occurring. Monitoring may cease when vegetation on the disturbed soils have stabilized the disturbed soils. [MCC 39.5090(J) and MCC 39.5090(L)]

f. Any spoil materials be removed off-site shall be taken to a location approved for the disposal of such material by applicable Federal, State and local authorities. On-site disposal of construction debris is not authorized under this permit. This permit also does not authorize dumping or disposal of hazardous or toxic materials, synthetics (i.e. tires), petroleum-based materials, or other solid wastes which may cause adverse leachates or other off-site water quality effects. [MCC 39.5090(T)]

4. As an on-going condition, the property owner shall:

   a. Ensure that nuisance plants in MCC 39.5580 Table 1 below, in addition to the nuisance plants defined in MCC 39.2000, shall not be used as landscape plantings on the subject property. All nuisance plants shall be kept removed from developed areas of the property. [MCC 39.5750(F)(1) and MCC 39.5750(F)(2)]

Table 1 - Nuisance Plant List:

Common Name	*Scientific Name*
Lesser celandine	*Chelidonium majus*
Canada Thistle	*Cirsium arvense*
Common Thistle	*Cirsium vulgare*
Western Clematis	*Clematis ligusticifolia*
Traveler’ s Joy	*Clematis vitalba*
Poison hemlock	*Conium maculatum*
Field Morning-glory	*Convolvulus arvensis*
Night-blooming Morning-glory	*Convolvulus nyctagineus*
Lady’s nightcap	*Convolvulus sepium*
Pampas grass	*Cortaderia selloana*
Hawthorn, except native species	*Crataegus sp. except C. douglasii*
Scotch broom	*Cytisus scoparius*
Queen Anne’s Lace	*Daucus carota*
South American Waterweed	*Elodea densa*
Common Horsetail	*Equisetum arvense*
Giant Horsetail	*Equisetum telmateia*
Cranesbill	*Erodium cicutarium*
Roberts Geranium, Herb Robert	*Geranium robertianum*
English Ivy	*Hedera helix*
St. John’s Wort	*Hypericum perforatum*

Common Name	*Scientific Name*
English Holly	*Ilex aquafolium*
Golden Chain Tree	*Laburnum watereri*
Duckweed, Water Lentil	*Lemna minor*
Fall Dandelion	*Leontodon autumnalis*
Purple Loosestrife	*Lythrum salicaria*
Eurasian Watermilfoil	*Myriophyllum spicatum*
Reed Canary grass	*Phalaris arundinacea*
Annual Bluegrass	*Poa annua*
Swamp Smartweed	*Polygonum coccineum*
Climbing Bindweed, Wild buckwheat	*Polygonum convolvulus*
Giant Knotweed	*Polygonum sachalinense*
English, Portuguese Laurel	*Prunus laurocerasus*
Poison Oak	*Rhus diversiloba*
Himalayan Blackberry	*Rubus discolor*
Evergreen Blackberry	*Rubus laciniatus*
Tansy Ragwort	*Senecio jacobaea*
Blue Bindweed	*Solanum dulcamara*
Garden Nightshade	*Solanum nigrum*
Hairy Nightshade	*Solanum sarrachoides*
Common Dandelion	*Taraxacum officinale*
Common Bladderwort	*Utricularia vulgaris*
Stinging Nettle	*Urtica dioica*
Periwinkle (large leaf)	*Vinca major*
Periwinkle (small leaf)	*Vinca minor*
Spiny Cocklebur	*Xanthium spinosum*
Bamboo sp.	*various genera*

b. Be prohibited from the storage of hazardous materials outside as determined by DEQ within the Stream Conservation Area [MCC 39.5750(F)(3)].

5. At the completion of the proposed development and construction activities, the applicant, owner, or their representatives shall:

   a. Monitor all Stormwater Mitigation Areas as described in Exhibit A.3 to determine whether each type of shrubs planted continues to live, thrive, and grow. The monitoring shall be for a minimum period of five (5) growing seasons after completion of all the initial plantings. Annual monitoring reports are required. [MCC 39.1170 and MCC 39.5750(D)(1)(d)]

      i. For any replanted area that falls below the 80% threshold, the property owner shall be replant the area during the next planting season. [MCC 39.1170 and MCC 39.5750(D)(1)(d)]

      ii. Annual Monitoring Report Due Date: Annual monitoring reports are due by November 30th of each year and shall be sent to LUP-submittal@multco.us. [MCC 39.1170 and MCC 39.5750(D)(1)(d)]

1. Extension of the Monitoring Period: The monitoring period may be extended, at the discretion of Land Use Planning for failure to provide monitoring reports, failure of the site to meet performance standards for two consecutive years (without irrigation or replanting), or when needed to evaluate replanting or other corrective or remedial actions. [MCC 39.1170 and MCC 39.5750(D)(1)(d)]
2. Release of Monitoring Obligation: Monitoring is required until Land Use Planning has officially released the site from further monitoring. [MCC 39.1170 and MCC 39.5750(D)(1)(d)]
3. Failure to Submit Monitoring Reports: Failure to submit the required monitoring report by the due date may result in an extension of the monitoring period, forfeiture of the financial security and/or enforcement action. [MCC 39.1170 and MCC 39.5750(D)(1)(d)]

iii. The annual monitoring report shall include the following information:

1. The permit number, monitoring date, report year, and a determination or whether the site is meeting performance standard of Condition No. 5.
2. Post construction photographs of each Stormwater Mitigation Area taken within the last 30 day prior to the report date.
3. A brief narrative that describes maintenance activities and recommendations to meet performance standard. This includes when irrigation occurred and when the above ground portion of the irrigation system was or will be removed from the site.
4. Any other information necessary or required to document compliance with the performance standard listed in Condition No. 5. [MCC 39.1170 and MCC 39.5750(D)(1)(d)]

Note: Once this decision is final, the applicant shall compete the following steps:

1. Read your land use decision, the conditions of approval. Be ready to demonstrate compliance with the conditions.
2. Contact Right-of-Way Permits at *row.permits@multco.us* to review your plans, obtain your construction permit, and satisfy any other requirements. You may schedule an appointment at https://multco.us/transportation-planning/webform/right-way-appointment-request/ or leave a message at 503-988-3582. Failure to make an appointment with County Right-of-Way will result in delaying your building plan review and obtaining building permits.
3. Contact Rithy Khut, Planner, at 503-988-0176 or rithy.khut@multco.us, as outlined in Condition of Approval #1.

Notice to Mortgagee, Lien Holder, Vendor, or Seller:
ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

Findings of Fact

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

1.0 Project Description:

Staff: The applicant requests Significant Environmental Concern for Streams (SEC-s) and Geologic Hazards (GH) permits to authorize the paving of NW North Road, a public road, between the intersections of NW Laidlaw Road and NW East Road.

2.0 Property Description & History:

Staff: The project area is located within the right of way of NW North Road between the intersections of NW Laidlaw Road and NW East Road. The project area is located within the Rural Residential (RR) zoning districts in the West Hills rural area. Parts of the project area are also located within the Significant Environmental Concern for Streams (SEC-s) and Geologic Hazards (GH) overlay.

3.0 Public Comment:

Staff: Staff mailed a notice of application and invitation to comment on the proposed application to the required parties per MCC 39.1105 as Exhibited in C.5. Staff did receive public comment during the 14-day comment period.

3.1 Carol Chesarek, property owner located at 13300 NW Germantown Road provided an e-mail comment on August 10, 2021 (Exhibit D.1)

Staff: Carol Chesarek requested that the applicant add more variety in the stormwater mitigation area plantings. They suggest using additional native plants including, but not limited to snowberry, Evergreen huckleberry, Red Flowering currant, and Oceanspray.

4.0 Code Compliance and Applications Criteria:

4.1 § 39.1515 CODE COMPLIANCE AND APPLICATIONS.

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Zoning Code and/or any permit approvals previously issued by the County.
(A) A permit or other approval, including building permit applications, may be authorized if:

(1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Zoning Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or
(2) It is necessary to protect public safety; or
(3) It is for work related to and within a valid easement over, on or under an affected property.

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: This standard provides that the County shall not make a land use decision approving development for a property that is not in full compliance with County Code or previously issued County approvals, except in the following instances: approval will result in the property coming into full compliance, approval is necessary to protect public safety, or the approval is for work related to or within a valid easement.

This standard was originally codified in the Zoning Code chapter related to land use application procedures and, by its terms, expressly applies to the application review process. Although now codified in the enforcement Part of the Zoning Code as a result of the more recent code consolidation project, the language and intent was not changed during that project and remains applicable to the application review process and not to the post-permit-approval enforcement process.

Importantly, a finding of satisfaction of this standard does not mean that a property is in full compliance with the Zoning Code and all prior permit approvals (and, accordingly, does not preclude future enforcement actions relating to uses and structures existing at the time the finding is made). Instead, a finding of satisfaction of this standard simply means that there is not substantial evidence in the record affirmatively establishing one or more specific instances of noncompliance. As such, an applicant has no initial burden to establish that all elements of the subject property are in full compliance with the Zoning Code and all previously approved permits; instead, in the event of evidence indicating or establishing one or more specific instances of noncompliance on the subject property, the applicant bears the burden to either rebut that evidence or demonstrate satisfaction of one of the exceptions in MCC 39.1515.

For purposes of the current application, the paving of NW North Road is related to and within a valid easement over the adjacent and affected properties along the public road. The local public road is under the jurisdiction of Multnomah County as the property owners along NW North Road have dedicated a portion of their properties to Multnomah County for use as a public road. Subsequently, development actions may be authorized by Multnomah County as the work is related to and within a valid dedicated easement that the County has over the adjacent properties for right-of-way purposes. *This criterion is met.*

5.0 Rural Residential (RR) Criteria:

5.1 § 39.4360 ALLOWED USES.

(J) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

Staff: The applicant is requesting authorization to pave NW North Road. The road is a platted road that is part of the Bonny Slope subdivision. The Bonny Slope subdivision was platted on May 15, 1923 in Book 921, Page 9 (Exhibit B.17). As a Local Access Road, the road is a public road although it is not responsible to maintain, repair, or improve the road. As such, the applicant is requesting authorization to improve the road to serve the local needs of the property owners along NW North Road. However, although the development is permitted as an Allowed Use, parts of the development are located within the Geologic Hazards overlay map and within the Significant Environmental Concern for Streams (SEC-s) overlay; the applicant is required to obtain those permits, which are discussed in Section 6.0 and Section 7.0.

6.0 Geologic Hazards (GH) Criteria

6.1 § 39.5075 PERMIT REQUIRED.

Unless exempt under this code or authorized pursuant to a Large Fill permit, no development, or ground disturbing activity shall occur: (1) on land located in hazard areas as identified on the Geologic Hazards Overlay map, or (2) where the disturbed area or the land on which the development will occur has average slopes of 25 percent or more, except pursuant to a Geological Hazards permit (GH).

Staff: The applicant is requesting a permit to pave NW North Road. As defined in MCC 39.5073, "Development" includes the act of paving.

Development – In addition to the definition of development in MCC 39.2000, for purposes of this overlay, "development" also means, any human-made change defined as buildings or other structures, mining, paving, or ground disturbing activities in amounts greater than ten (10) cubic yards on any lot and any activity that results in the removal of more than 10 percent of the existing vegetation in a Water Resource Area or Habitat Area on a lot or parcel.

The proposed development is located on land identified on the Geologic Hazards Overlay map. Additionally, the development is not eligible for an Exemption as listed in MCC 39.5080 as it is located in the Tualatin River drainage basin; therefore, the applicant is required to obtain a Geologic Hazards permit, which is discussed below.

6.2 § 39.5085 GEOLOGIC HAZARDS PERMIT APPLICATION INFORMATION REQUIRED.

An application for a Geologic Hazards Permit shall include two copies of each of the following:

(A) A scaled site plan showing the following both existing and proposed:

(1) Property lines;

(2) Building structures, driveways, roads and right of way boundaries;

(3) Location of wells, utility lines, site drainage measures, stormwater disposal system, sanitary tanks and drainfields (primary and reserve);

(4) Trees and vegetation proposed for removal and planting and an outline of wooded areas;

(5) Water bodies;

(6) Boundaries of ground disturbing activities;

(7) Location and height of unsupported finished slopes;
(8) Location for wash out and cleanup of concrete equipment;
(9) Storage location and proposed handling and disposal methods for potential sources of non-erosion pollution including pesticides, fertilizers, petrochemicals, solid waste, construction chemicals, and wastewaters;
(10) Soil types;
(11) Ground topography contours (contour intervals no greater than 10-feet); and
(12) Erosion and sediment control measures.

(B) Calculations of the total area of proposed ground disturbance (square feet), volume of proposed cut (cubic yards) and fill (cubic yards), total volume of fill that has been deposited on the site over the 20-year period preceding the date of application, and existing and proposed slopes in areas to be disturbed (percent slope). For purposes of this subsection, the term "site" shall mean either a single lot of record or contiguous lots of record under same ownership, whichever results in the largest land area.

(C) Written findings, together with any supplemental plans, maps, reports or other information necessary to demonstrate compliance of the proposal with all applicable provisions of the Geologic Hazards standards in MCC 39.5090. Necessary reports, certifications, or plans may pertain to: engineering, soil characteristics, stormwater drainage control, stream protection, erosion and sediment control, and replanting. The written findings and supplemental information shall include:

(1) With respect to fill:

(a) Description of fill materials, compaction methods, and density specifications (with calculations). The planning director may require additional studies or information or work regarding fill materials and compaction.

(b) Statement of the total daily number of fill haul truck trips, travel timing, loaded haul truck weight, and haul truck travel route(s) to be used from any fill source(s) to the fill deposit site.

(2) A description of the use that the ground disturbing activity will support or help facilitate.

(3) One of the following:

(a) Additional topographic information showing the proposed development to be on land with average slopes less than 25 percent, and located more than 200 feet from a landslide, and that no cuts or fills in excess of 6 feet in depth are planned. High groundwater conditions shall be assumed unless documentation is available, demonstrating otherwise; or

(b) A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development; or,

(c) A GHP Form– 1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with their stamp and signature affixed indicating that the site is suitable for the proposed development.

(i) If the GHP Form– 1 indicates a need for further investigation, or if the director requires further study based upon information contained in the GHP Form– 1, a geotechnical report as specified by the director shall be prepared and submitted.

[a] A geotechnical investigation in preparation of a geotechnical report shall be conducted at the applicant's

expense by a Certified Engineering Geologist or Geotechnical Engineer. The report shall include specific investigations required by the director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from landslide hazards.
[b] Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the geotechnical report to ensure safety of the proposed development.
[c] Observation of work required by an approved geotechnical report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant's expense; the geologist's or engineer's name shall be submitted to the director prior to issuance of the permit.
[d] The director, at the applicant's expense, may require an evaluation of GHP Form– 1 or the geotechnical report by another Certified Engineering Geologist or Geotechnical Engineer.

Staff: As required, the applicant has provided all the applicable application information materials listed above. The applicant's site plan is found in Exhibit A.3. Calculations of the total area of proposed ground disturbance (square feet), volume of proposed cut and fill (cubic yards and tons), and existing and proposed slopes in areas to be disturbed (percent slope) is found in Exhibit A.4, A.5, and A.9. The applicant is proposing 41,924 square feet of ground disturbance. There will be no proposed cuts as much of the ground disturbance will be the placement of hot mixed asphalt concrete. Fill will be brought to the project site that that will be comprised of both asphalt and mulch. Approximately 20 dump trucks will be traveling to the site with approximately 340 cubic yards (or approximately 17 truckloads) of asphalt will be needed to pave the road and an additional 30 cubic yards (or approximately 3 truckloads) of mulch for stormwater mitigation areas adjacent to the newly paved road.

A GHP Form-1 ("HDP Form-1") and Geological Report was prepared Mia C. Mahedy, Certified Geotechnical Engineer certifying that the proposed development will no increase the risk of unstable slopes on or adjacent to the project site. (Exhibit A.4 and A.5). The Geological Report contains written findings and recommendations for the work to minimize associated landslide hazards (Exhibit A.5). *These criteria are met.*

(4) Documentation of approval by each governing agency having authority over the matter of any new stormwater discharges into public right-of-way.

Staff: The applicant has submitted a permit request to the Multnomah County Transportation Division concurrently to this application. The permit request, a Road Rules Variance recommends approval of project (Exhibit B.19). *This criterion is met.*

(5) Documentation of approval by the City of Portland Sanitarian and any other agency having authority over the matter of any new stormwater surcharges to sanitary drainfields.

Staff: As this application is for the paving of an existing gravel road, no new stormwater surcharges will be directed towards sanitary drainfields; therefore, this criterion is not applicable. *This criterion is not applicable met.*

6.3 § 39.5090 GEOLOGIC HAZARDS PERMIT STANDARDS.

A Geologic Hazards (GH) permit shall not be issued unless the application for such permit establishes compliance with MCC 39.6210 and satisfaction of the following standards:
(A) The total cumulative deposit of fill on the site for the 20-year period preceding the date of the application for the GH permit, and including the fill proposed in the GH permit application, shall not exceed 5,000 cubic yards. For purposes of this provision, the term "site" shall mean either a single lot of record or contiguous lots of record under same ownership, whichever results in the largest land area.

Staff: As required, the applicant has provided all the applicable application information materials listed above. The applicant's site plan is found in Exhibit A.3. Calculations of the total area of proposed ground disturbance (square feet), volume of proposed cut and fill (cubic yards and tons), and existing and proposed slopes in areas to be disturbed (percent slope) is found in Exhibit A.4, A.5, and A.9. The applicant is proposing 41,924 square feet of ground disturbance. There will be no proposed cuts as much of the ground disturbance will be the placement of hot mixed asphalt concrete. Fill will be brought to the project site that that will be comprised of both asphalt and mulch. Approximately 20 dump trucks will be traveling to the site with approximately 340 cubic yards (or approximately 17 truckloads) of asphalt will be needed to pave the road and an additional 30 cubic yards (or approximately 3 truckloads) of mulch for stormwater mitigation areas adjacent to the newly paved road. *This criterion is met.*

(B) Fill shall be composed of earth materials only.

Staff: The fill that will be brought to the project area will be comprised of both asphalt and mulch. Asphalt used for paving is comprised of aggregate materials with additional additives designed as binders. The aggregate materials are typically comprised of sand and small stones, which are earth materials as defined in MCC 39.2000. No construction debris, organic waste, or industrial byproducts will be used as fill. The mulch is commonly made of tree bark, wood chips, pine straw, moss, grass clippings, or leaves, which are also all earth materials as defined in MCC 39.2000. To ensure that this criterion is carried through, a condition will be required. *As conditioned, this criterion is met.*

(C) Cut and fill slopes shall not exceed 33 percent grade (3 Horizontal: 1 Vertical) unless a Certified Engineering Geologist or Geotechnical Engineer certifies in writing that a grade in excess of 33 percent is safe (including, but not limited to, not endangering or disturbing adjoining property) and suitable for the proposed development.

Staff: The applicant is not proposing any cuts as part of this proposal. The proposal is for the paving of an existing road with hot mixed asphalt and the placement of mulch in mitigation areas. The paving and placement of mulch will be placed in areas of relatively flat slopes and will not result in new fill slopes that exceed 33 percent grade (Exhibit A.3 and A.9) *This criterion is met.*

(D) Unsupported finished cuts and fills greater than 1 foot in height and less than or equal to 4 feet in height at any point shall meet a setback from any property line of a distance at least twice the height of the cut or fill, unless a Certified Engineering Geologist or Geotechnical Engineer certifies in writing that the cuts or fills will not endanger or disturb adjoining property. All unsupported finished cuts and fills greater than 4 feet in height at any point shall require a Certified Engineering Geologist or Geotechnical Engineer to certify in writing that the cuts or fills will not endanger or disturb adjoining property.

Staff: The applicant is not proposing any cuts as part of this proposal. The proposal is for the paving of an existing road with hot mixed asphalt and the placement of mulch in mitigation areas. The paving and placement of mulch will be placed in areas of relatively flat slopes on adjacent to the right of way. The placement of fill will not be greater than 1 foot in height (Exhibit A.3 and A.9). There will also not be unsupported finished fills greater than 4 feet in height at any point within the project area; therefore no review by a Certified Engineering Geologist or Geotechnical Engineer will be needed to certify that the fill will not endanger or disturb adjoining properties. *This criterion is met.*

(E) Fills shall not encroach on any water body unless an Oregon licensed Professional Engineer certifies in writing that the altered portion of the waterbody will continue to provide equal or greater flood carrying capacity for a storm of 10-year design frequency.

Staff: The applicant is seeking to pave an existing road that is currently graveled. The placement of fill will be located in an area where a waterbody has been culverted beneath the road. As the hot mixed asphalt fill does encroach on a water body, the applicant has included a Stormwater Drainage Control Certificate (Exhibit A.7). The Stormwater Drainage Control Certificate was completed by Neil Pietrok, Registered Professional Engineer indicating the paving of the road will require a natural infiltration process utilizing mulch in order to provide equal or greater flood carrying capacity for a storm of 10-year design frequency. *This criterion is met.*

(F) Fill generated by dredging may be deposited on Sauvie Island only to assist in flood control or to improve a farm's soils or productivity, except that it may not be deposited in any SEC overlay, WRG overlay, or designated wetland.

Staff: The applicant is not proposing to use fill generated by dredging nor is project area on Sauvie Island; therefore, this criterion is not applicable. *This criterion is not applicable.*

(G) On sites within the Tualatin River drainage basin, erosion, sediment and stormwater drainage control measures shall satisfy the requirements of OAR 340-041-0345(4) and shall be designed to perform as prescribed in the most recent edition of the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual. Ground-disturbing activities within the Tualatin Basin shall provide a 100-foot undisturbed buffer from the top of the bank of a stream, or the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland; unless a mitigation plan consistent with OAR 340-041-0345(4) is approved for alterations within the buffer area.

Staff: The project area is located in the Bonny Slope area which is a drainage basin for the Tualatin River. The paving of the road will need to satisfy the requirements of OAR 340-041-0345(4) and be designed to perform as prescribed in the most recent edition of the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual. The applicant has provided calculations that were reviewed by Neil Pietrok, Registered Professional Engineer (Exhibit A.9). The OAR requires that phosphorous is removed before it enters the water bodies that drain into the Tualatin River. As the paving will encroach within the 100-foot buffer from the top of the bank of a water body, the applicant is proposing the construction of vegetated filters that will trap the phosphorous before it enters the water body. *This criterion is met.*

(H) Stripping of vegetation, ground disturbing activities, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction.

Staff: The location of the proposed paving is in an area that does not contain vegetation as the road is graveled. The development that will occur is the placement of a hot mix asphalt on the gravel road. There is no proposed stripping of vegetation as part of the ground disturbing activities. Once the hot mix asphalt is laid down, the applicant will create mitigation areas by placing mulch along part of the right of way. *This criterion is met.*

(I) Development Plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff.

Staff: The proposed paving will minimize fill operations and ensure conformity with the topography as the applicant is proposing to pave an existing gravel road. The fill brought to the site will be a hot mix asphalt. The process includes the placement of fill to prepare the subbase, the use of a vibratory roller to compact and grade the pavement, the addition of the binder, and then placement of the top asphalt layer. This ordered process should ensure that the lease erosion potential occurs. Additionally, the applicant will be laying down mulch in areas of potential erosion concern. These areas are designated as mitigation areas and will ensure that surface runoff is adequately accommodated. *This criterion is met.*

(J) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.

Staff: The applicant is proposing to use mulch in areas of potential erosion concern to protect potentially exposed critical areas during development. These areas are designated as mitigation areas (Exhibit A.3 and A.9). *This criterion is met.*

(K) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

(1) A 100-foot undisturbed buffer of natural vegetation shall be retained from the top of the bank of a stream, or from the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland;

(2) The buffer required in subsection (K)(1) may only be disturbed upon the approval of a mitigation plan which utilizes erosion, sediment, and stormwater control measures designed to perform as effectively as those prescribed in the most recent edition of the City of Portland Erosion and Sediment Control Manual and

the City of Portland Stormwater Management Manual and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River drainage basin in OAR 340-041-0345(4).

Staff: As discussed previously, the proposal will encroach within the 100-foot buffer from the top of the bank of a water body. Therefore, as required, the applicant was required to provide calculations and a mitigation plan to ensure that the surface water quality standards within OAR 340-041-0345(4) are met. The applicant has provided calculations that were reviewed by Neil Pietrok, Registered Professional Engineer (Exhibit A.7). The OAR requires that phosphorous be removed before it enters the water bodies that drain into the Tualatin River. As the paving will, the applicant is proposing the construction of vegetated filters that will trap the phosphorous before it enters the water body. *This criterion is met.*

(L) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical.

Staff: To ensure that this criterion is met, a condition will be required that permanent plantings within the mitigation areas be installed as soon as practical. *As conditioned, this criterion is met.*

(M) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary.

Staff: As discussed previously, the applicant will be laying down mulch throughout the project area. The use of mulch as a mitigation strategy will help accommodate any increased runoff caused by paving of the road (Exhibit A.3). The rate of surface water runoff from the development to pave the road will be structurally retarded as the mulch will allow for natural infiltration as shown in the Storm Water Drainage Certificate calculations provided by Neil Pietrok, Registered Professional Engineer (Exhibit A.7) *This criterion is met.*

(N) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized.

Staff: As discussed previously, the applicant will be laying down mulch prior to areas being disturbed. The use of mulch as a mitigation strategy trap any sediment in runoff waters that could potentially occur. The applicant is also proposing to work during the summer season to minimize the risk of rain occurring during the paving of the road. *This criterion is met.*

(O) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding.

Staff: The applicant is not proposing any excavation and the exposed fill will be comprised of mulch and also hot mix asphalt. The hot mix asphalt once laid down will be bound, rolled, and compacted to ensure that surface water will not damage the sloping surface of the hot mix asphalt fill. *This criterion is met.*

(P) All drainage measures shall be designed to prevent erosion and adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural water bodies, drainage swales, or an approved drywell system.

Staff: As discussed previously, the applicant will be laying down mulch prior to areas being disturbed. The existing and potential surface runoff will be directed to those mitigation areas comprised of mulch and natural vegetation to allow for natural infiltration as recommended by in the Storm Water Drainage Certificate provided by Neil Pietrok, Registered Professional Engineer (Exhibit A.7). *This criterion is met.*

(Q) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion.

Staff: The applicant will not be utilizing drainage swales as part of this application; therefore, this criterion is not applicable. *This criterion is not applicable.*

(R) Erosion and sediment control measures must be utilized such that no visible or measurable erosion or sediment shall exit the site, enter the public right-of-way or be deposited into any water body or storm drainage system. Control measures which may be required include, but are not limited to:

(1) Energy absorbing devices to reduce runoff water velocity;
(2) Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;
(3) Dispersal of water runoff from developed areas over large undisturbed areas.

Staff: As discussed previously, the applicant will be creating mitigation areas that will be comprised of mulch to ensure that no visible or measureable erosion or sediment will exit the site. As the site is entirely within the right-of-way and areas adjacent to the right of way, any erosion or sediment will be captured in those mitigation areas as natural filtration occurs. If hot mix asphalt is trapped in the mitigation areas, the applicant will be required to remove the sedimentation and replace the contaminated mulch. Any trapped materials must be taken to an approved disposal site. Any mulch removed shall also be replaced to ensure that the mitigation areas are in place as designed and recommended by Neil Pietrok, Registered Professional Engineer (Exhibit A.7). *As conditioned, this criterion is met.*

(S) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into water bodies by applying mulch or other protective covering; or by location at a sufficient distance from water bodies; or by other sediment reduction measures;

Staff: The applicant is not proposing to stockpile topsoil or have spoil material as part of this application. However, if during the leveling of the road or during the laying of hot mixed asphalt concrete, the ground disturbing activities result in spoil material that will not be used as part of the paving process, the spoil material shall be located in an area outside of the Significant Environmental Concern for Streams (SEC-s) overlay and in an already disturbed area like a driveway apron within the right of way. The spoil material shall be covered until used or removed off-site to an approved disposal site. *As conditioned, this criterion is met.*

(T) Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.

Staff: To ensure that this criterion is met, a condition will be required that non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities. *As conditioned, this criterion is met.*

(U) On sites within the Balch Creek drainage basin, erosion, sediment, and stormwater control measures shall be designed to perform as effectively as those prescribed in the most recent edition of the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual. All ground disturbing activity within the basin shall be confined to the period between May first and October first of any year. All permanent vegetation or a winter cover crop shall be seeded or planted by October first the same year the development was begun; all soil not covered by buildings or other impervious surfaces must be completely vegetated by December first the same year the development was begun.

Staff: The project location is not within the Balch Creek drainage basin; therefore, this criterion is not applicable. *This criterion not applicable.*

(V) Ground disturbing activities within a water body shall use instream best management practices designed to perform as prescribed in the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual.

Staff: The project will not conduct ground disturbing activities within a water body; therefore, this criterion is not applicable. *This criterion not applicable.*

(W) The total daily number of fill haul truck trips shall not cause a transportation impact (as defined in the Multnomah County Road Rules) to the transportation system or fill haul truck travel routes, unless mitigated as approved by the County Transportation Division.

Staff: The applicant has also submitted for a concurrent review under Road Rules Variance case, EP-2021-14381. The Road Rules Variance Case was reviewed and approved on July 1, 2021, which required mitigation as approved by the County Transportation Division. *This criterion is met.*

(X) Fill trucks shall be constructed, loaded, covered, or otherwise managed to prevent any of their load from dropping, sifting, leaking, or otherwise escaping from the vehicle. No fill shall be tracked or discharged in any manner onto any public right-of-way.

Staff: To ensure that this criterion is met, a condition will be required that all fill trucks be constructed, loaded, covered, or otherwise managed to prevent any of their load from dropping, sifting, leaking, or otherwise escaping from the vehicle. Additionally, no fill shall be tracked or discharged in any manner onto any public right-of-way. *As conditioned, this criterion is met.*

(Y) No compensation, monetary or otherwise, shall be received by the property owner for the receipt or placement of fill.

Staff: To ensure that this criterion is met, a condition will be required that no compensation, monetary or otherwise, shall be received by the property owner for the receipt or placement of fill. *As conditioned, this criterion is met.*

7.0 Significant Environmental Concern (SEC) Criteria:

7.1 § 39.5510 USES; SEC PERMIT REQUIRED.

(A) All uses allowed in the base zone are allowed in the SEC when found to satisfy the applicable approval criteria given in such zone and, except as provided in MCC 39.5515, subject to approval of an SEC permit pursuant to this Subpart.

Staff: The applicant is requesting a permit to authorize the paving of NW North Road, a public road. The proposal is an allowed use in the underlying zoning district, if they meet certain requirements of Multnomah County Code. The applicant is subject to the SEC permit requirements for the proposed paving. They have met the approval criteria as described in this decision. A few criteria will require additional action by the applicant using Conditions of Approval to demonstrate compliance with all of the applicable approval criteria.

(B) Any excavation or any removal of materials of archaeological, historical, prehistorical or anthropological nature shall be conducted under the conditions of an SEC permit, regardless of the zoning designation of the site.

Staff: As discussed below, any excavation or any removal of materials of archaeological, historical, prehistorical, or anthropological nature shall be conducted under the conditions of this SEC permit. *This criterion is met.*

7.2 § 39.5750- CRITERIA FOR APPROVAL OF SEC-S PERMIT –STREAMS.

* * *

(B) Except for the exempt uses listed in MCC 39.5515, no development shall be allowed within a Stream Conservation Area unless approved by the Approval Authority pursuant to the provisions of MCC 39.5750 (C) through (F).

Staff: The applicant is not proposing any uses that are listed in MCC 39.5515, that are considered as exempt from the requirements of the SEC overlays. Therefore, the proposed development must be reviewed to ensure it complies with the provisions of MCC 39.5750(C) through (F).

(C) In addition to other SEC Permit submittal requirements, any application to develop in a Stream Conservation Area shall also include:

(1) A site plan drawn to scale showing the Stream Conservation Area boundary, the location of all existing and proposed structures, roads, watercourses, drainageways, stormwater facilities, utility installations, and topography of the site

at a contour interval equivalent to the best available U.S. Geological Survey 7.5' or 15' topographic information;
(2) A detailed description and map of the Stream Conservation Area including that portion to be affected by the proposed activity. This documentation must also include a map of the entire Stream Conservation Area, an assessment of the Stream Conservation Area's functional characteristics and water sources, and a description of the vegetation types and fish and wildlife habitat;
(3) A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, grading, dredging, and vegetation removal, including the amounts and methods;
(4) A study of any flood hazard, erosion hazard, and/or other natural hazards in the proposed development area and any proposed protective measures to reduce such hazards as required by subsection (E) (5) below;
(5) A detailed Mitigation Plan as described in subsection (D), if required; and
(6) A description of how the proposal meets the approval criteria listed in subsection (D) below.

Staff: The applicant has provided the submittal information required above:
(1) The site plans is labeled as Exhibit A.3.
(2) A detailed description and map are labeled as Exhibit A.2, A.3, A.5, A.7, and A.9.
(3) A description and map of soil types are labeled as Exhibit A.5.
(4) A study of flood hazard, erosion hazard, and/or other natural hazards is labeled as Exhibit A.5.
(5) A Mitigation Plan is labeled as Exhibit A.2, A.3, and A.9.
(6) A description of how the proposal meets the approval criteria listed in subsection (D) below is labeled as Exhibit A.2, A.3, and A.9.

These submittal requirements are met.

(D) For the protected stream resources, the applicant shall demonstrate that the proposal:
(1) Will enhance the fish and wildlife resources, shoreline anchoring, flood storage, water quality and visual amenities characteristic of the stream in its pre-development state, as documented in a Mitigation Plan. A Mitigation Plan and monitoring program may be approved upon submission of the following:
(a) A site plan and written documentation which contains the applicable information for the Stream Conservation Area as required by subsection (C) above;
(b) A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;
(c) A Mitigation Plan which demonstrates retention and enhancement of the resource values addressed in subsection (D) (1) above;
(d) An annual monitoring plan for a period of five years which ensures an 80 percent annual survival rate of any required plantings.

Staff: The applicant has provided a narrative, site plan, and Storm Water Drainage Certificate that discusses how the proposal will enhance the fish and wildlife resources, shoreline anchoring, flood storage, water quality, and visual amenities characteristic of the stream in its pre-development state. The Mitigation Plan was written by the applicant and reviewed by their

consultant, Neil Pietrok, Registered Professional Engineer. The Mitigation Plan includes a site plan and other written documentation that addresses the approval criteria above.

Based on available information the applicant and consultant assessed the existing conditions, delineated water resources on the site, and provided mitigation strategies to offset the development impacts. The stream resources are threes streams, Ward Creek, a stream that traverse NW North Road through a culvert, and headwaters area to the west of NW North Road. The streams that will be impacted by the development are intermittent streams that all drain into Ward Creek. The stream resource and conservation area contains both forested areas and non-forested areas. The non-forested areas are a hard packed gravel road that consists of a hardpan layer that is largely impervious to water. The forested areas are to the west and east of the right-of-way.

As the existing conditions have been established, the applicant is proposing one mitigation strategy to offset the permanent impacts of the paving of NW North Road. The applicant proposes approximately 9,000 square feet of mitigation, in the form of filter strips on both sides of the right-of-way. As the road is largely impervious, water that falls on the road typically will sheet flow into ditches and lower laying areas, which include the Stream Conservation Areas. Located on the downslope side of the road, the filter strips will be planted with red twig dogwood and Oregon grape with a bark chip ground cover. The filter strips will act to disperse the concentrated flows over a wider area and contain erosion and pollution from the road.

The planting of native shrubs and placement of the bark chip ground cover will enhance water quality, promote flood storage, improve water quality, and enhance the visual amenities that are characteristic of the stream. As discussed in Section 6.3, the Storm Water Drainage Certificate shows that a 10-foot filter strip will sufficient to mitigate stormwater concerns (Exhibit A.7). By directing the stormwater sheet flows towards the filter strips for natural infiltration, the stormwater will be recharged into the ground allowing for additional flood storage. Additionally, calculations reviewed by Neil Pietrok, Registered Professional Engineer demonstrate that nonpoint source phosphorous pollution will be reduced improving water quality and reducing impacts to aquatic wildlife (Exhibit A.9). Lastly by planting native shrubs, red twig dogwood and Oregon grape, the applicant will enhance the visual amenities characteristic of the stream.

The measures above demonstrate retention and enhancement of the resource values addressed in subsection (D)(1) above; however to ensure that these measures are carried out and the plantings thrive, a condition of approval will be required that an annual monitoring plan for a period of five years which ensures an 80 percent annual survival rate is required. *As conditioned, these criteria are met.*

(E) Design Specifications: The following design specifications shall be incorporated, as appropriate, into any developments within a Stream Conservation Area:

> **(1) A bridge or arched culvert which does not disturb the bed or banks of the stream and are of the minimum width necessary to allow passage of peak winter flows shall be utilized for any crossing of a protected streams.**

Staff: The applicant is not proposing a bridge or altering an existing culvert as part of this application, therefore this criterion is not applicable. *This criterion is not applicable.*

(2) All storm water generated by a development shall be collected and disposed of on-site into dry wells or by other best management practice methods which emphasize groundwater recharge and reduce peak stream flows.

Staff: The applicant has provided a Storm Water Drainage Control Certificate. The Storm Water Drainage Control Certificate was completed by Neil Pietrok, Registered Professional Engineer (Exhibit A.7). The Certificate recommends the use of a "Natural Infiltration Process" through the construction filter strips throughout the project area to ensure that the rate of runoff from the paving of the road for a 10-year/24-hour storm even is no greater than that before development. The filter strips are considered as a best management practice, as the strips encourage a natural infiltration process. By utilizing the planting of shrubs and laying of mulch, these actions emphasizes groundwater recharge and reduced peak stream flows because the stormwater can sheet flow into the filter strips, which will disperse and slow the stormwater so it can be filtered and infiltrate into the soil. *This criterion is met.*

(3) Any exterior lighting associated with a proposed development shall be placed, shaded or screened to avoid shining directly into a Stream Conservation Area.

Staff: The applicant is not proposing any exterior lighting associated with a proposed development; therefore, this criterion is not applicable. *This criterion is not applicable.*

(4) Any trees over 6" in caliper that are removed as a result of any development shall be replaced by any combination of native species whose combined caliper is equivalent to that of the trees removed.

Staff: The applicant is not proposing to remove any trees over 6" in caliper; therefore, this criterion is not applicable. *This criterion is not applicable.*

(5) Satisfaction of the erosion control standards of MCC 39.5090.

Staff: The erosion control standards of MCC 39.5090 are discussed in Section 6.3.

(6) Soil disturbing activities within a Stream Conservation Area shall be limited to the period between June 15 and September 15. Revegetation/soil stabilization must be accomplished no later than October 15. Best Management Practices related to erosion control shall be required within a Stream Conservation Area.

Staff: To ensure that the approval criterion above is met, a condition of approval will be required that soil disturbing activities within a Stream Conservation Area shall be limited to the period between June 15 and September 15. Revegetation/soil stabilization must be accomplished no later than October 15. *As conditioned, this criterion is met.*

(7) Demonstration of compliance with all applicable state and federal permit requirements.

Staff: The applicant did not identify any state or federal permit requirements that are needed as part of this application nor is County Staff aware of any additional state or federal permit requirements; therefore, this criterion is not applicable. *This criterion is not applicable.*

(F) For those Stream Conservation Areas located within Metro's jurisdictional boundaries, the following requirements apply in addition to subsections (C) through (E) above:

Staff: The proposal is located within Metro's jurisdictional boundary; therefore, the following requirements are applicable as discussed below.

> **(1) The planting of any invasive non-native or noxious vegetation as listed in subsection (A)(4)above is prohibited. In addition, the species listed in MCC 39.5580 Table 1 shall not be planted.**

Staff: Due to a scrivener's error subsection (A)(4) in MCC 39.5750 does not exist. In a previous iteration prior to the adoption of Chapter 39, Chapter 33 contained MCC 33.4575(A)(4). This previous code section was renumbered to MCC 39.5750(A)(1) and the above criterion was not renumbered to reflect the change. As required, the invasive non-native or noxious vegetation are those plants listed in the latest edition of the Metro Nuisance Plant List and the Prohibited Plant List, and include those plants listed in the latest edition of the State of Oregon Noxious Weed List. The Mitigation Plan does not recommend the planting of any of those plants listed (Exhibit A.3 and A.9). *This criterion is met.*

> **(2) The revegetation of disturbed areas shall primarily use native plants. A list of native plants can be found in the latest edition of the Metro Native Plant List.**

Staff: As this is a paving project, the disturbed areas are located in the center of the right-of-way. Therefore, the applicant is proposing mitigation areas adjacent to the right-of-way using native plants. *This criterion is met.*

> **(3) Outside storage of hazardous materials as determined by DEQ is prohibited, unless such storage began before the effective date of the applicable SEC ordinance; or, unless such storage is contained and approved during development review.**

Staff: A condition of approval will be required that no outside storage of hazardous materials as determined by DEQ will be permitted as part of this project. *As conditioned, this criterion is met.*

(G) For Protected Aggregate and Mineral (PAM) resources within a PAM Overlay, the Mitigation Plan must comply only with measures identified in the Goal 5 protection program that has been designated for the site.

Staff: The project is not located within the Protected Aggregate and Mineral overlay therefore this application is not subject to the requirements of the overlay. *This criterion is not applicable.*

8.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Geologic Hazards (GH) permit and the Significant Environmental Concern for Streams (SEC-s) permit to pave an existing public road in the Rural Residential (RR) zone. This approval is subject to the conditions of approval established in this report.

9.0 Exhibits

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

Exhibits with a "✱"after the exhibit # have been included as part of the mailed decision. Those exhibits have been reduced to a size of 8.5" x 11" for mailing purposes. All other exhibits are available for review in Case File T2-2021-14388 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	3	General Application Form and Receipt	02/25/2021
A.2	5	Narrative	02/25/2021
A.3*	5	Site Plans (34" x 22") • Sheet 1 of 5: Cover Sheet • Sheet 2 of 5: South Paving • Sheet 3 of 5: Central Paving • Sheet 4 of 5: Paving North • Sheet 5 of 5: Details	02/25/2021
A.4	4	Geologic Hazards Permit (GHP) Form 1	02/25/2021
A.5	12	Geotechnical Report written by Mia C. Mahedy, Registered Professional Engineer on November 2, 2020	02/25/2021
A.6	6	Fire Service Agency Review	02/25/2021
A.7	5	Stormwater Drainage Control Certificate completed by Neil Pietrok, Registered Professional Engineer	02/25/2021
A.8	1	Receipt adding Geologic Hazards (GH) permit	03/29/2021
A.9	10	Significant Environmental Concern and Geologic Hazards Narrative	04/05/2021
A.10	1	Email from applicant clarifying professional credentials of Mia C. Mahedy	04/06/2021

'B'	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W22D -00100 (Alt Acct #R090602420)	02/25/2021
B.2	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W22D -00200 (Alt Acct #R090602440)	02/25/2021
B.3	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W22D -00300 (Alt Acct #R090602450)	02/25/2021
B.4	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W22D -00400 (Alt Acct #R090602630)	02/25/2021
B.5	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W22D -00500 (Alt Acct #R090602700)	02/25/2021
B.6	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W22D -00600 (Alt Acct #R090602710)	02/25/2021
B.7	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W22D -00700 (Alt Acct #R090602760)	02/25/2021
B.8	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W22D -00800 (Alt Acct #R090602770)	02/25/2021
B.9	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W22D -00900 (Alt Acct #R090602860)	02/25/2021
B.10	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W22D -01000 (Alt Acct #R090600010)	02/25/2021
B.11	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W22D -01400 (Alt Acct #R090602920)	02/25/2021
B.12	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W22D -01500 (Alt Acct #R090602940)	02/25/2021
B.13	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W22D -01600 (Alt Acct #R090602950)	02/25/2021
B.14	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W22D -02300 (Alt Acct #R090604060)	02/25/2021
B.15	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W22D -02400 (Alt Acct #R090604180)	02/25/2021
B.16	1	Division of Assessment, Recording, and Taxation (DART): Assessor's Map with NW North Road Highlighted	02/25/2021
B.17	1	Bonny Slope Subdivision Plat, PL 0921-009 recorded in Book 921, Page 9 on March 15, 1923 in Book	02/25/2021
B.18	7	Pre-File Meeting Notes for PF-2020-13520	02/25/2021
B.19	15	Road Rules Variance case, EP-2021-14381	07/01/2021

'C'	#	Administration & Procedures	Date
C.1	7	Incomplete Letter and Applicant Response	03/19/2021
C.2	1	Applicant's acceptance of 180 day clock	03/20/2021
C.3	2	Second Incomplete Letter	05/07/2021
C.4	2	Complete letter (day 1)	06/01/2021
C.5	11	Opportunity to Comment and mailing list	07/28/2021
C.6	14	Administrative "Short" Decision and mailing list	08/26/2021
C.7	34	Administrative Decision and mailing list	08/26/2021
'D'	#	Comments	Date
D.1	1	Carol Chesarek, property owner located at 13300 NW Germantown Road, e-mail comment	08/10/2021

NORTH ROAD PAVING PROJECT

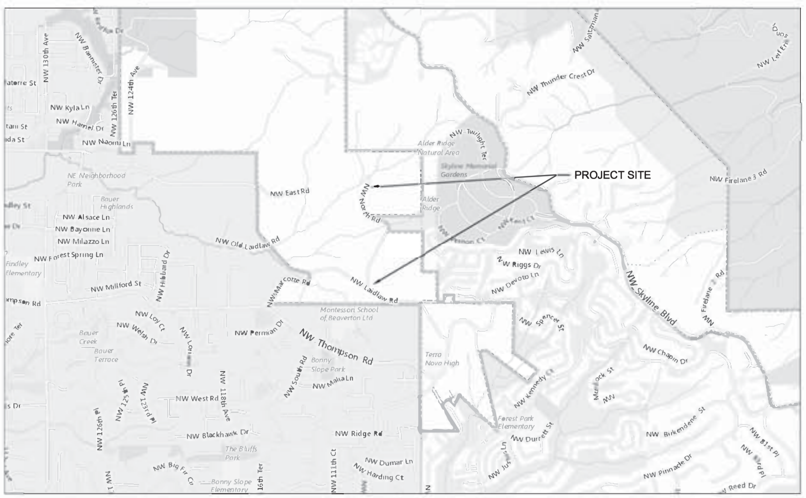
MULTNOMAH COUNTY, OREGON

SHEET INDEX

1	G1	COVER SHEET
2	C1	SOUTH PAVING
3	C2	CENTRAL PAVING
4	C3	NORTH PAVING
5	C4	DETAILS

LEGEND

- PROPERTY LINE
- EDGE OF ROAD
- STRUCTURE
- CULVERT
- DITCH
- OHP — OVERHEAD POWER LINE
- POWER POLE
- WATER MH/VALVE
- WATER METER BOX
- WATER BLOW OFF
- NEW STORM FACILITY



VICINITY MAP
NO SCALE

PROJECT STAKEHOLDERS

Palmer & Nancy Byrkit
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Email: kalivj@me.com

STORM WATER NARRATIVE:

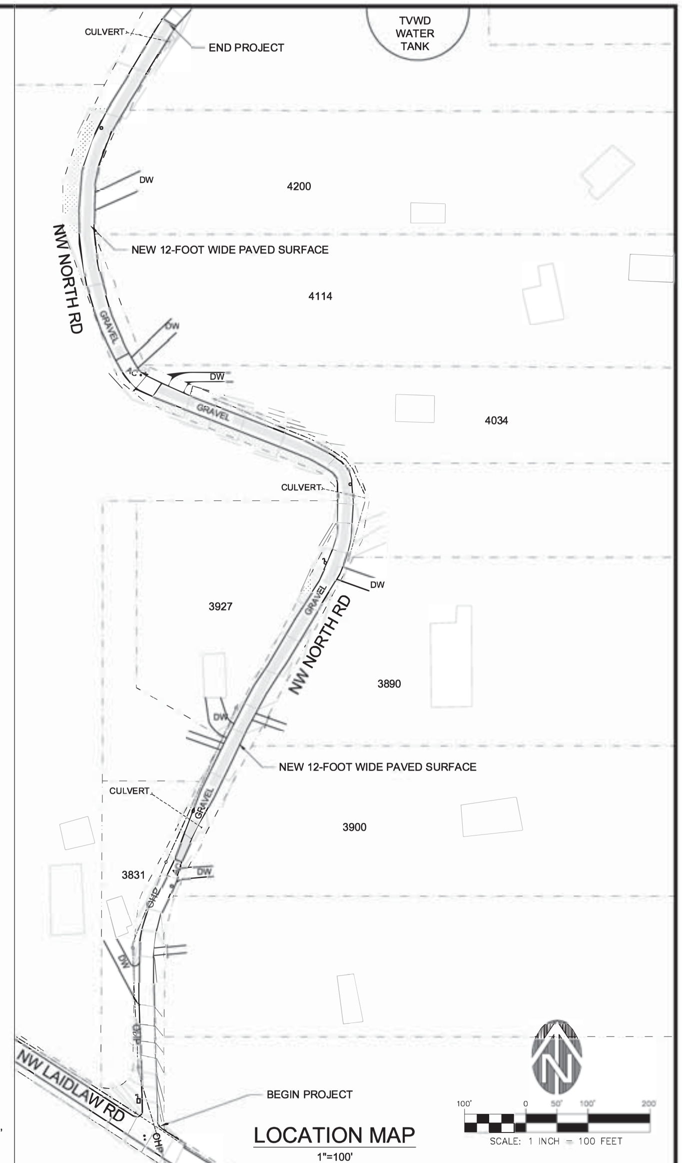
STORM WATER QUALITY FACILITY DESIGN IS BASED ON THE CITY OF PORTLAND'S STORM WATER MANAGEMENT MANUAL, 2016.

PRELIMINARY DESIGN: NEW-IMPACTED SURFACE BASED ON A 12-FOOT WIDE PAVED ROAD WIDTH IS EQUAL TO 19,400 SQUARE FEET.

FOR PRELIMINARY DESIGN, THE SIMPLIFIED APPROACH ALLOWS FOR A FILTER STRIP TREATMENT AREA OF 0.20 X MANAGED AREA (19,400 SF) = 3,880 SF.

THE AREA PROPOSED FOR FILTER STRIPS ON THESE PLANS OF 9,000 SF.

NOTE: PROJECT MAPS COMPILED FROM ONLINE SOURCES AND SITE INSPECTIONS; ALL UTILITIES, ROAD WIDTHS, PROPERTY LINES, AND ALL OTHER FEATURES MUST BE VERIFIED.



LOCATION MAP
1"=100'

PIETROK ENGINEERING AND RESOURCES LLC
11732 NW LAIDLAW ROAD
PORTLAND, OR 97229
PH: 503-793-3469

FILE	045-NorthRd-C1
DATE	06/20/2020
DESIGNER	NDP
DRAFTER	SRB
REVIEWER	RW

3831 TO 4348 NORTH ROAD
WASHINGTON COUNTY, OREGON 97229

NORTH ROAD — MULTNOMAH COUNTY, OREGON

NORTH ROAD PAVING PROJECT

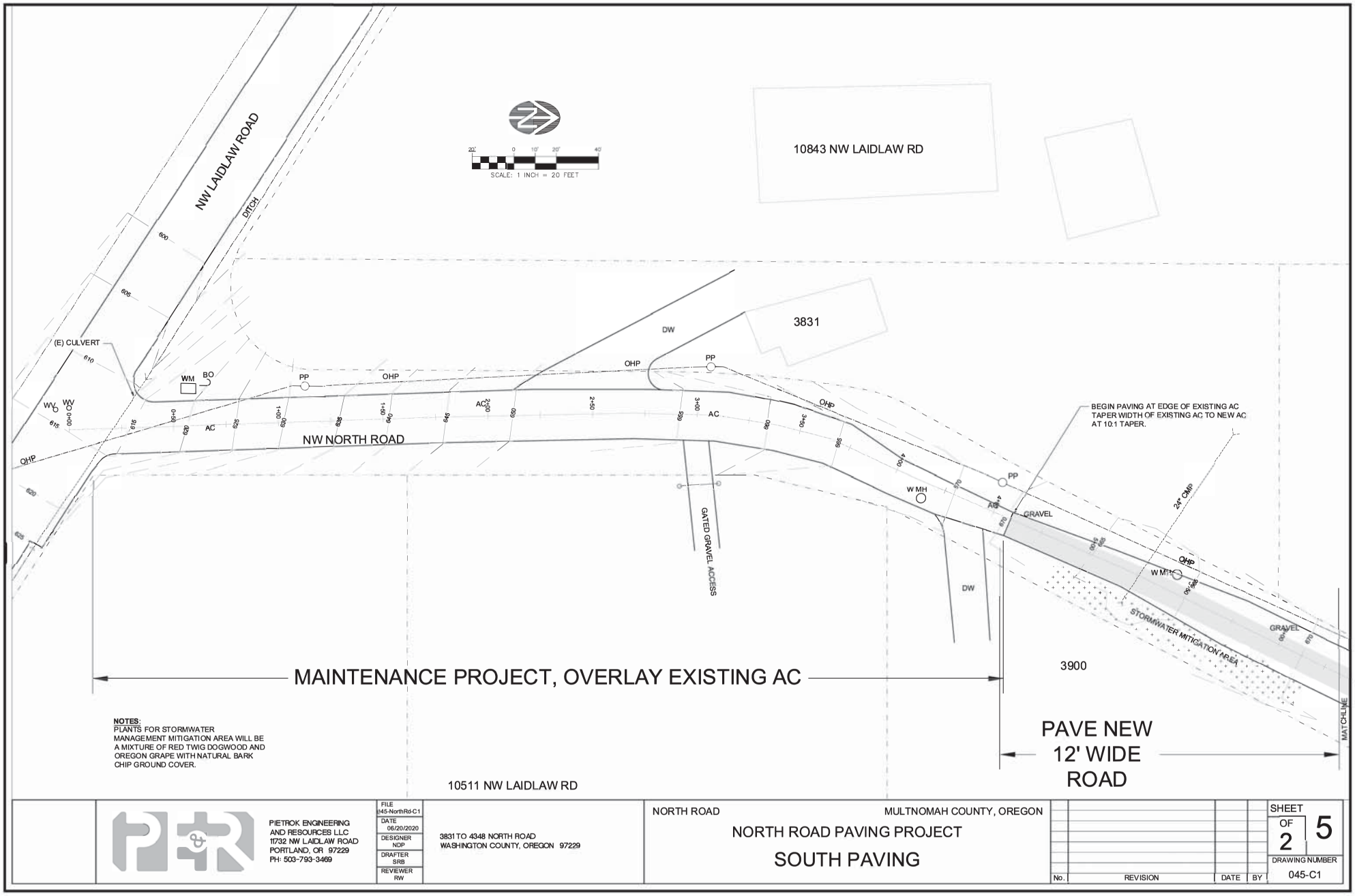
COVER SHEET

EXHIBIT A.3

No.	REVISION	DATE	BY

SHEET 1 OF 5

DRAWING NUMBER 045-G1



PIETROK ENGINEERING
AND RESOURCES LLC
11732 NW LAIDLAW ROAD
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DESIGNER	NDP
DRAFTER	SRB
REVIEWER	RW

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WASHINGTON COUNTY, OREGON 97229

NORTH ROAD — MULTNOMAH COUNTY, OREGON

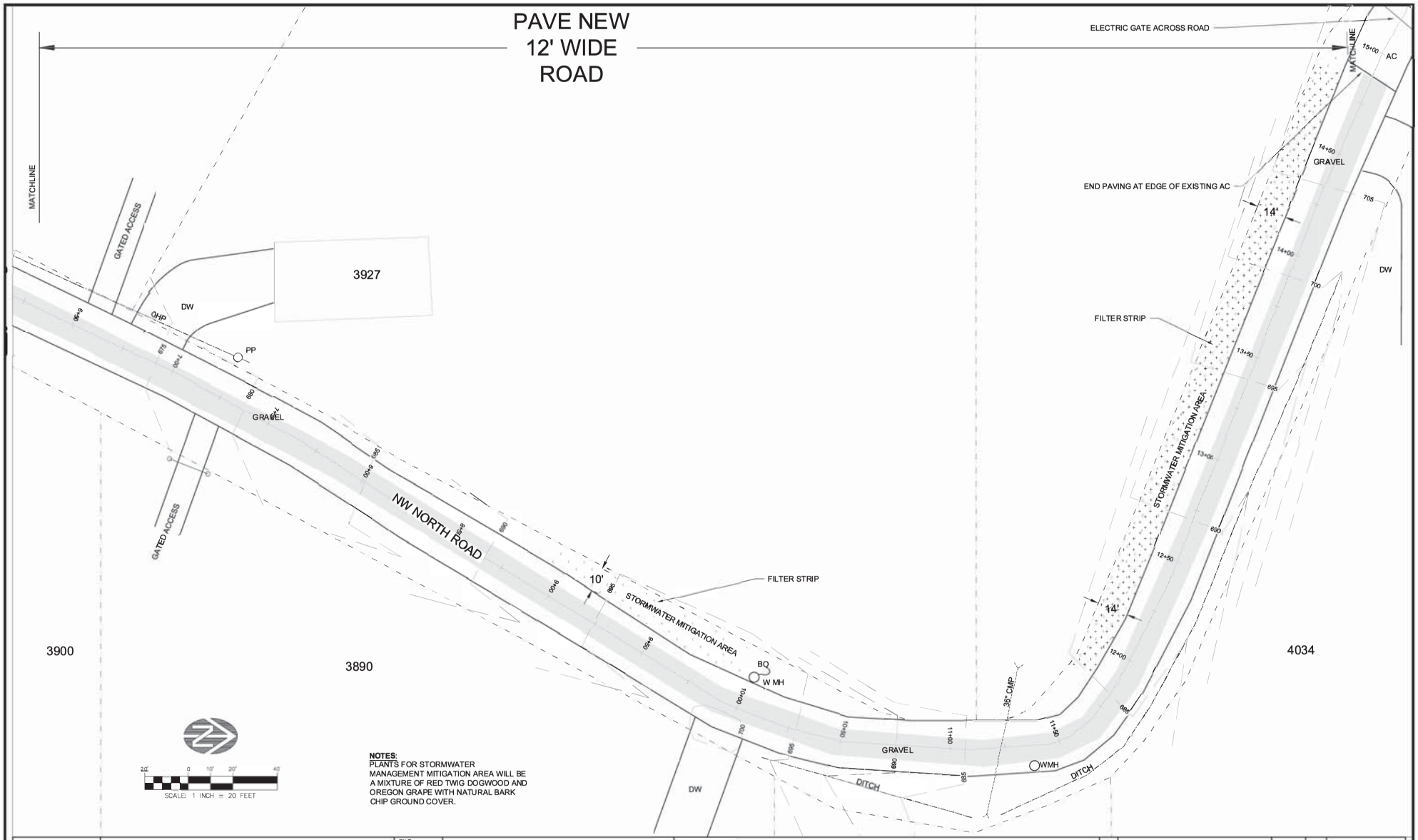
NORTH ROAD PAVING PROJECT

SOUTH PAVING

No.	REVISION	DATE	BY

SHEET 2 OF 5

DRAWING NUMBER 045-C1



NOTES:
PLANTS FOR STORMWATER MANAGEMENT MITIGATION AREA WILL BE A MIXTURE OF RED TWIG DOGWOOD AND OREGON GRAPE WITH NATURAL BARK CHIP GROUND COVER.

PIETROK ENGINEERING
AND RESOURCES LLC
11732 NW LAIDLAW ROAD
PORTLAND, OR 97229
PH: 503-793-3469

FILE	045-NorthRd-C1
DATE	06/20/2020
DESIGNER	NDP
DRAFTER	SRB
REVIEWER	RW

3831 TO 4348 NORTH ROAD
WASHINGTON COUNTY, OREGON 97229

NORTH ROAD — MULTNOMAH COUNTY, OREGON

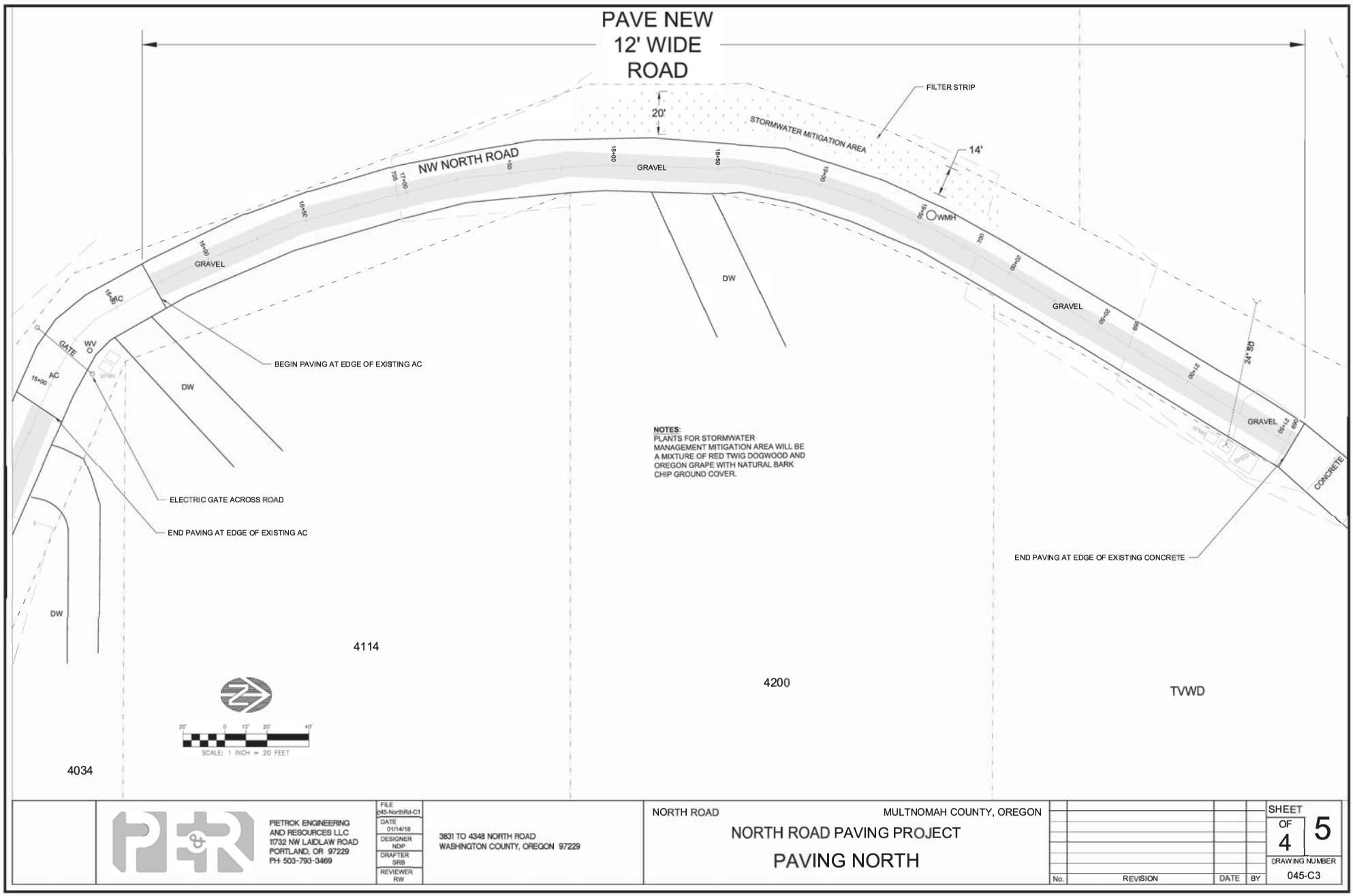
NORTH ROAD PAVING PROJECT

CENTRAL PAVING

No.	REVISION	DATE	BY

SHEET 3 OF 5

DRAWING NUMBER 045-C2



PIETROK ENGINEERING AND RESOURCES LLC
11732 NW LAIDLAW ROAD
PORTLAND, OR 97229
PH: 503-793-3469

FILE: 045-NorthRd-C1
DATE: 01/14/18
DESIGNER: NDP
DRAFTER: SRB
REVIEWER: RW

3831 TO 4348 NORTH ROAD
WASHINGTON COUNTY, OREGON 97229

NORTH ROAD — MULTNOMAH COUNTY, OREGON

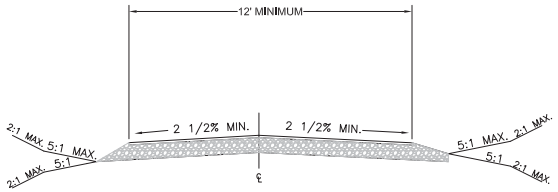
NORTH ROAD PAVING PROJECT

PAVING NORTH

No.	REVISION	DATE	BY

SHEET 4 OF 5

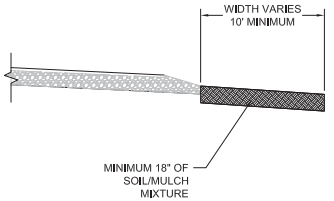
DRAWING NUMBER 045-C3



NOTES:

1. HOT MIXED ASPHALT CONCRETE (HMAC) SHALL BE CLASS ½" DENSE, PG 64-22, ESAL 3 TO 30 MIX DESIGN.
   1.1. EACH LIFT THICKNESS SHALL BE 3 INCHES.
2. AGGREGATE SHALL BE UP TO 2 INCHES OF ¾" - 0 LEVELING COURSE.
3. EXISTING SUBGRADE AND BASE ROCK SHALL BE COMPACTED TO 95% RELATIVE DENSITY, PER AASHTO T-180.

STREET SECTION DETAIL
SCALE: NTS
1 / C4



NOTES:
PLANTS FOR STORMWATER MANAGEMENT MITIGATION AREA WILL BE A MIXTURE OF RED TWIG DOGWOOD AND OREGON GRAPE WITH NATURAL BARK CHIP GROUND COVER. SPACING TO BE 36" OC.

STORMWATER FILTER STRIP DETAIL
SCALE: NTS
2 / C4

PIETROK ENGINEERING AND RESOURCES LLC
11732 NW LAIDLAW ROAD
PORTLAND, OR 97229
PH: 503-793-3469

FILE 045-NorthRd-C1
DATE 06/17/2020
DESIGNER NDP
DRAFTER SRB
REVIEWER RW

3831 TO 4348 NORTH ROAD
WASHINGTON COUNTY, OREGON 97229

NORTH ROAD — MULTNOMAH COUNTY, OREGON

NORTH ROAD PAVING PROJECT

DETAILS

No.	REVISION	DATE	BY

SHEET 5 OF 5
DRAWING NUMBER 045-C4