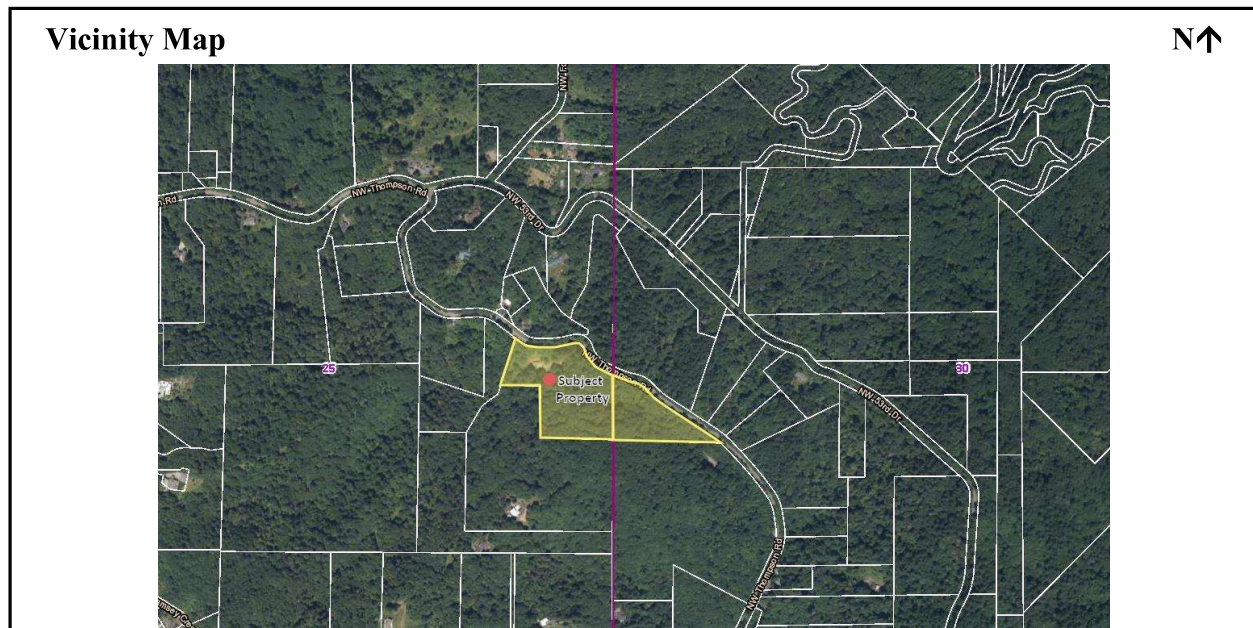


**Proposal Summary:** Applicant requests a Significant Environmental Concern for Streams (SEC-s) permit and Type I Significant Environmental Concern for Wildlife Habitat (SEC-h) permit for a proposed replacement dwelling and a new accessory structure (outbuilding). The proposed outbuilding is for personal storage and personal workspace. A Geologic Hazards (GH) permit is not required as no mechanized ground disturbance is proposed within the GH overlay or areas with slopes of 25% or greater.

**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 (503) 988-3043. This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

**Date:** Friday, May 27, 2022



### **Applicable Approval Criteria** [Multnomah County Code (MCC)]:

General Provisions: MCC 39.1515 Code Compliance and Applications, MCC 39.3005 Lot of Record- Generally, MCC 39.3030 Lot of Record Commercial Forest Use – 2 (CFU-2), MCC 39.6235 Stormwater Drainage Control, MCC 39.6850 Dark Sky Lighting Standards

Commercial Forest Use -2 (CFU-2) Zone: MCC 39.4070 Allowed Uses – (D) Replacement Dwelling and (T) Accessory Structures, MCC 39.4105 Building Height Requirements, MCC 39.4110 Forest Practice Setbacks and Fire Safety Zones, MCC 39.4115 Development Standards for Dwellings and Structures – (C)(1) – (4)

Significant Environmental Concern: MCC 39.5510 Uses, SEC Permit Required, MCC 39.5750 Criteria for Approval of SEC-s permit, MCC 39.5850 SEC-h Clear and Objective Standards, MCC 39.5860 Criteria for Approval of SEC-h permit – (B)(1) through (4)(a) – (c), and (B)(5) – (7).

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.

1. Permit Expiration – This land use permit shall **expire** as follows:

- a. Within four (4) years of the date of the final decision for residential development on land zoned for Commercial Forest Use outside of an urban growth boundary when construction has not commenced.
  - i. For the purposes of 1.a, commencement of construction shall mean actual construction of the foundation or frame of the approved structure.
  - ii. For purposes of Condition 1.a., notification of commencement of construction will be given to Multnomah County Land Use Planning Division a minimum of seven (7) days prior to date of commencement. Work may commence once notice is completed. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure.
- b. Within four (4) years of the date of commencement of construction when the structure has not been completed.
  - i. For the purposes of Condition 1.b, completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.
  - ii. For purposes of Condition 1.b, the property owner shall notify County Land Use Planning via email at [land.use.planning@multco.us](mailto:land.use.planning@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. Prior to land use sign-off for building plan check, the property owners or their representative shall:
  - a. The property owners shall acknowledge in writing that they have read and understand the conditions of approval and intend to comply with them. A Letter of Acknowledgement has been provided to assist you. The signed document shall be sent to Marisol Cervantes at [Marisol.Cervantes@multco.us](mailto:Marisol.Cervantes@multco.us). [MCC 39.1170(A) & (B)]
  - b. Apply for and obtain an Erosion and Sediment Control Permit for the proposed ground disturbance activities associated with the project [MCC 39.6225].
  - c. Record the Covenant to Prohibit Residential Use of Accessory Structure with the County Recorder. Proof of recording shall be made prior to the issuance of any permits and shall be filed with Land Use Planning Division. Recording shall be at the applicant's expense. [MCC 39.8860]
3. At the time of land use sign-off for building plan check, the property owner or their representative shall:
  - a. Provide revised building elevations to demonstrate that the proposed buildings / structures do not exceed 35 feet in height, have a fire retardant roof, and spark arrester(s) for any chimney. [MCC 39.4105 & 39.4115(C)]
  - b. Demonstrate the exterior lighting complies with the Dark Sky Lighting Standards of MCC 39.6850. Provide pictures and spec. sheets for the proposed exterior lighting for the replacement dwelling and accessory structure. Show the proposed exterior lighting on the elevation drawings.

4. Prior to and during construction, the property owner or their representative shall adhere to the following:
  - a. The Best Management Practices related to erosion control shall be required when the Erosion Sediment Control Permit is approved. The Best Management Practices shall be in place for the proposed replacement dwelling, accessory structure and Stormwater filtration system. [MCC 39.6225]
  - b. The Mitigation Plan in (Exhibit A.4 & Exhibit A.8) shall be implemented. The Mitigation Plan outlines the replanting of 11 Western Red Cedar (*Thuja Plicata*) on-site. [MCC 39.5750(D)].
  - c. Ground disturbing activity within 100 feet of a water body as defined by MCC 39.2000 shall be limited to the period between May 1<sup>st</sup> and September 15<sup>th</sup> of each year. Revegetation and soil stabilization must be accomplished no later than October 15<sup>th</sup> of each year. [MCC 39.5850(B)]
5. As an on-going condition, the property owner shall:
  - a. Establish and maintain the Primary and Secondary Fire Safety Zones. [MCC 39.4110(D)]
    - i. A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.
    - ii. A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with planning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection District.
  - b. The nuisance plants listed in MCC 39.5580 and 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) & 39.5860(B)]
  - c. Outside storage of hazardous materials [as determined by DEQ] within the Stream Conservation Area is prohibited. [MCC 39.5750(F)(3)].
  - d. Submit an annual report on the date this decision becomes final of each year for a period of five (5) years. The report must show a minimum annual survival rate of 80% for the mitigation plantings. Reports shall be submitted via email to [land.use.planning@multco.us](mailto:land.use.planning@multco.us) [MCC 39.5750(D)(1)(d)]
  - e. Install and maintain the storm water drainage control system as described in the Stormwater Report completed by Deborah Beck, PE of White Pelican Consulting, LLC (Exhibit A.13). [MCC 39.5750(E)(2)]
  - f. The property owner shall place, shade, or screen any exterior lighting associated with a proposed development to avoid shining [the exterior lighting] directly into a Stream Conservation Area. [MCC 39.5750(E)(3)]

**Note:** Once this decision is final, application for building permits may be made with the City of Portland. When ready to have building plans signed off by land use planning, the applicant shall complete the following steps:

1. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, “Prior to land use sign-off for building plan check...” Be ready to demonstrate compliance with the conditions.
2. Contact Right-of-Way Permits at [row.permits@multco.us](mailto:row.permits@multco.us) to review your plans, obtain your access 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 the City of Portland, Bureau of Development Services, On-site Sanitation at 503-823-6892 or e-mail [septic@portlandoregon.gov](mailto:septic@portlandoregon.gov) for information on how to complete the Septic Evaluation or Permit process for the proposed development. All existing and/or proposed septic system components (including septic tank and drainfield) must be accurately shown on the site plan.
4. Visit <https://www.multco.us/landuse/submitting-building-plan> for current instructions on submitting your building plans for review. Please ensure that any items required under, “At the time of land use sign-off for building plan check...” are ready for land use planning review. Land Use Planning must sign off on the plans and authorize the building permit before you can go to the Building Department.

The above must be completed before the applicant can obtain building permits from the City of Portland. At the time of building permit review, Land Use Planning may collect additional fees, including an erosion control inspection fee, if applicable.

**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 a Significant Environmental Concern for Stream (SEC-s) permit and a Type I Significant Environmental Concern for Wildlife Habitat (SEC-h) permit for a replacement dwelling and accessory building. The proposed development is to occur in the same area as the existing home, with the accessory building located approximately 10 feet from the replacement dwelling.

### **2.0 Property Description:**

**Staff:** The subject property is located in unincorporated west Multnomah County in the area known as the West Hills Rural Planning Area (RPA). The property is zoned Commercial Forest Use-2 (CFU-2) and currently contains an existing Manufactured Home to be replaced with a stick built home.

### **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.4. Staff received the following public comments during the 14-day comment period:

#### **3.1 Paula Sauvageau, Community Member, provided comments via email on March 23, 2022 (Exhibit D.1)**

**Staff:** Sauvageau asked for extra thought into water runoff [from the proposed development] as the runoff travels within the Geologic Hazards overlay. They also inquired about the auxiliary septic area and forest development standards for the CFU zone. They noted their support that the Dark Sky Lighting Standards are applicable to the project. Staff provided Sauvageau with copies of Exhibits that addressed the questions posed. *Comments noted.*

### **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.**

\* \* \*

**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, staff is not aware of any open compliance cases on the subject property, and there is no evidence in the record of any specific instances of noncompliance on the subject property. *This criterion is met.*

## **5.0 Lot of Record Criteria:**

### **5.1 MCC 39.3005- LOT OF RECORD – GENERALLY.**

**(A) An area of land is a “Lot of Record” if it meets the standards in Subsection (B) of this Section and meets the standards set forth in this Part for the Zoning District in which the area of land is located.**

**(B) A Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, either satisfied all applicable zoning laws and satisfied all applicable land division laws, or complies with the criteria for the creation of new lots or parcels described in MCC 39.9700. 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**

\* \* \*

## **MCC 39.3030 LOT OF RECORD – COMMERCIAL FOREST USE-2 (CFU-2)**

**(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-2 district a Lot of Record is either:**

**(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or**

**(2) A group of contiguous parcels or lots:**

**(a) Which were held under the same ownership on February 20, 1990; and**

\* \* \*

**Staff:** In 2015, the County approved a Property Line Adjustment for the subject property via land use case #T2-2015-4698. The current configuration of the subject property matches the configuration of the approved Property Line Adjustment (Exhibits B.3 – B.4). Therefore, the subject property (1N1W25D -00100 and 1N1E30C -02700) remains a single Lot of Record. *Criteria met.*

## **6.0 Commercial Forest Use – 2 (CFU-2)**

### **6.1 MCC 39.4070 ALLOWED USES**

**The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.**

\* \* \*

**(D) Alteration, maintenance, replacement or restoration of an existing lawfully established habitable dwelling as defined in MCC 39.2000 and located within 100-feet from an existing dwelling.**

**(1) In the case of a replacement dwelling, the existing dwelling shall be removed, demolished or converted to an allowable nonresidential use within three months of the completion or occupancy of the replacement dwelling.**

**(2) Restoration or replacement due to fire, other casualty or natural disaster shall commence within one year from the occurrence of the fire, casualty or natural disaster.**

**Staff:** The applicant proposes to replace the existing Manufactured Home with a stick built home in the same location as the existing Manufactured Home. The Manufactured Home is proposed to be demolished prior to construction of the replacement dwelling (Exhibit A.8). *Criteria met.*

**(T) Accessory Structures subject to the following:**

**(1) The accessory structure is customarily accessory or incidental to any use permitted or approved in this base zone, is located within 100 feet of the dwelling and is a structure identified in the following list:**

\* \* \*

**(n) Similar structures.**

**Staff:** The applicant proposes a 346 square foot accessory building to be used as a personal home office, which is incidental and customarily accessory to the established residential dwelling use of the property. The accessory building will be located approximately 10 feet from the replacement home and have an open connected walkway from the home to the accessory building (Exhibit A.8). *Criteria met.*

**(2) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.**

**(3) The Accessory Structure may contain one sink.**

**(4) The Accessory Structure shall not contain:**

**(a) More than one story;**

**(b) Cooking Facilities;**

**(c) A toilet;**

**(d) Bathing facilities such as a shower or bathing tub;**

**(e) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or**

**(f) A closet built into a wall.**

**(5) Compliance with MCC 39.8860 is required.**

**(6) The combined footprints of all Accessory Buildings on a Lot of Record shall not exceed 2,500 square feet.**

**(7) An Accessory Building exceeding any of the Allowed Use provisions above shall be considered through the Review Use provisions.**

**Staff:** According to the proposed building plans, the accessory structure is one story, open floor plan, and does not contain cooking facilities, a toilet or bathing facilities, or a closet. The proposed he accessory structure is approximately 346 square feet. As there are no other existing or proposed accessory buildings, the total combined footprint of accessory buildings on the property will not exceed the 2,500 square feet of combined footprint.

A condition of approval requires the applicant to record the accessory structure covenant outlined in MCC 39.8860. *As conditioned, the above criteria are met.*

**6.2 MCC 39.4105 BUILDING HEIGHT REQUIREMENTS.**

**(A) Maximum structure height – 35 feet.**

**(B) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirements.**

**Staff:** According to the proposed building plans, the accessory structure height will not exceed 35 feet (Exhibit A.16). A condition requires the applicant to demonstrate, at the time of

building plan review, that the proposed dwelling height does not exceed 35 feet. *Through a condition, the above criteria can be met.*

### 6.3 MCC 39.4110 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES

**The Forest Practice Setbacks and applicability of the Fire Safety Zones is based upon existing conditions, deviations are allowed through the exception process and the nature and location of the proposed use. The following requirements apply to all structures as specified:**

Use	Forest Practice Setbacks			Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Replaced or restored dwelling in same location & greater than 400 sq. ft. additional ground coverage; Alteration and maintenance of dwelling	Nonconforming setback(s) of less than 30 ft. to property lines that existed as of August 26, 2006 may be maintained	30	30	Primary is required, except that if there was a nonconforming Forest Practice setback of less than 30 feet to property lines as of August 26, 2006, Primary is required to the full extent of the nonconforming Forest Practice setback as it existed on August 26, 2006
Accessory structures within 100 ft. of the dwelling	N/A	30	30	Primary required

**Staff:** The proposed replacement dwelling will be placed in the same location as the existing manufactured home and with an approximate square footage of 5,509 sq. ft. (Exhibit A.16). The replacement dwelling will be located approximately 100 feet from the north property line,, approximately 150 feet from the west property line, approximately 115 feet from the south property line, and approximately 100 feet from the east property line (Exhibit A.8). The proposed accessory structure is located approximately 10 feet from the replacement dwelling, approximately 80 feet from the west and north property line, and greater than 100 feet from the south and east property lines (Exhibit A.8). The proposed replacement dwelling and accessory structure exceed the minimum required setback distances. *Criteria met.*

- (A) Reductions to a Forest Practices Setback dimension shall only be allowed pursuant to approval of an adjustment or variance.**
- (B) Exception to the Secondary Fire Safety Zone shall be pursuant to MCC 39.4155 only. No reduction is permitted for a required Primary Fire Safety Zone through a nonconforming, adjustment or variance process.**

**Staff:** The applicant does not propose any reductions to the Forest Practices Setbacks or an exception to the Secondary Fire Safety Zone. *Criteria met.*

- (C) The minimum forest practices setback requirement shall be increased where the setback abuts a street having insufficient right-of-way width to serve the area.**

**Staff:** The Transportation Planning Review completed by the County Right-of-way office does not indicate the need for increased setbacks due to insufficient right-of-way (Exhibit A.15). *Criteria met.*

**(D) Fire Safety Zones on the Subject Tract.**

**(1) Primary Fire Safety Zone.**

**(a) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.**

**(b) On lands with 10 percent or greater slope the primary fire safety zone shall be extended farther down the slope from a dwelling or structure as follows:**

**\* \* \* (c) The building site must have a slope less than 40 percent.**

**(2) Secondary Fire Safety Zone.**

**\* \* \***

**(3) No requirement in (1) or (2) above may restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules; and**

**(4) Required Primary and Secondary Fire Safety Zones shall be established within the subject tract as required by Table 1 above.**

**(5) Required Primary and Secondary Fire Safety Zones shall be maintained by the property owner in compliance with the above criteria listed under (1) and (2).**

**Staff:** According to the proposed site plan (Exhibit A.8), the replacement dwelling and accessory structure will have the required 30 feet Primary Fire Safety Zones. The proposed site plan also shows the Secondary Fire Safety Zones. According to the proposed site plan, the building site has

slopes less than 40 percent. There are portions of the property with slopes in excess of 10 percent; however, there are no areas where the Primary Fire Safety Zone needs to be extended downslope. A condition of approval requires the establishment and maintenance of the Primary and Secondary Fire Safety Zones. *Through a condition, the above criteria can be met.*

#### **6.4 MCC 39.4115 Development Standards for Dwellings and Structures**

##### **(C) The dwelling or structure shall:**

- (1) Comply with the standards of the applicable building code or as prescribed in ORS 446.003 through 446.200 relating to mobile homes;**
- (2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;**
- (3) Have a fire retardant roof; and**
- (4) Have a spark arrester on each chimney.**

**Staff:** The proposed replacement dwelling is not a mobile home. The proposed replacement dwelling will be stick built and subject to building permits for applicable building codes. A condition of approval requires the applicant to demonstrate compliance with (3) and (4) during building plan review. *Through a condition, the above criteria can be met.*

#### **7.0 Significant Environmental Concern Stream (SEC-s)**

##### **7.1 MCC 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.**

**(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:** The applicant is requesting a SEC permit to authorize a replacement dwelling and accessory building within the SEC- stream overlay, as required by (A) above. According to the applicant narrative and site plan, the proposal does not involve the excavation or removal of materials of archaeological, historical, prehistorical, or anthropological nature. *Criteria met.*

##### **7.2 MCC 39.5750 CRITERIA FOR APPROVAL OF SEC-S PERMIT – STREAMS**

**(A) For purposes of this Section, the following terms and their derivations shall have the meanings provided below:**

\* \* \*

**(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:** Subsection (A) is for information purposes. 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. The proposed development must be reviewed to ensure it complies with the provisions of MCC 39.5760(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 in Exhibit A.4 as required above. The site plan (pp. 15 - 16), map and detailed description of the stream functional characteristics (pp. 2 - 4 and 12 - 13), description and map of soil types (p. 3 & 11), and map of wetlands (p. 12) are included. A detailed Mitigation Plan outlining the proposed mitigation measures (pp. 3-5) and description of how the proposal meets the approval criteria of section (D) are also included. *Criteria 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 provided a detailed report from C. Mirth Walker, Senior Wetland Scientist at SWCA Environmental Consultants. The report includes a narrative, site plan showing the stream / stream conservation area, and the proposed mitigation measures (Exhibit A.4, pp. 3-6 & 15-16). According to the report, the Stream Conservation area is located on a flat slope where the proposed development will be located. There will be no state or federal wetland permits required as no fill will be placed in the wetlands or other waters.

SWCA Environmental Services evaluated the previous approval from 2017 for the existing Manufactured Home. During their site visit, SWCA confirmed the implementation of the 2017 mitigation plan including the planting of 40 trees and 10 shrubs (Exhibit A.4, p. 4). SWCA noted the site appears to have an over 95% survival rate for the planted trees and shrubs. SWCA suggested 11 Western Red Cedar (*Thuja Plicata*) at 2-inch caliper be planted to mitigate the one big-leaf maple tree that will be removed (Exhibit A.4, p. 4 & A.8). The replacement of the big-leaf maple is to provide year round coniferous habitat rather than seasonal. The removal of English Ivy will be continuous throughout the property in order to maintain the proper mitigation measures.

According to SWCA, the measures described above demonstrate retention and enhancement of the existing and proposed conditions on-site. A condition of approval requires an annual monitoring plan to ensure the survival of the plantings. *Through a condition, the above criteria can be 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 proposed site plan does not include any stream crossings including a bridge or arched culvert. *Criterion 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 provided a Stormwater Certificate and report completed by Deborah Beck, PE of White Pelican Consulting, LLC (Exhibit A.13). Beck states that the proposed development requires an on-site storm water drainage control system consisting of a flow-through planter, Eco roof, and permeable pavers. According to Beck, the proposed Stormwater drainage control system will collect and dispose of the storm water generated by the proposed replacement home and accessory building. A condition of approval requires the installation and maintenance of the proposed stormwater drainage control system. *Through a condition, the above criterion can be 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:** Conditions of approval require the exterior lighting to comply with the above restrictions and the Dark Sky Lighting Standards. *Through a condition, the above criterion can be met.*

**(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 proposes to remove one new big-leaf maple tree due to the tree being deceased. To replace the maple, the applicant proposes to replant 11 Western Red Cedar (*Thuja Plicata*) at a 2-inch caliper on-site (Exhibit A.4, p. 4). The site plan shows the replanting locations (Exhibit A.8). Conditions of approval require the implementation of the mitigation plan and annual monitoring of the plantings. *Through a condition, the above criterion can be met.*

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

**Staff:** A condition of approval requires the applicant obtain an Erosion Sediment Control (ESC) permit prior to building plan review. *Through a condition, the above criterion can be met.*

**(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:** A condition of approval requires the applicant to comply with the above requirements for soil disturbing / stabilization activities within the Stream Conservation Area. *Through a condition, the above criterion can be met.*

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

**Staff:** The applicant did not identify any applicable state or federal permit requirements. County staff is not aware of any additional state or federal permit requirements for the project. *Criterion met.*

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

**(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:** The Mitigation Plan does not recommend the proposed replanting and existing planting of any of the above referenced nuisance / invasive non-native / noxious plants listed (Exhibit A.4 & Exhibit A.8). *Criterion 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:** The proposed mitigation plantings consist of native plants (Exhibit A.4). A condition of approval requires the implementation of the mitigation plan. *Through a condition, this criterion can be 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 requires the applicant to comply with the above requirements. *Through a condition, this criterion can be 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 mapped Protected Aggregate and Mineral overlay. *This criterion is not applicable.*

## **8.0 Significant Environmental Concern Wildlife Habitat (SEC-h)**

### **8.1 MCC 39.5850 SEC-H CLEAR AND OBJECTIVE STANDARDS.**

**(A) At the time of submittal, the applicant shall provide the application materials listed in MCC 39.5520(A) and 39.5860(A). The application shall be reviewed through the Type I procedure and may not be authorized unless the standards in MCC 39.5860(B)(1) through (4)(a)-(c) and (B)(5) through (7) are met. For development that fails to meet all of the criteria listed above, a separate land use application pursuant to MCC 39.5860 may be submitted.**

**Staff:** The applicant submitted a detailed narrative addressing the above criteria (Exhibit A.2) and a site plan showing the requested items (Exhibit A.8). *Criterion met.*

**(B) The proposed development shall meet the applicable stormwater and ground disturbing activity requirements of MCC 39.6200 through 39.6235. Ground disturbing activity within 100 feet of a water body as defined by MCC 39.2000 shall be limited to the period between May 1st and September 15th. Revegetation and soil stabilization must be accomplished no later than October 15th.**

**Staff:** The applicant submitted a revegetation plan and Stormwater drainage control report (Exhibit A.8 & A.15) demonstrating that the proposal contains appropriate drainage control measures. The stormwater report suggests a combination of a flow-through planter, ecoroof and permeable pavers to infiltrate the stormwater on-site. A condition of approval limits soil disturbance per the above requirements. *Through a condition, the above criterion can be met.*

**(C) The nuisance plants listed in MCC 39.5580 Table 1 shall not be used as landscape plantings within the SEC-h Overlay Zone.**

**Staff:** The applicant proposes mitigation plantings to create an additional buffer between the replacement dwelling and the existing stream on-site (Exhibit A.2). No additional tree removal is requested as the replacement dwelling and accessory structure are to be placed in the same location of the existing dwelling. A condition of approval requires compliance with the above requirements. *Through a condition, the above criterion can be met.*

**(D) For development that fails to meet all of the standards listed in this section, a separate land use application pursuant to MCC 39.5860 may be submitted.**

**Staff:** The proposed development meets the SEC-h clear and objective standards as discussed in section 8.2 below. *Criterion met.*

## **8.2 MCC 39.5860 CRITERIA FOR APPROVAL OF SEC-H PERMIT**

### **(B) Development standards:**

**(1) Where a parcel contains any non-forested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.**

**Staff:** The proposed replacement dwelling and accessory structure will be placed in the non-forested area where the existing Manufactured Home is placed. Exhibit A.4 clearly shows aerial photos of the existing site and cleared area. Additionally tree removal is not proposed. *Standard met.*

**(2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.**

**Staff:** According to the proposed site plan, the development is within 60 to 100 feet of NW Thompson Road (Exhibit A.8). NW Thompson Road is a public road that currently provides access to the site and will continue to provide access to the site following the completion of the proposed development. *Standard met.*

**(3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.**

**Staff:** According to the proposed site plan, the existing access road/driveway and service corridor is approximately 100 feet. *Standard met.*

**(4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:**

**(a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line; or**

**(b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.**

\* \* \*

**Staff:** There is no adjacent property on the same side of NW Thompson Road that has an existing access road or driveway approach within 200 feet of a side property line. The existing approved access road/driveway approach serving the site will continue to serve the site following the completion of the proposed development. *Standard met.*

**(5) The development shall be within 300 feet of a side property line if adjacent property has structures and developed areas within 200 feet of that common side property line.**

**Staff:** The proposed replacement dwelling and accessory structure are all within 300 feet of the side property lines (Exhibit A.8). The replacement dwelling is approximately 100 feet from the east property line, approximately 90 feet from the north property line, and approximately 180 feet from the west property line. The accessory structure is approximately 90 feet from the north property line, approximately 130 feet from the west property line, and approximately 250 feet from the east property line. *Standard met.*

**(6) Fencing within a required setback from a public road shall meet the following criteria:**

**(a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.**

\* \* \*

**Staff:** According to the proposed site plan (Exhibit A.8), the proposal does not include the installation of any fencing. *Standard met.*

**(7) The nuisance plants in MCC 39.5580 Table 1 shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.**

**Staff:** A condition requires the applicant to comply with the above requirements. *Through a condition, this standard can be met.*

## 9.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern for streams permit, Type 1 Significant Environmental Concern for wildlife habitat permit, and Geologic Hazards permit exemption to establish a replacement single-family dwelling and accessory structure in the CFU-2 zone. This approval is subject to the conditions of approval established in this report.

## 10.0 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 T2-2021-14904.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	07.26.2021
A.2	16	Applicant Narrative	07.26.2021
A.3	1	Site Plan	07.26.2021

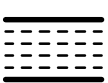
A.4	33	SEC-s Memo prepared by SWCA	07.26.2021
A.5	14	Copy of Existing Dwelling Plans	07.26.2021
A.6	1	Well Report	07.26.2021
A.7	1	Incomplete Letter Response Memo	01.21.2022
A.8*	1	Revised site plan	01.21.2022
A.9	1	Utility Overlay Site Plan	01.21.2022
A.10	6	Septic Design Plan	01.21.2022
A.11	4	Septic Authorization Notice	01.21.2022
A.12	13	Fire Service Agency Review Form	01.21.2022
A.13	12	Stormwater Drainage Control Certificate and Report	01.21.2022
A.14	7	Septic Review Certification	01.21.2022
A.15	50	Transportation Planning Review	01.21.2022
A.16	5	Replacement Dwelling Floor Plans	01.21.2022
A.17	1	Accessory Structure Floor Plan and Elevations	01.21.2022
A.18	34	Stormwater Infiltration Testing Report	01.21.2022
<b>‘B’</b>	<b>#</b>	<b>Staff Exhibits</b>	<b>Date</b>
B.1	3	Division of Assessment, Recording, and Taxation (DART): Property Information for R316568	07.26.2021
B.2	3	Division of Assessment, Recording, and Taxation (DART): Property Information for R324438	07.26.2021
B.3	1	Division of Assessment, Recording, and Taxation (DART) map for 1N1E30C	07.26.2021
B.4	1	Division of Assessment, Recording, and Taxation (DART) map for 1N1W25D	07.26.2021
<b>‘C’</b>	<b>#</b>	<b>Administration &amp; Procedures</b>	<b>Date</b>
C.1	3	Incomplete letter	08.18.2021
C.2	1	Applicant’s acceptance of 180 day clock	08.18.2021
C.3	1	Complete letter (day 1)	02.18.2022
C.4	2	Opportunity to Comment	03.09.2022
C.5	19	Administrative Decision	05.27.2022
<b>‘D’</b>	<b>#</b>	<b>Comments</b>	<b>Date</b>
D.1	1	Comments from Paula Sauvageau	03.23.2022

DRAFT - NOT FOR CONSTRUCTION

SITE PLAN NOTES

1. THIS SITE PLAN IS FOR REPLACEMENT PERMIT APPLICATION PURPOSES ONLY AND DOES NOT REPRESENT FINAL BUILDING PLANS. PLANS ARE IN DEVELOPMENT PENDING APPROVAL OF REPLACEMENT PERMIT AND SUBJECT TO CHANGE PRIOR TO FINAL SUBMITTAL FOR MULTNOMAH COUNTY AND BDS REVIEW.
2. SOIL DISTURBING ACTIVITIES WILL BE LIMITED TO THE PERIOD BETWEEN JUNE 15 AND SEPTEMBER 15. THE RESIDENCE WILL INCLUDE A FIRE SUPPRESSION SYSTEM AND BE CONSTRUCTED FROM FIRE RESISTANT MATERIALS.
3. PRIMARY FIRE ZONE (FSZ) NOTES
4. A. TREES SHALL BE SPACED WITH A MINIMUM OF 15 FEET BETWEEN CROWNS.  
B. TREES SHALL BE PRUNED TO REMOVE LOW BRANCHES WITHIN 8 FEET OF GROUND AS TREE MATURITY AND ACCEPTED SILVICULTURE PRACTICES ALLOW.  
C. ALL OTHER VEGETATION TO BE LESS THAN 2 FEET IN HEIGHT.
5. SECONDARY FIRE ZONE NOTES
- A. PRUNE AND SPACE VEGETATION SUCH THAT FIRE WILL NOT SPREAD BETWEEN TREE CROWNS.  
B. REMOVE SMALL TREES AND BRUSH GROWING UNDERNEATH LARGER TREES TO PREVENT SPREAD OF FIRE.

REVISED GRADE



EXISTING GRADE



GENERAL NOTES & DISCLAIMERS

THESE DRAWINGS HAVE BEEN PREPARED TO MEET GENERALLY ACCEPTABLE PROFESSIONAL STANDARDS. ALL APPLICABLE CONSTRUCTION SHALL CONFORM TO THE LATEST EDITIONS OF THE 2019 OREGON RESIDENTIAL SPECIALTY CODE. CODES GOVERN OVER DRAWINGS. DIMENSIONS GOVERN OVER SCALE. CONTRACTORS SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE JOBSITE. THE ARCHITECT MUST BE NOTIFIED OF ANY VARIATIONS AND DISCREPANCIES OF AND FROM THESE DRAWINGS PRIOR TO THE WORK BEING COMPLETED.

ALL IDEAS, ARRANGEMENTS, DRAWINGS, AND PLANS SET FORTH IN THESE DRAWINGS ARE THE ORIGINAL WORK PRODUCT OF, OWNED BY, AND PROPERTY OF SAMANTHA GATZKE. USE OF ORIGINAL DESIGNS IS LIMITED TO THE SPECIFIC PROJECT. ANY USE, REUSE OR DISCLOSURE OF SAID PLANS, REPRODUCTIONS, IDEAS, DESIGNS, AND/OR ARRANGEMENTS, OTHER THAN BY SAMANTHA GATZKE IS STRICTLY PROHIBITED BY LAW WITHOUT THE WRITTEN CONSENT OF SAMANTHA GATZKE.

K & K

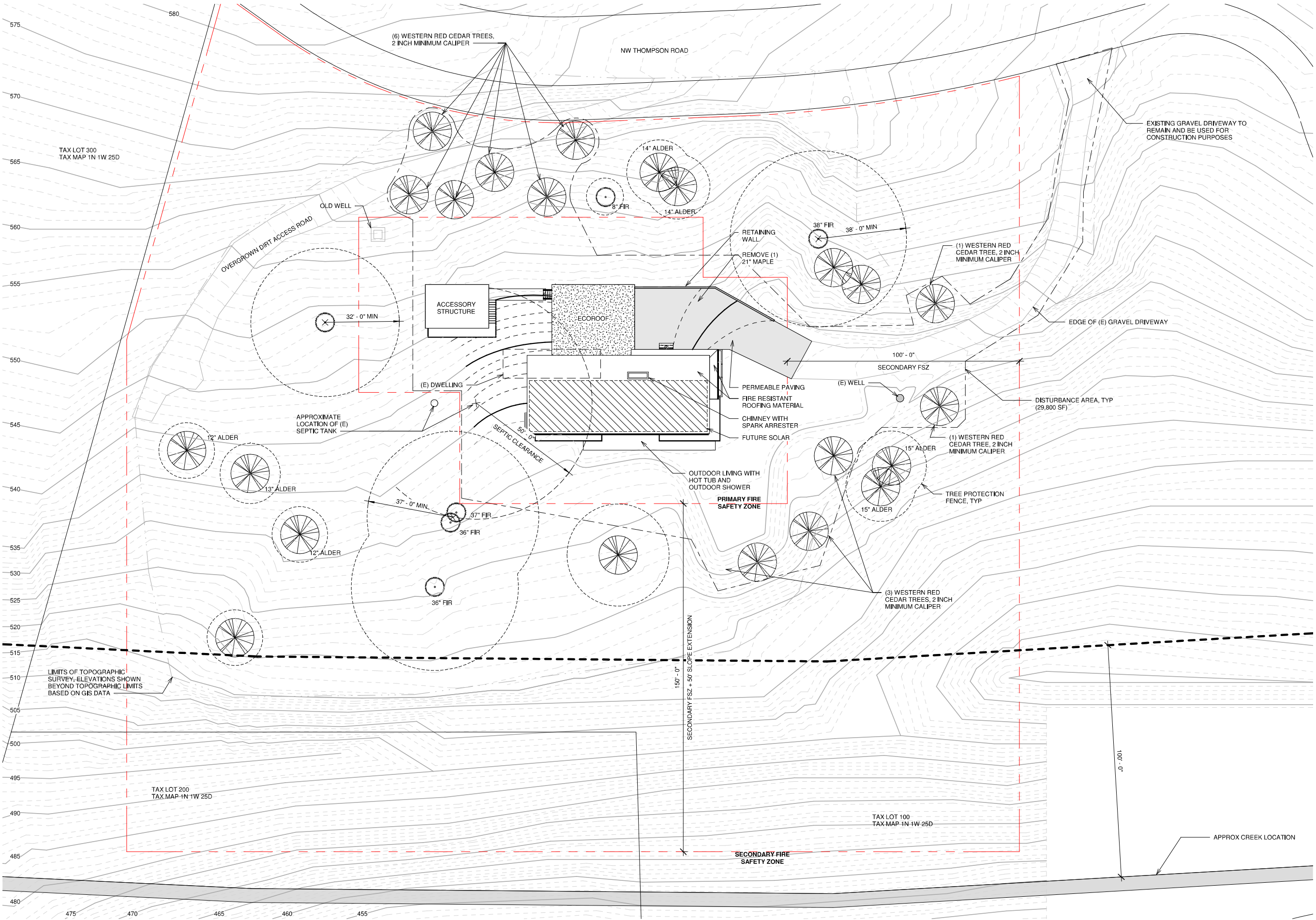
THE BARON RESIDENCE

SITE PLAN

Project number	21001
Date	1/6
Drawn by	SB

A001

Scale As indicated



1 SITE PLAN  
1" = 20'-0"